

designation of critical habitat is prudent; Correction.

SUMMARY: A document containing the revised determinations of prudence and proposed designations of critical habitat for plant species from the islands of Kauai and Niihau, Hawaii was published in the **Federal Register** on January 28, 2002. Within the preamble, the third reference to the hearing date is incorrect. The correct hearing date is February 13, 2002. This document corrects the hearing date.

DATES: We will accept comments until March 29, 2002. We will hold one public hearing on this proposed rule. The public hearing will be held from 6:00 p.m. to 8:00 p.m., Wednesday, February 13, 2002, on the island of Kauai, Hawaii. Prior to the public hearing, we will be available from 3:30 to 4:30 p.m. to provide information and to answer questions. Registration for the hearing will begin at 5:30 p.m.

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods:

You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Blvd., Room 3-122, PO Box 50088, Honolulu, HI 96850-0001.

You may hand-deliver written comments to our Pacific Islands Office at the address given above.

You may view comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, by appointment, during normal business hours at the above address. The public hearing will be held at the Radisson Kauai Beach Resort, 4331 Kauai Beach Drive, Lihue, Kauai. Additional information on this hearing can be found under "Public Hearing" found in the Background section of this proposed rule.

FOR FURTHER INFORMATION CONTACT: Paul Henson, Field Supervisor, Pacific Islands Office, at the above address (telephone 808/541-3441; facsimile 808/541-3470).

SUPPLEMENTARY INFORMATION: On January 28, 2002, the U.S. Fish and Wildlife Service (Service) published revised determinations of prudence and proposed designations of critical habitat for plant species from the islands of Kauai and Niihau, Hawaii (67 FR 3940).

Correction

Accordingly, make the following correction to FR Doc. 02-687 published at 67 FR 3940 on January 28, 2002:

On page 4062, in column 2, Public Hearing Section, third paragraph,

correct the public hearing date to read: Wednesday, February 13, 2002.

Dated: February 4, 2002.

Joseph E. Doddridge,

Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223, 224, and 226

[Docket No. 020205024-2024-01; I.D. 011502K]

RIN 0648-ZB13

Endangered and Threatened Species: Findings on Petitions to Delist Pacific Salmonid ESUs

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of findings; request for information on reinitiation of status reviews.

SUMMARY: The National Marine Fisheries Service (NMFS) has received six petitions to delist 15 Evolutionarily Significant Units (ESUs) of Pacific salmon and steelhead (*Oncorhynchus* spp.) in California, Oregon, Washington, and Idaho that are currently listed as threatened or endangered under the Endangered Species Act of 1973, as amended (ESA). One petition fails to present substantial scientific or commercial information to suggest that delisting may be warranted. The remaining petitions address ESUs with hatchery populations. In a recent U.S. District Court ruling, the Court found NMFS' prior treatment of hatchery fish in ESA listing determinations to be arbitrary and capricious. As such, NMFS finds that these petitions present substantial scientific and commercial information indicating that the petitioned actions may be warranted for 14 of the petitioned ESUs. Moreover, NMFS is reviewing the status of 10 additional ESUs currently listed as threatened or endangered, as well as updating the status of the ESA candidate Lower Columbia River/Southwestern Washington coho salmon ESU (*O. kisutch*). To ensure that these status reviews are complete, NMFS is soliciting information and data regarding the status of the 25 ESUs to be updated. These status updates will be completed after a revision of agency

policy regarding the consideration of hatchery fish in ESA status reviews of Pacific salmonids. At such time that the status reviews are complete, NMFS will consider whether there is a need to re-evaluate critical habitat designations, protective regulations, or ongoing recovery planning efforts for these ESUs. In addition to the reinitiation of status reviews, NMFS will identify preliminary recovery planning targets to assist in regional, state, tribal and local recovery efforts.

DATES: Information and comments on the action must be received by April 12, 2002

ADDRESSES: Information or comments on this action should be submitted to the Assistant Regional Administrator, Protected Resources Division, NMFS, 525 NE Oregon Street, Suite 500, Portland, OR, 97232-2737. Comments will not be accepted if submitted via e-mail or the internet. However, comments may be sent via fax to (503) 230-5435.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Northwest Region, (503) 231-2005; Craig Wingert, NMFS, Southwest Region, (562) 980-4021; or Chris Mobley, NMFS, Office of Protected Resources, (301) 713-1401. Additional information, including the references used and the petitions addressed in this document, are available on the internet at www.nwr.noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

Delisting Factors and Basis for Determination

Section 4(b)(3)(A) of the ESA requires that, to the maximum extent practicable, within 90 days after receiving a petition for delisting, among other things, the Secretary of Commerce (Secretary) shall make a finding whether the petition presents substantial scientific information indicating that the petitioned action may be warranted. The ESA implementing regulations for NMFS define "substantial information" as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted (50 CFR 424.14(b)(1)). In evaluating a petitioned action, the Secretary must consider whether such a petition: clearly indicates the recommended administrative measure and the species involved; contains a detailed narrative justification for the recommended measure, describing past and present numbers and distribution of the species involved and any threats faced by the species; provides

information regarding the status of the species over all or a significant portion of its range; and is accompanied by appropriate supporting documentation (50 CFR 424.14(b)(2)).

50 CFR 424.11(d) contains provisions concerning petitions from interested persons requesting the Secretary to delist or reclassify a species listed under the ESA. A species may be delisted for one or more of the following reasons: The species is extinct or has been extirpated from its previous range; the species has recovered and is no longer endangered or threatened; or investigations show that the best scientific or commercial data available when the species was listed, or the interpretation of such data, were in error.

Salmonid Evolutionarily Significant Units

NMFS is responsible for determining whether species, subspecies, or distinct population segments (DPSs) of Pacific salmon and steelhead (*Oncorhynchus* spp.) are threatened or endangered species under the ESA. NMFS has determined that DPSs are represented by ESUs of Pacific salmon and steelhead, and treats ESUs as a "species" under the ESA (56 FR 58612, November 20, 1991). To date, NMFS has completed comprehensive coastwide status reviews of Pacific salmonids and identified 51 ESUs in California, Oregon, Washington, and Idaho. Five of these ESUs are currently listed under the ESA as endangered, and 21 ESUs are listed as threatened. In making these assessments, NMFS has focused on whether the native naturally spawned fish within an ESU are self-sustaining. NMFS then considers which hatchery populations are part of an ESU, and includes in the final listing only the ESU hatchery populations that are deemed essential for recovery. Typically, few or none of the hatchery populations within an ESU have been listed using this approach, which NMFS articulated in an interim artificial propagation policy published in the **Federal Register** on April 5, 1993 (58 FR 17573). However, a recent Federal court decision requires that NMFS reassess this approach.

In *Alesea Valley Alliance v. Evans* (99–6265–HO, D. OR, September 12, 2001) (*Alesea* decision), the U.S. District Court in Eugene, Oregon, set aside NMFS' 1998 ESA listing of Oregon Coast coho salmon, and ruled that NMFS' treatment of hatchery populations within an ESU was arbitrary and capricious. Specifically, the Court found that NMFS' 1998 listing of Oregon Coast coho made improper distinctions

beyond the level of an ESU by excluding hatchery populations from listing protection even though they were determined to be part of the same ESU as the listed naturally spawned populations. While this ruling affected only one ESU, the interpretive issue raised by the ruling has the potential to affect nearly all of the agency's West Coast salmon and steelhead listing determinations made to date. On December 14, 2001, the U.S. Court of Appeals for the Ninth Circuit (01–36071) granted intervenors-appellants an emergency motion to stay the district court judgement in the *Alesea* decision. Accordingly, the Oregon Coast coho ESU remains listed as a threatened species pending final disposition of the appeal.

Petitions Received

During September and October of 2001, NMFS received six delisting petitions. On September 19, 2001, NMFS received a petition from Interactive Citizens United (ICU petition) to delist coho salmon (*O. kisutch*) in Siskiyou County, CA. These fish are part of a larger ESU of Southern Oregon/Northern California Coast (SONCC) coho salmon. NMFS has also received several other petitions to delist 15 West Coast salmon and steelhead ESUs that include hatchery populations. On October 22, 2001, NMFS received a petition from the Washington State Farm Bureau (WFB petition), on the behalf of a coalition of agricultural organizations in Washington State, to delist 12 Pacific salmon ESUs: the endangered Snake River sockeye (*O. nerka*) ESU; the threatened Puget Sound, Snake River spring/summer, Snake River fall, Lower Columbia River, and endangered Upper Columbia River spring-run chinook (*O. tshawytscha*) ESUs; the threatened Hood Canal summer-run and Columbia River chum (*O. keta*) ESUs; and, the threatened Lower Columbia River, Middle Columbia River, Snake River steelhead (*O. mykiss*) ESUs and the endangered Upper Columbia River. On October 17, 2001, NMFS received a petition on behalf of the Columbia-Snake River Irrigators' Association (CSRIA petition) to delist seven Pacific salmon ESUs: the endangered Snake River sockeye ESU; the threatened Snake River fall, Snake River spring/summer, and the endangered Upper Columbia River spring-run chinook ESUs; and, the threatened Middle Columbia River, Snake River steelhead ESUs; and, the endangered Upper Columbia River. Also on October 17, 2001, a petition on behalf of the Kitsap Alliance of Property Owners and the Skagit County

Cattlemen's Association (KAPO petition) was received to delist the threatened Puget Sound chinook and Hood Canal summer-run chum ESUs. On October 23, 2001 a petition was received on behalf of seven anonymous petitioners (SONCC–7 petition) to delist the threatened SONCC coho ESU. Finally, on October 24, 2001, NMFS received a petition on behalf of the Greenberry Irrigation District (GID petition) to delist the threatened Upper Willamette River chinook and steelhead ESUs. Copies of all of these petitions are available from NMFS (see **FOR FURTHER INFORMATION CONTACT**).

Petition Findings and Re-initiation of Status Reviews

The ICU petition seeks delisting of a portion (i.e., fish in Siskiyou County) of the threatened SONCC coho salmon ESU, an action not authorized by the ESA. NMFS has determined that DPSs are represented by ESUs of Pacific salmon and steelhead, and treats ESUs as a species under the ESA (56 FR 58612, November 20, 1991). The ESA authorizes the listing, delisting, or reclassification of a species, subspecies, or DPS, as defined under the ESA (50 CFR 424.02(k)). However, the ESA does not authorize the delisting of only a subset or portion of a listed species/subspecies/DPS (50 CFR 424.11(d)). The ICU petition does not provide status data for the listed ESU over all or a significant portion of its range, hence the data provided are not instructive in the context of the ESU's status as a whole. The petition lacks a coherent narrative detailing the justification for the recommended delisting. Furthermore, it does not present substantial scientific or commercial information that the SONCC ESU is recovered, extinct, or that the data or its interpretation in the original listing determination were in error. Additionally, the data provided are restricted to the Iron Gate Hatchery population, a population which was determined to be of uncertain relationship to the ESU in the original listing determination (62 FR 24588; May 6, 1997). Therefore, NMFS determines that the petition does not present substantial scientific or commercial information to indicate that the petitioned action may be warranted based on the criteria specified in 50 CFR 424.14(b)(2) and 50 CFR 424.11(d).

The WFB, CSRIA, KAPO, SONCC–7, and GID petitions address entire ESUs and, in a recent U.S. District Court ruling, the Court found NMFS prior treatment of hatchery fish in ESA listing determinations to be arbitrary and capricious. NMFS thereby concludes

that the petitions present substantial scientific and commercial information indicating that the petitioned action may be warranted for 14 of the 15 petitioned ESUs (50 CFR 424.14(b)(2) and 50 CFR 424.11(d)). However, NMFS finds that the WFB & CSRIA petitions do not present substantial scientific and commercial information to indicate that delisting of the Snake River sockeye ESU may be warranted (see discussion below).

NMFS is undertaking status reviews for 14 of the 15 petitioned ESUs. Moreover, NMFS is also reviewing the status of 11 additional ESUs that currently are candidates or are listed as threatened or endangered species under the ESA. These coastwide status reviews will encompass 24 of the 26 currently listed salmon and steelhead ESUs, as well as the candidate Lower Columbia River/Southwestern Washington coho ESU (see Description of ESUs to be Reviewed, below). NMFS will not revisit the status of the endangered Snake River sockeye ESU (identified in the WFB and CSRIA petitions), nor will it update the status of the endangered Southern California steelhead ESU. The captive hatchery population of Snake River sockeye was determined essential to the recovery of the ESU, and was included in the original listing determination (56 FR 58619; November 20, 1991). Although the captive propagation program offers some protection against extinction of the ESU in the short term, the precarious status of Snake River sockeye (e.g. the annual number of returning naturally spawned adults since 1991 has ranged from 0 to 250 fish) warrants maintaining the ESU as an endangered species. In the Southern California steelhead ESU there are no hatchery populations. Thus its original listing determination (62 FR 43937; August 18, 1997) is not affected by ESA interpretive issues stemming from the *Alsea* decision. Additionally, Southern California steelhead remain in danger of extinction throughout all or a significant portion of their range and will be maintained as an endangered species under the ESA.

Concurrent with the coastwide status review updates, NMFS will review its policy regarding the consideration of hatchery-bred salmon in its ESA listing determinations and issue a new artificial propagation policy. This new policy (see New Artificial Propagation Policy, below) is scheduled to be completed by September 2002. Subsequent listing determinations will be made in accordance with the new artificial propagation policy, and any indicated changes in the ESA-listing statuses of the 25 ESUs will be

completed as soon as possible following the publication of a new artificial propagation policy in September 2002. At that time NMFS will consider whether there is the need to reevaluate critical habitat designations, protective regulations, or ongoing recovery planning efforts for these ESUs. In conducting these status reviews, NMFS will utilize the best available scientific and commercial data. NMFS will also consider conservation efforts that provided substantial benefit to the protection and conservation of West Coast salmon and steelhead (see joint NMFS-U.S. Fish and Wildlife Service "Draft Policy on Evaluating Conservation Efforts" 65 FR 37102; June 13, 2000).

Description of ESUs to be Reviewed

The following sections describe the specific ESUs to be updated. The year of the most recent status review and the latest data utilized are also provided for each ESU to indicate the data that would be most valuable to NMFS (e.g. information since the most recent status review) in conducting the status review updates.

West Coast Sockeye Salmon

Ozette Lake Sockeye Salmon ESU

The Ozette Lake ESU of sockeye salmon was listed as a threatened species on March 25, 1999 (64 FR 14528). The ESU includes all naturally spawned populations of sockeye salmon in Ozette lake and streams flowing into Ozette lake, Washington. The status of the ESU was last reviewed in 1998 (NMFS 1998), utilizing available population data through 1998.

West Coast Chinook Salmon

Sacramento River Winter-run Chinook Salmon ESU

The Sacramento River winter-run chinook ESU was listed as endangered on January 4, 1994 (59 FR 440). The ESU includes populations of winter-run chinook salmon in the Sacramento River and its tributaries in California. The status of the ESU was last reviewed in 1994 (NMFS 1994) using available data through 1992.

Snake River Spring/Summer Chinook Salmon ESU

The Snake River spring/summer ESU was listed as a threatened species on April 22, 1992 (57 FR 34639, but see correction in 57 FR 23458, June 3, 1992). The ESU includes all naturally spawned populations of spring/summer-run chinook salmon in the mainstem Snake River and any of the Tucannon, Grande Ronde, Imnaha and Salmon

River subbasins. The status of the ESU was last reviewed in 1998 (63 FR 1807; January 12, 1998) utilizing available data through 1997.

Snake River Fall Chinook Salmon ESU

The Snake River fall chinook ESU was listed as a threatened species (57 FR 34639, April 22, 1992; but see correction in 57 FR 23458, June 3, 1992), and the ESU includes all naturally spawned populations of fall-run chinook salmon in the mainstem Snake River and the Tucannon, Grande Ronde, Imnaha, Salmon, and Clearwater River subbasins. The status of the ESU was last reviewed in 1999 (NMFS 1999) utilizing available data through 1998.

Puget Sound Chinook Salmon ESU

The Puget Sound chinook ESU was listed as a threatened species on March 24, 1999 (64 FR 14208). The ESU includes all naturally spawned populations of chinook salmon from rivers and streams flowing into Puget Sound, including the Straits of Juan De Fuca from the Elwha River eastward, and including rivers and streams flowing into the Hood Canal, South Sound, North Sound and the Strait of Georgia in Washington. Chinook salmon (and their progeny) from the following hatchery stocks are also part of the listed Puget Sound ESU: Kendall Creek (spring run); North Fork Stillaguamish River (summer run); White River (spring run); Dungeness River (spring run); and Elwha River (fall run). The status of the ESU was last reviewed in 1998 (NMFS 1998) utilizing available data through 1996.

Upper Willamette River Chinook Salmon ESU

The Upper Willamette River chinook ESU was listed as a threatened species on March 24, 1999 (64 FR 14208). The ESU includes all naturally spawned populations of spring-run chinook in the Clackamas River, and in the Willamette River and its tributaries above Willamette Falls, Oregon. The status of the ESU was last reviewed in 1998 (NMFS 1998) utilizing available data through 1996.

Lower Columbia River Chinook Salmon ESU

The Lower Columbia River ESU of chinook salmon was listed as threatened on March 24, 1999 (64 FR 14208). The ESU includes all naturally spawned populations of chinook salmon from the Columbia River and its tributaries from its mouth at the Pacific Ocean upstream to a transitional point between Washington and Oregon east of the Hood River and the White Salmon

River, and includes the Willamette River to Willamette Falls, OR, exclusive of spring-run chinook salmon in the Clackamas River. The status of the ESU was last reviewed in 1998 (NMFS 1998) utilizing available data through 1996.

Upper Columbia River Spring-run Chinook Salmon ESU

The endangered Upper Columbia River spring-run chinook ESU was listed on March 24, 1999 (64 FR 14208). The ESU includes all naturally spawned populations of chinook salmon in all river reaches accessible to chinook salmon in the Columbia River and its tributaries upstream of the Rock Island Dam and downstream of Chief Joseph Dam in Washington, excluding the Okanogan River. Chinook salmon (and their progeny) from hatchery stocks in the Chiwawa River (spring run), Methow River (spring run), Twisp River (spring run), Chewuch River (spring run), White River (spring run), and Nason Creek are also part of the endangered Upper Columbia ESU. The status of the ESU was last reviewed in 1998 (NMFS 1998) utilizing available data through 1996.

Central Valley Spring-run Chinook Salmon ESU

The California Central Valley spring-run chinook ESU was listed as a threatened species on September 16, 1999 (64 FR 50394). The ESU includes all naturally spawned populations of spring-run chinook salmon in the Sacramento River and its tributaries in California. The status of the ESU was last reviewed in 1999 (NMFS 1999) utilizing available data through 1998.

California Coastal Chinook Salmon ESU

The California Coastal chinook ESU was listed as threatened on September 16, 1999 (64 FR 50394). The ESU includes all naturally spawned populations of chinook salmon from California rivers and streams south of the Klamath River to the Russian River. The status of the ESU was last reviewed in 1999 (NMFS 1999) utilizing available data through 1998.

West Coast Coho Salmon

Central California Coast Coho Salmon ESU

The Central California Coast ESU was listed as threatened on October 31, 1996 (64 FR 50394), and includes all naturally spawned populations of coho salmon from Punta Gorda in northern California, south to and including the San Lorenzo River in central California, as well as populations in tributaries to the San Francisco Bay excluding the Sacramento-San Joaquin River system.

The status of the ESU was last reviewed in 1995 (NMFS 1995), utilizing available population data through 1992.

Southern Oregon/Northern California Coast Coho Salmon ESU

The SONCC coho ESU was listed as a threatened species on May 6, 1997 (62 FR 24588). This ESU includes all naturally spawned populations of coho salmon in coastal streams between Cape Blanco, Oregon, and Punta Gorda, California. The status of the ESU was last reviewed in 1997 (NMFS 1997) utilizing available data through 1996.

Oregon Coast Coho Salmon ESU

The Oregon Coast coho ESU was originally listed as a threatened species on August 10, 1998 (63 FR 42587), was delisted by court order on September 12, 2001, and on December 14, 2001 reinstated as a threatened species pending an appeal (see Background). The ESU includes all naturally spawned populations of coho salmon in Oregon coastal streams south of the Columbia River and north of Cape Blanco. The status of the ESU was last reviewed in 1997 (NMFS 1997), utilizing available data through 1996.

Lower Columbia/Southwest Washington Coho Salmon ESU

On July 25, 1995, NMFS determined that listing was not warranted for this ESU (60 FR 38011). However, the ESU is designated as a candidate for listing due to concerns over specific risk factors. The ESU includes all naturally spawned populations of coho salmon from Columbia River tributaries below the Klickitat River on the Washington side and below the Deschutes River on the Oregon side (including the Willamette River as far upriver as Willamette Falls), as well as coastal drainages in southwest Washington between the Columbia River and Point Grenville. The status of the ESU was last reviewed in 1996 (NMFS 1996), utilizing available data through 1995.

West Coast Chum Salmon

Hood Canal Summer-run Chum Salmon ESU

The Hood Canal summer-run chum ESU was listed as a threatened species on March 25, 1999 (64 FR 14508). The ESU includes all naturally spawned populations of summer-run chum salmon in Hood Canal and its tributaries, as well as populations in rivers of the Olympic Peninsula between Hood Canal and Dungeness Bay, Washington. The status of the ESU was last reviewed in 1999 (NMFS 1999) utilizing available data through 1997.

Columbia River Chum Salmon ESU

The Columbia River chum ESU was listed as a threatened species on March 25, 1999 (64 FR 14508). The ESU includes all naturally spawned populations of chum salmon in the Columbia River and its tributaries in Washington and Oregon. The status of the ESU was last reviewed in 1999 (NMFS 1999) utilizing available data through 1997.

West Coast Steelhead

South-Central California Coast Steelhead ESU

The South-Central California steelhead ESU was listed as a threatened species on August 18, 1997 (62 FR 43937). The South-Central ESU includes all naturally spawned populations of steelhead (and their progeny) in streams from the Pajaro River (inclusive) to, but not including, the Santa Maria River in California. The status of the ESU was last reviewed in 1997 (NMFS 1997) utilizing available data through 1996.

Central California Coast Steelhead ESU

The Central California Coast ESU was listed as a threatened species on August 18, 1997 (62 FR 43937). The ESU includes all naturally spawned populations of steelhead (and their progeny) in California streams from the Russian River to Aptos Creek, as well as the drainages of San Francisco and San Pablo Bays eastward to the Napa River (inclusive), exclusive of the Sacramento-San Joaquin River Basin. The status of the ESU was last reviewed in 1997 (NMFS 1997) utilizing available data through 1996.

Upper Columbia River Steelhead ESU

The Upper Columbia River ESU was listed as an endangered species on August 18, 1997 (62 FR 43937). The ESU is composed of all naturally spawned populations of steelhead (and their progeny) in Columbia River Basin streams upstream from the Yakima River, Washington, to the U.S.-Canada international border. Steelhead from the Wells Hatchery stock are also included in this ESU and are listed as endangered. The status of the ESU was last reviewed in 1997 (NMFS 1997) utilizing available data through 1996.

Snake River Basin Steelhead ESU

The Snake River Basin ESU was listed as a threatened species on August 18, 1997 (62 FR 43937). The ESU includes all naturally spawned populations (and their progeny) in streams in the Snake River Basin of southeast Washington, northeast Oregon, and Idaho. The status of the ESU was last reviewed in 1997

(NMFS 1997) utilizing available data through 1996.

Lower Columbia River Steelhead ESU

The Lower Columbia River steelhead ESU was listed as a threatened species on August 18, 1997 (62 FR 43937). The Lower Columbia River ESU includes all naturally spawned steelhead (and their progeny) in streams and tributaries of the Columbia River between the Cowlitz and Wind Rivers (inclusive), Oregon. Excluded from this ESU are steelhead in the upper Willamette Basin above Willamette Falls and steelhead in the Little and Big White Salmon Rivers, Washington. The status of the ESU was last reviewed in 1997 (NMFS 1997) utilizing available data through 1996.

California Central Valley Steelhead ESU

The California Central Valley steelhead ESU was listed as a threatened species on March 19, 1998 (63 FR 13347). The ESU includes all naturally spawned populations of steelhead (and their progeny) in the Sacramento and San Joaquin Rivers and their tributaries, exclusive of San Francisco and San Pablo Bays and their tributaries. The status of the ESU was last reviewed in 1998 (NMFS 1998) utilizing available population data through 1996.

Upper Willamette River Steelhead ESU

The Upper Willamette River ESU was listed as a threatened species on March 25, 1999 (64 FR 14517). The ESU includes all naturally spawned populations of winter-run steelhead in the Willamette River and its tributaries upstream of Willamette Falls, Oregon, to the Calapooia River (inclusive). The status of the ESU was last reviewed in 1999 (NMFS 1999), utilizing available population data through 1997.

Middle Columbia River Steelhead ESU

The Middle Columbia River ESU was listed as a threatened species on March 25, 1999 (64 FR 14517). The Middle Columbia River ESU comprises all naturally spawned populations of steelhead in Columbia River Basin streams above the Wind River, Washington, and the Hood River, Oregon (exclusive), upstream to and including the Yakima River in Washington. Steelhead from the Snake River are excluded from this ESU. The status of the ESU was last reviewed in 1999 (NMFS 1999), utilizing available population data through 1997.

Northern California Steelhead ESU

Steelhead in the Northern California ESU were listed as a threatened species on June 7, 2000 (65 FR 36074). This ESU includes steelhead in California coastal

river basins from Redwood Creek south to the Gualala River, inclusive. The status of the ESU was last reviewed in 2000 (NMFS 2000), utilizing available data through 1998.

New Artificial Propagation Policy

In implementing its "Interim Policy on Artificial Propagation of Pacific Salmon Under the Endangered Species Act" (Interim Policy; 58 FR 17573; April 5, 1993), NMFS emphasized naturally spawned and self-sustaining populations in ESA listing determinations, and has included hatchery populations in the final listing only if they were determined to be similar to self-sustaining naturally spawned fish, and deemed essential for recovery (i.e. needed in artificial propagation programs intended to assist ESU recovery). In the Interim Policy, NMFS asserted that the listing of hatchery fish determined to be nonessential to recovery would not contribute to the ESA's goals of ensuring viable and naturally reproduced populations and conserving the ecosystems they inhabit. This approach, however, was called into question by the *Asea* decision, in which the court ruled that NMFS could not determine that certain hatchery populations are part of an ESU, yet exclude them from protections under the ESA in the final listing determination.

The *Asea* decision gives NMFS the opportunity to reevaluate how hatchery populations are considered in ESA listing determinations. NMFS will prepare a new artificial propagation policy that will propose an alternative approach to dealing with these listing issues under the ESA. In support of the new policy, NMFS will also issue guidelines that address the extent to which hatchery populations can be used to accelerate recovery, and that detail long-term standards for hatchery operation which assure that artificial propagation of salmon stocks will not undermine recovery efforts. The new artificial propagation policy and supporting guidelines will consider comments received in response to NMFS' Interim Policy. Additionally, NMFS will work in coordination with the U.S. Fish and Wildlife Service in drafting the new policy and the supporting guidelines. In formulating the new policy and supporting guidelines NMFS will seek public input and include public hearings during a 60-day comment period following publication of the proposed rule and guidelines. NMFS intends to publish the final policy on artificial propagation in listing determinations by September 2002.

Preliminary Recovery Planning Targets

As part of the status review updates, NMFS recognizes that regional, state, tribal and local planning efforts are vital to the recovery of threatened and endangered Pacific salmon and steelhead ESUs. NMFS also recognizes that recovery goals can provide an important context and perspective for these ongoing recovery efforts. Thus, NMFS will provide preliminary estimates of recovery planning targets to help stimulate recovery efforts and to provide guidance while final recovery plans and recovery targets are being developed. It is NMFS' intent that these preliminary estimates be helpful and meaningful to stakeholders by helping them gauge the disparity between present ESU status and that needed to ensure a species' conservation and survival (ESA Sec. 4(f)). Although these preliminary estimates may utilize biological "rules of thumb" (e.g., the population abundance or productivity values maintained over a specified time-frame that are necessary for population viability in a given subbasin), NMFS regards them as policy goals rather than more formally adopted delisting goals. These preliminary estimates will be in place until they are refined with information from the Technical Recovery Teams (TRTs) established by NMFS. NMFS intends to provide preliminary targets for all listed salmonid ESUs by Spring 2002. Refined and more specific targets resulting from TRT and local recovery planning efforts could be available by early summer for ESUs in the Puget Sound, Upper Columbia, and Lower Columbia recovery areas.

Information Solicited

Biological Status of ESUs

In the interim between publication of this document and the completion of the updated status reviews, NMFS seeks to compile the data and information necessary to expedite completion of the status review process once the new artificial propagation policy is finalized. To ensure that the status review updates are complete and are based on the best available and most recent scientific and commercial data, NMFS is soliciting information and comments (see **DATES** and **ADDRESSES**) concerning the 25 ESUs described earlier in the section entitled Description of ESUs to be Reviewed. NMFS is soliciting pertinent information on naturally spawned and hatchery populations within these ESUs, data on population abundance, recruitment, productivity, escapement, and reproductive success (e.g. spawner-recruit or spawner-spawner

survivorship, smolt production estimates, fecundity, and ocean survival rates); historical and present data on hatchery fish releases, outmigration, survivorship, returns, straying rates, replacement rates, and reproductive success in the wild; data on age structure and migration patterns of juveniles and adults; meristic, morphometric, and genetic studies; and spatial or temporal trends in the quality and quantity of freshwater, estuarine, and marine habitats. NMFS is particularly interested in receiving such information for the period subsequent to the most recent status review for a given ESU (see Description of ESUs to be Reviewed). Status reviews for the majority of the 25 ESUs to be reviewed were conducted in 1997–2000. However, the status of Sacramento River winter-run chinook, and Central California coast coho were last assessed in 1994, and 1995, respectively.

Conservation Efforts to Protect West Coast Salmonids

Section 4(b)(1)(A) of the ESA requires the Secretary to make listing determinations solely on the basis of the best scientific and commercial data available after conducting a review of the status of a species and after taking into account efforts being made to protect the species. Therefore, in making its listing determinations, NMFS first assesses the status of the species and identifies factors that have led to the decline. NMFS then assesses conservation measures to determine whether they ameliorate a species extinction risk (50 CFR 424.11(f)). In judging the efficacy of conservation efforts, NMFS considers the following: The substantive, protective, and conservation elements of such efforts; the degree of certainty that such efforts will reliably be implemented (see draft policy, 65 FR 37102; June 13, 2000); the degree of certainty that such efforts will be effective in furthering the conservation of the species; and the presence of monitoring provisions to determine effectiveness of recovery efforts and that permit adaptive management. In some cases, conservation efforts may be relatively new or may not have had sufficient time to demonstrate their biological benefit. In such cases, provisions of adequate monitoring and funding for conservation efforts are essential to ensure that the intended conservation benefits are realized. NMFS also encourages all parties to submit information on ongoing efforts to protect and conserve West Coast salmonids, as well as information on recently implemented or planned activities (i.e.,

since the time of listing for a given ESU) and their likely impact on the ESUs to be reviewed.

The complete citations for the references used in this document can be obtained by contacting NMFS or via the internet (see ADDRESSES and FOR FURTHER INFORMATION CONTACT).

Authority: 16 U.S.C. 1531 *et seq.*

Dated: February 6, 2002.

Rebecca Lent,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 020131023-2023-01; I.D. 011602B]

RIN 0648–AP80

Pacific Halibut Fisheries; Catch Sharing Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed changes to catch sharing plan and sport fishing management.

SUMMARY: NMFS proposes, under authority of the Northern Pacific Halibut Act (Halibut Act), to approve and implement changes to the Area 2A Pacific Halibut Catch Sharing Plan (Plan) to adjust the management of the sport fishery in Puget Sound, WA, and to adjust the halibut possession limit for Oregon anglers. NMFS also proposes sport fishery regulations to implement the Plan in 2002. A draft environmental assessment and regulatory impact review (EA/RIR) on this action is also available for public comment.

DATES: Comments on the proposed changes to the Plan must be received by February 22, 2002, and comments on the proposed sport fishery regulations must be received by February 22, 2002.

ADDRESSES: Send comments or requests for a copy of the Plan and/or the EA/RIR to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115. Electronic copies of the Plan, including proposed changes for 2002, and of the draft EA/RIR are also available at the NMFS Northwest Region website: [http://](http://www.nwr.noaa.gov)

www.nwr.noaa.gov, click on “Pacific Halibut.” Comments will not be accepted if submitted via email or the Internet.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier, Northwest Region, NMFS, phone: 206–526–6140; fax: 206–526–6736 or; e-mail: yvonne.dereynier@noaa.gov.

SUPPLEMENTARY INFORMATION: The Halibut Act of 1982, at 16 U.S.C. 773c, requires that the Secretary of Commerce (Secretary) adopt such regulations as may be necessary to carry out the purposes and objectives of the Halibut Convention between the United States and Canada and the Halibut Act. Section 773c(c) of the Halibut Act authorizes the Regional Fishery Management Councils to develop regulations governing the Pacific halibut catch in their corresponding U.S. Convention waters that are in addition to, but not in conflict with, regulations of the International Pacific Halibut Commission (IPHC). Each year since 1988, the Pacific Fishery Management Council (Council) has developed a catch sharing plan in accordance with the Halibut Act to allocate the total allowable catch (TAC) of Pacific halibut between treaty Indian and non-treaty harvesters and among non-treaty commercial and sport fisheries in IPHC statistical Area 2A (off Washington, Oregon, and California).

In 1995, NMFS implemented the Council-recommended Plan (60 FR 14651, March 20, 1995). In each of the intervening years between 1995 and the present, minor revisions to the Plan have been made to adjust for the changing needs of the fisheries. The Plan allocates 35 percent of the Area 2A TAC to Washington treaty Indian tribes in Subarea 2A-1 and 65 percent to non-Indian fisheries in Area 2A. The allocation to non-Indian fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The commercial fishery is further divided into a directed commercial fishery that is allocated 85 percent of the commercial allocation and an incidental catch in the salmon troll fishery that is allocated 15 percent of the commercial allocation. The directed commercial fishery in Area 2A is confined to southern Washington (south of 46°53'18" N. lat.), Oregon, and California. North of 46°53'18" N lat. (Pt. Chehalis), the Plan allows for incidental halibut retention in the primary limited entry sablefish fishery when the overall