

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: One-year Finding for a Petition To List the Harlequin Duck (*Histrionicus histrionicus*) in Eastern North America as Endangered or Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of one-year petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) under the Endangered Species Act of 1973, as amended (Act), announces a one-year finding on a petition to add the harlequin duck (*Histrionicus histrionicus*) in eastern North America to the List of Endangered and Threatened Wildlife. After review of all available scientific and commercial information, the Service finds that listing the harlequin duck is not warranted at this time.

The Service has based this finding on the following: (1) Prohibition of hunting since 1990 throughout the harlequin duck's entire range in eastern North America; (2) lack of substantial information indicating that the species' breeding, wintering, or staging habitat is likely to be curtailed, modified or destroyed; (3) lack of substantial information indicating that overutilization for commercial, recreational, scientific or educational purposes is significantly affecting the species; (4) lack of information indicating that disease or predation is causing a significant loss of individuals of the species; (5) lack of adequate information on population discreteness, size, and other parameters to indicate the species is likely at or below a minimum viable population size; (6) additional protective measures undertaken by the States of Maine and Rhode Island which decrease the likelihood of occurrence or the potential severity of an oil spill in the species' wintering areas; (7) limited population trend data indicating that the population has stabilized and is not declining; and (8) current regulatory mechanisms which, under the documented threats, adequately provide for the protection and conservation of the species.

DATES: The finding announced in this notice was made on April 30, 1998. Comments and information may be submitted until further notice.

ADDRESSES: Comments and materials regarding the petition finding may be submitted to the Endangered Species Coordinator, Northeast Regional Office, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035. The 12-month petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Nickerson at the above address or telephone 413/253-8615.

SUPPLEMENTARY INFORMATION:**Background**

Pursuant to section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), for any petition to revise the Lists of Endangered or Threatened Wildlife and Plants that presents substantial scientific and commercial information, the Service is required to make a finding within 12 months of the date of receipt of the petition. The finding is based on whether the petitioned action is: (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Such 12-month findings are to be published promptly in the **Federal Register**.

In a petition dated September 21, 1995, and received by the Service on September 25, 1995, the Northern Rockies Biodiversity Project and the Biodiversity Legal Foundation requested the Service to list the eastern North America population of the harlequin duck as endangered or threatened. The petition cited numerous threats to this taxon and its breeding and feeding habitats, including: (1) Destruction of riparian areas along breeding area streams; (2) destruction of watershed stability and stream flow regime in breeding areas by mining, road construction, or timber harvest; (3) inundation or elimination of breeding habitat by river impoundment and/or diversion; and (4) destruction of the larval insect food base through biting fly control programs in the northeast. The petition states that oil spills, chronic oil releases, and other coastal pollution pose a threat to the harlequin duck's wintering habitat. The petition also suggests that illegal and indiscriminate harvest is an imminent threat to the population. The Service made an administrative finding on August 7, 1997 (62 FR 42473), that the petition contained substantial information indicating that the requested action may be warranted.

Harlequin ducks are unique waterfowl in that they breed along fast-flowing, turbulent rivers and streams. In eastern North America, the species breeds along rivers in eastern Canada including the areas of Hudson, James, and Ungava bays, and Labrador south to Newfoundland. In winter, harlequin ducks are found exclusively in marine waters, occurring at the outer headlands/raised shoals where they forage in shallow water and rest, preen, and loaf in deeper water. The majority of harlequin ducks in eastern North America winter in Maine, with smaller numbers wintering south to Massachusetts and Rhode Island. Occasionally, scattered individuals can be found south to Virginia and North Carolina.

Until recently, harlequin ducks in eastern North America were thought to be one of four separate populations. The others are the Pacific population, estimated at over 1 million individuals; the Greenland population, estimated at 5000 breeding pairs; and the Iceland population estimated at 3000-5000 breeding pairs. Recent limited data indicate that the eastern North America population, estimated at 1500-2000 individuals, may have some interchange with the Greenland population.

The petitioners cited threats to the species' breeding and feeding habitats. However, available information does not substantiate that these threats currently exist or that there is a significant probability that they will occur. As an example, the petition mentions that nesting habitat could be inundated by hydroelectric development in northern Quebec and Labrador. While the Service recognizes that past hydroelectric development may have inundated harlequin duck nesting habitat, the petitioners did not identify any proposed projects within the species' known breeding range. The Service is aware of a previously proposed hydroelectric project, the James Bay II Bienville in northern Quebec, which would have impacted harlequin ducks. Of at least 153 breeding pairs found in the study area, 56 breeding pairs would have been displaced by flooding and other related alterations to the area's hydrology. However, the Quebec government has abandoned this project. The Service also found no documentation to support that timber harvest, mining, and construction activities impact breeding or foraging habitat. These impacts are identified as "potential," but specific information on where these impacts have occurred, are occurring, or may yet occur is not available.

The potential impact of a chemical or oil spill to wintering harlequin ducks is dependent on several factors such as the location, time of year, and type of chemical. The State of Maine may support up to 800 wintering harlequin ducks or 50 percent of the known eastern North America wintering population. The State has updated its procedures for responding to spills to minimize environmental impacts. These procedures were adopted following the Exxon Valdez oil spill in Alaska in order to decrease the probability of such a disaster occurring in Maine. The State of Rhode Island adopted new procedures following the North Cape spill that occurred off the Rhode Island coast in 1996. The State's Department of Environmental Management has implemented procedures to manage single-hull tankers as they enter Rhode Island waters. Legislation is pending that would require, by the year 2001, all single-hull tankers to be escorted by a tugboat through Rhode Island waters.

The Service finds that the species continues to occur throughout its historical range in eastern North America. There is no evidence of range reduction. Of the approximately 800 harlequin ducks that winter in Maine, approximately 200 winter around Isle au Haut. The portion of Isle au Haut where these ducks winter is part of Acadia National Park. Approximately 95–120 birds winter in Rhode Island off Sachuest Point, a National Wildlife

Refuge. Federal ownership of these areas provides some additional protection from threats such as illegal hunting and habitat development, to the wintering harlequin duck population.

Since 1990, hunting for harlequin ducks has been prohibited throughout the species' entire eastern North America range. Recent analysis of population trend data indicate that the number of birds wintering in Maine stopped declining between 1991 and 1992. Trends for the last 2 years show the population gradually increasing. The Service believes that the cessation of legal hunting has eliminated a significant threat to the harlequin duck population and is likely largely responsible for the recent increase in numbers of wintering harlequin ducks in Maine. The petitioners state, and the Service acknowledges, that some illegal harvest likely still occurs. However, the petitioners provided no sources for their information and no estimate on the actual numbers of harlequin ducks illegally taken. The Service was not able to locate any data indicating that the extent of this illegal harvest is significantly impacting, or is likely to impact, the harlequin duck population.

On the basis of the best available scientific and commercial information, the Service finds that listing the harlequin duck in eastern North America is not warranted at the present time because the species is not currently in danger of extinction and is not likely

to become so in the foreseeable future. Notwithstanding this finding, the Service through its many programs (e.g., Migratory Birds and the North American Waterfowl Management Plan) intends to continue to gather data, participate in genetic studies and cooperate with the States of Maine and Rhode Island and with Canada to ensure that the species continues to receive adequate protection. Should new information become available indicating that the species faces greater threats than currently exist, this decision will be revisited to determine whether protection under the Act is appropriate.

References Cited

A complete list of references used in the preparation of the 12-month finding is available upon request from the Northeast Regional Office (see ADDRESSES section).

Author

The primary author of this notice is Diane Lynch, Northeast Regional Office (see ADDRESSES section).

Authority

The authority for this section is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: April 30, 1998.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

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