

**FEDERAL COMMUNICATIONS  
COMMISSION****47 CFR Part 73**

[MM Docket No. 99-137, RM-9571]

**Radio Broadcasting Services;  
Amazonia, MO****AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 273A at Amazonia, Missouri, as the community's first local service. The channel can be allotted to Amazonia with a site restriction 6.7 kilometers (4.1 miles) northeast of the community at coordinates 39°56'34" NL and 94°51'22" WL.

**DATES:** Comments must be filed on or before June 21, 1999, and reply comments on or before July 6, 1999.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99-137, adopted April 21, 1999, and released April 30, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800, facsimile (202) 857-3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Federal Communications Commission.

**John A. Karousos,***Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 99-11645 Filed 5-7-99; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL COMMUNICATIONS  
COMMISSION****47 CFR Part 73**

[MM Docket No. 99-138, RM-9569]

**Radio Broadcasting Services;  
Lovelady, TX****AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition filed by Lovelady Broadcasting Company proposing the allotment of Channel 282C3 at Lovelady, Texas, as the community's first local broadcast service. The channel can be allotted to Lovelady with a site restriction 4.1 kilometers (2.5 miles) north of the community at coordinates 31°09'51" NL and 95°27'09" WL.

**DATES:** Comments must be filed on or before June 21, 1999, and reply comments on or before July 6, 1999.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Ann Bavender, Fletcher, Heald & Hildreth, P.L.C., 1300 N. 17th Street, 11th Floor, Arlington, VA 22209.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99-138, adopted April 21, 1999, and released April 30, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800, facsimile (202) 857-3805.

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Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Federal Communications Commission.

**John A. Karousos,***Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 99-11646 Filed 5-7-99; 8:45 am]

BILLING CODE 6712-01-P

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 226**

[Docket No. 990429112-9112-01; I.D. 040899A]

**RIN 0648-AM58****Designated Critical Habitat: Proposed Critical Habitat for the Oregon Coast Coho Salmon Evolutionarily Significant Unit**

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

**ACTION:** Proposed rule; request for comments; and notification of public hearings.

**SUMMARY:** NMFS proposes to designate critical habitat for the Oregon Coast Coho Salmon (*Oncorhynchus kisutch*) Evolutionarily Significant Unit (ESU) previously listed as a threatened species under the Endangered Species Act (ESA). Proposed critical habitat occurs in Oregon coastal river basins between Cape Blanco and the Columbia River. The areas described in this proposed rule represent the current freshwater and estuarine range inhabited by the ESU. Freshwater critical habitat includes all waterways and substrates below longstanding, naturally impassable barriers (i.e., natural

waterfalls in existence for at least several hundred years) and several dams that block access to former coho salmon habitats. The economic and other impacts resulting from this critical habitat designation are expected to be minimal.

**DATES:** Written comments on the proposed Oregon Coast coho salmon critical habitat designation must be received by July 9, 1999. See

**SUPPLEMENTARY INFORMATION** for dates and times of public hearings. Requests for specific locations or additional public hearings must be received by June 24, 1999.

**ADDRESSES:** See **SUPPLEMENTARY INFORMATION** for locations of public hearings. Written comments on this proposed rule or requests for additional public hearings or reference materials should be sent to Branch Chief, Protected Resources Division, NMFS, Northwest Region, 525 NE Oregon Street, Suite 500, Portland, OR 97232-2737; telefax (503) 230-5435.

**FOR FURTHER INFORMATION CONTACT:** Garth Griffin, (503) 231-2005, or Chris Mobley, (301) 713-1401.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The history of petitions received regarding coho salmon is summarized in the proposed rule published on July 25, 1995 (60 FR 38011). The most comprehensive petition was submitted by the Pacific Rivers Council and by 22 co-petitioners on October 20, 1993. In response to that petition, NMFS assessed the best available scientific and commercial data, including technical information from Pacific Salmon Biological and Technical Committees (PSBTCs) in Washington, Oregon, and California. The PSBTCs consisted of scientists from Federal, state, and local resource agencies, Indian tribes, universities, industries, professional societies, and public interest groups with technical expertise relevant to coho salmon. NMFS also established a Biological Review Team (BRT), composed of staff from its Northwest Fisheries Science Center and Southwest Regional Office, which conducted a coastwide status review for coho salmon (Weitkamp *et al.*, 1995; NMFS, 1997).

Based on the results of the BRT report, and after considering other information and existing conservation measures, NMFS published a proposed listing determination (60 FR 38011, July 25, 1995) that identified six ESUs of coho salmon, ranging from southern British Columbia to central California. The Oregon Coast ESU, Southern Oregon/Northern California Coasts ESU,

and Central California Coast ESU were proposed for listing as threatened species, and the Olympic Peninsula ESU was found not to warrant listing. The Puget Sound/Strait of Georgia ESU and the lower Columbia River/southwest Washington Coast ESU were identified as candidates for listing. NMFS is in the process of completing status reviews for the latter two ESUs; results and findings for both will be announced in an upcoming **Federal Register** document.

On August 10, 1998, NMFS issued a final rule listing the Oregon coast coho salmon ESU as a threatened species (63 FR 42587). Section 4(a)(3)(A) of the ESA requires that, to the maximum extent prudent and determinable, NMFS designate critical habitat concurrently with a determination that a species is endangered or threatened. At the time of the final listing, NMFS found that critical habitat was not determinable for this ESU. However, NMFS has compiled and reviewed the relevant information and now determines that sufficient information exists to propose designating critical habitat for the Oregon Coast ESU. NMFS will consider all available information and data in finalizing this proposal.

##### **Definition of Critical Habitat**

Critical habitat is defined in section 3(5)(A) of the ESA as "(i) the specific areas within the geographical area occupied by the species \* \* \* on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species \* \* \* upon a determination by the Secretary that such areas are essential for the conservation of the species." The term "conservation," as defined in section 3(3) of the ESA, means "\* \* \* to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary."

In designating critical habitat, NMFS considers the following requirements of the species: (1) Space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, or rearing offspring; and, generally, (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of this species (50 CFR

424.12(b)). In addition to these factors, NMFS also focuses on the known physical and biological features (primary constituent elements) within the designated area that are essential to the conservation of the species and that may require special management considerations or protection. These essential features may include, but are not limited to, spawning sites, food resources, water quality and quantity, and riparian vegetation (50 CFR 424.12(b)).

Use of the term "essential habitat" within this document refers to critical habitat as defined by the ESA and should not be confused with the requirement to describe and identify Essential Fish Habitat pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

#### **Consideration of Economic and Other Factors**

The economic and other impacts of a critical habitat designation have been considered and evaluated in this proposed rulemaking. NMFS identified present and anticipated activities that may adversely modify the area(s) being considered or that may be affected by a designation. An area may be excluded from a critical habitat designation if NMFS determines that the overall benefits of exclusion outweigh the benefits of designation, unless the exclusion will result in the extinction of the species (see 16 U.S.C. 1533(b)(2)).

The impacts considered in this analysis are only those incremental impacts resulting specifically from a critical habitat designation, above the economic and other impacts attributable to listing the species or resulting from other authorities. Since listing a species under the ESA provides significant protection to a species' habitat, in many cases, the economic and other impacts resulting from the critical habitat designation, over and above the impacts of the listing itself, are minimal. In general, the designation of critical habitat highlights geographical areas of concern and reinforces the substantive protection resulting from the listing itself.

Impacts attributable to listing include those resulting from the "take" prohibitions contained in section 9 of the ESA and associated regulations. "Take," as defined in the ESA means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct" (16 U.S.C. 1532(19)). Harm can occur through destruction or modification of habitat (whether or not designated as critical) that significantly

impairs essential behaviors, including breeding, feeding, rearing or migration (63 FR 24148, May 1, 1998).

### Significance of Designating Critical Habitat

The designation of critical habitat does not, in and of itself, restrict human activities within an area or mandate any specific management or recovery actions. A critical habitat designation contributes to species conservation primarily by identifying important areas and by describing the features within those areas that are essential to the species, thus alerting public and private entities to the area's importance. Under the ESA, the only regulatory impact of a critical habitat designation is through the provisions of section 7. Section 7 applies only to actions with Federal involvement (e.g., authorized, funded, or conducted by a Federal agency) and does not affect exclusively state or private activities.

Under the ESA section 7 provisions, a designation of critical habitat would require Federal agencies to ensure that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of designated critical habitat. Activities that destroy or adversely modify critical habitat are defined as those actions that "appreciably diminish the value of critical habitat for both the survival and recovery" of the species (50 CFR 402.02). Regardless of a critical habitat designation, Federal agencies must ensure that their actions are not likely to jeopardize the continued existence of the listed species. Activities that jeopardize a species are defined as those actions that "reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species" (50 CFR 402.02). Using these definitions, activities that are likely to destroy or adversely modify critical habitat would also be likely to jeopardize the species. Therefore, the protection provided by a critical habitat designation generally duplicates the protection provided under the section 7 jeopardy provision. Critical habitat may provide additional benefits to a species in cases where areas outside the species' current range have been designated. Federal agencies are required to consult with NMFS under section 7 (50 CFR 402.14(a)), when these designated areas may be affected by their actions. The effects of these actions on designated areas may not have been recognized but for the critical habitat designation.

A designation of critical habitat provides Federal agencies with a clear indication as to when consultation

under section 7 of the ESA is required, particularly in cases where the proposed action would not result in immediate mortality, injury, or harm to individuals of a listed species (e.g., an action occurring within the critical habitat area when a migratory species is not present). The critical habitat designation, in describing the essential features of the habitat, also helps determine which activities conducted outside the designated area are subject to section 7 (i.e., activities outside critical habitat that may affect essential features of the designated area).

A critical habitat designation will also assist Federal agencies in planning future actions because the designation establishes, in advance, those habitats that will be given special consideration in section 7 consultations. With a designation of critical habitat, potential conflicts between Federal actions and endangered or threatened species can be identified and possibly avoided early in an agency's planning process.

Another indirect benefit of designating critical habitat is that it helps focus Federal, state, and private conservation and management efforts in such areas. Management efforts may address special considerations needed in critical habitat areas, including conservation regulations that restrict private as well as Federal activities. The economic and other impacts of these actions would be considered at the time regulations are proposed and, therefore, are not considered in the critical habitat designation process. Other Federal, state, and local authorities, such as zoning or wetlands and riparian lands protection, may also benefit critical habitat areas.

### Process for Designating Critical Habitat

Developing a proposed critical habitat designation involves three main considerations. First, the biological needs of the species are evaluated, and essential habitat areas and features are identified. If alternative areas exist that would provide for the conservation of the species, such alternatives are also identified. Second, the need for special management considerations or protection of the area(s) or features identified are evaluated. Finally, the probable economic and other impacts of designating these essential areas as "critical habitat" are evaluated. After considering the requirements of the species, the need for special management, and the impacts of the designation, a notification of the proposed critical habitat is published in the **Federal Register** for comment. The final critical habitat designation is promulgated after considering all

comments and any new information received on the proposal. Final critical habitat designations may be revised, using the same process, as new information becomes available.

A description of the essential habitat, need for special management, impacts of designating critical habitat, and the proposed action are described in the following sections.

### Critical Habitat of the Oregon Coast Coho Salmon ESU

The Oregon Coast ESU is identified as all naturally spawned populations of coho salmon in coastal streams south of the Columbia River and north of Cape Blanco (60 FR 38011, July 25, 1995). Biological information for Oregon Coast coho salmon can be found in species status assessments by NMFS (Weitkamp *et al.*, 1995; NMFS, 1997) and by the Oregon Department of Fish and Wildlife (ODFW) (Nickelson *et al.*, 1992; Kostow, 1995; and Oregon Coastal Salmon Restoration Initiative (OCSRI), 1997), and in species life history summaries by Laufle *et al.*, 1986, Emmett *et al.*, 1991, and Sandercock, 1991 and in the proposed rule **Federal Register** document (60 FR 38011, July 25, 1995).

More than one million coho salmon are believed to have returned to Oregon coastal rivers in the early 1900s (Lichatowich, 1989), the bulk of them originating in this ESU. Current production is estimated to be less than 10 percent of historical levels. ODFW recognizes at least 80 coho salmon populations within the range of this ESU (Kostow, 1995). Spawning is distributed over a relatively large number of basins, both large and small, with the bulk of the production being skewed to the southern portion of the ESU's range. There, the coastal lake systems (e.g., the Tenmile, Tahkenitch, and Siltcoos Basins) and the Coos and Coquille Rivers have been particularly productive for coho salmon. Major hydrologic units inhabited by this ESU include the Necanicum, Nehalem, Wilson-Trask-Nestucca, Siletz-Yaquna, Alsea, Siuslaw, Siltcoos, Umpqua, Coos, Coquille, and Sixes River Basins. Within these basins, numerous small streams, tributaries, and off-channel areas provide important habitat for coho salmon.

Defining specific river reaches that are critical for coho salmon is difficult because of the current low abundance of the species and of our imperfect understanding of the species' freshwater distribution, both current and historical. For example, ODFW has conducted systematic spawner surveys for the species since the 1950's and has noted that fish are often widely scattered in

larger basins and that marginal habitats may only be inhabited during years of high abundance (Kostow, 1995). Several recent efforts have been made to characterize the species' status and distribution in Oregon (Emmett *et al.*, 1991; Nickelson *et al.*, 1992; The Wilderness Society, 1993; Kostow, 1995; Weitkamp *et al.*, 1995; and OCSRI, 1997) or to identify watersheds important to at-risk populations of salmonids and resident fishes (Forest Ecosystem Management Assessment Team (FEMAT), 1993). Key among these is the ODFW effort (OCSRI, 1997) to develop a series of maps depicting "core areas" for coho salmon and other species. These core areas are defined as "reaches or watersheds within individual coastal basins that are judged to be of critical importance to the sustenance of salmon populations that inhabit those basins" (OCSRI, 1997) and are derived from 1:100,000 U.S. Geological Survey (USGS) hydrologic unit maps. The areas depicted are primarily river reaches where best available data or professional judgement indicate high concentrations of spawning or rearing coho salmon. Within the range of the Oregon Coast ESU, more than 80 areas have been identified as draft core areas, the vast majority of which are located in the larger river basins. Notably missing are core areas for smaller coastal streams which comprise approximately half of the populations in the ESU (but a small fraction of the overall ESU production). While NMFS believes that this mapping effort holds great promise to focus habitat protection and restoration efforts, the core areas are still in a draft stage and include only a subset of the areas that NMFS believes are critical habitat for coho salmon (i.e., they do not specifically identify migration corridors or essential habitat for populations in smaller streams).

Based on consideration of the best available information regarding the species' current distribution, NMFS believes that the preferred approach to identifying critical habitat for this ESU is to designate all areas accessible to any life stage of the species within the range of specified river basins. NMFS believes that adopting a more inclusive, watershed-based description of critical habitat is appropriate because it (1) recognizes the species' extensive use of diverse habitats and underscores the need to account for all of the habitat types supporting the species' freshwater and estuarine life stages; (2) takes into account the natural variability in habitat use that makes precise mapping problematic (e.g., some streams/reaches

may have fish present only in years with plentiful rainfall); and (3) reinforces the important linkage between aquatic areas and adjacent riparian/upslope areas.

While NMFS is proposing to focus on accessible river reaches, it is important to note that habitat quality is intrinsically related to the quality of upland areas and upstream areas (including headwater or intermittent streams) which provide key habitat elements (e.g., large woody debris, gravel, water quality) crucial for coho salmon in downstream reaches. NMFS recognizes that estuarine habitats are critical for coho salmon and has included them in this designation. Marine habitats (i.e., oceanic or nearshore areas seaward of the mouth of coastal rivers) are also vital to the species, and ocean conditions may have a major influence on its survival. However, NMFS is still evaluating whether these areas currently warrant consideration as critical habitat, particularly whether marine areas require special management consideration or protection. Therefore, NMFS is not proposing to designate critical habitat in marine areas at this time. If additional information becomes available that supports the inclusion of such areas, NMFS may revise this designation.

Essential features of coho salmon critical habitat include adequate (1) substrate, (2) water quality, (3) water quantity, (4) water temperature, (5) water velocity, (6) cover/shelter, (7) food, (8) riparian vegetation, (9) space, and (10) safe passage conditions. Given the vast geographic range occupied by the Oregon Coast ESU and the diverse habitat types used by the various life stages, it is not practical to describe specific values or conditions for each of these essential habitat features. However, good summaries of these environmental parameters and freshwater factors that have contributed to the decline of this and other salmonids can be found in reviews by Barnhart, 1986, Pauley *et al.*, 1986, California Advisory Committee on Salmon and Steelhead Trout (CACSST), 1988, Bjornn and Reiser, 1991, Nehlsen *et al.*, 1991, California State Lands Commission, 1993, Reynolds *et al.*, 1993, Botkin *et al.*, 1995, McEwan and Jackson, 1996, NMFS, 1996a, and Spence *et al.*, 1996.

#### **Adjacent Riparian Zones**

NMFS' past critical habitat designations for listed anadromous salmonids have included the adjacent riparian zone as part of the designation. In the final designations for Snake River spring/summer chinook, fall chinook,

and sockeye (58 FR 68543, December 28, 1993), NMFS included the adjacent riparian zone as part of critical habitat and defined it in the regulation as those areas within a horizontal distance of 300 feet (91.4 meters) from the normal high water line. In the critical habitat designation for Sacramento River winter run chinook (58 FR 33212, June 16, 1993), NMFS included "adjacent riparian zones" as part of the critical habitat but did not define the extent of that zone in the regulation. The preamble to that rule stated that the adjacent riparian zone was limited to "those areas that provide cover and shade."

Streams and stream functioning are inextricably linked to adjacent riparian and upland (or upslope) areas. Streams regularly submerge portions of the riparian zone via floods and channel migration, and portions of the riparian zone may contain off-channel rearing habitats used by juvenile salmonids during periods of high flow. The riparian zone also provides an array of important watershed functions that directly benefit salmonids. Vegetation in the zone shades the stream, stabilizes banks, and provides organic litter and large woody debris. The riparian zone stores sediment, recycles nutrients and chemicals, mediates stream hydraulics, and controls microclimate. Healthy riparian zones help ensure water quality essential to salmonids as well as the forage species they depend on (Reiser and Bjornn, 1979; Meehan, 1991; FEMAT, 1993; and Spence *et al.*, 1996). Human activities in the adjacent riparian zone, or in upslope areas, can harm stream function and can harm salmonids, both directly and indirectly, by interfering with the watershed functions described here. For example, timber harvest, road-building, grazing, cultivation, and other activities can increase sediment, destabilize banks, reduce organic litter and woody debris, increase water temperatures, simplify stream channels, and increase peak flows. These adverse modifications reduce the value of habitat for salmon and, in many instances, may result in injury or mortality of fish. Because human activity may adversely affect these watershed functions and habitat features, NMFS concluded the adjacent riparian zone could require special management consideration, and, therefore, was appropriate for inclusion in critical habitat.

The Snake River salmon critical habitat designation relied on analyses and conclusions reached by FEMAT (1993) regarding interim riparian reserves for fish-bearing streams on Federal lands within the range of the

northern spotted owl. The interim riparian reserve recommendations in the FEMAT report were based on a systematic review of the available literature, primarily for forested habitats, concerning riparian processes as a function of distance from stream channels. The interim riparian reserves identified in the FEMAT report for fish-bearing streams on Federal forest lands are intended to (1) provide protection to salmonids, as well as riparian-dependent and associated species, through the protection of riparian processes that influence stream function, and (2) provide a high level of fish habitat and riparian protection until site-specific watershed and project analyses can be completed. The FEMAT report identified several alternative ways that interim riparian reserves providing a high level of protection could be defined, including the 300-foot (91.4 meter) slope distance, a distance equivalent to two site-potential tree heights, the outer edges of riparian vegetation, the 100-year flood plain, or the area between the edge of the active stream channel to the top of the inner gorge, whichever is greatest. The U.S. Forest Service (USFS) and U.S. Bureau of Land Management (BLM) ultimately adopted these riparian reserve criteria as part of an Aquatic Conservation Strategy aimed at conserving fish, amphibians, and other aquatic-and riparian-dependent species in the Record of Decision (ROD) for the Northwest Forest Plan (FEMAT ROD, 1994).

While NMFS has used the findings of the FEMAT report to guide its analyses in ESA section 7 consultations with the USFS and BLM regarding management of Federal lands, NMFS recognizes that the interim riparian reserves may be conservative with regard to the protection of adjacent riparian habitat for salmonids since they are designed to protect salmonids as well as terrestrial species that are riparian dependent or associated. Moreover, NMFS' analyses have focused more on the stream functions important to salmonids and on how proposed activities will affect the riparian area's contribution to properly functioning conditions for salmonid habitat.

Since the adoption of the Northwest Forest Plan, NMFS has gained experience working with Federal and non-Federal landowners to determine the likely effects of proposed land management actions on stream functions. In freshwater and estuarine areas, these activities include, but are not limited to, agriculture; forestry; grazing; bank stabilization; construction/urbanization; dam construction/operation; dredging and

dredged spoil disposal; habitat restoration projects; irrigation withdrawal, storage, and management; mineral mining; road building and maintenance; sand and gravel mining; wastewater/pollutant discharge; wetland and floodplain alteration; and woody debris/structure removal from rivers and estuaries. NMFS has developed numerous tools to assist Federal agencies in analyzing the likely impacts of their activities on anadromous fish habitat. With these tools, Federal agencies are better able to judge the impacts of their actions on salmonid habitat, taking into account the location and nature of their actions. NMFS' primary tool guiding Federal agencies is a document titled "Making Endangered Species Act Determinations of Effect for Individual or Grouped Actions at the Watershed Scale" (NMFS, 1996b). This document presents guidelines to facilitate and standardize determinations of "effect" under the ESA and includes a matrix for determining the condition of various habitat parameters. This matrix is being implemented in several northern California and Oregon coastal watersheds and is expected to help guide efforts to define salmonid risk factors and conservation strategies throughout the West Coast.

Several recent literature reviews have addressed the effectiveness of various riparian zone widths for maintaining specific riparian functions (e.g., sediment control, large woody debris recruitment) and overall watershed processes. These reviews provide additional useful information about riparian processes as a function of distance from stream channels. For example, Castelle *et al.*, 1994 conducted a literature review of riparian zone functions and concluded that riparian widths in the range of 30 meters (98 ft) appear to be the minimum needed to maintain biological elements of streams. They also noted that site-specific conditions may warrant substantially larger or smaller riparian management zones. Similarly, Johnson and Reba (1992) summarized the technical literature and found that available information supported a minimum 30-meter (98 ft) riparian management zone for salmonid protection.

A recent assessment funded by NMFS and several other Federal agencies reviewed the technical basis for various riparian functions as they pertain to salmonid conservation (Spence *et al.*, 1996). These authors suggest that a functional approach to riparian protection requires a consistent definition of riparian ecosystems based on "zones of influence" for specific

riparian processes. They noted that in constrained reaches where the active channel remains relatively stable through time, riparian zones of influences may be defined based on site-potential tree heights and distance from the active channel. In contrast, they note that, in unconstrained reaches (e.g., streams in broad valley floors) with braided or shifting channels, the riparian zone of influence is more difficult to define, but recommend that it is more appropriate to define the riparian zone based on some measure of the extent of the flood plain.

Spence *et al.*, 1996 reviewed the functions of riparian zones that are essential to the development and maintenance of aquatic habitats favorable to salmonids and the available literature concerning the riparian distances that would protect these functional processes. Many of the studies reviewed indicate that riparian management widths designed to protect one function in particular, recruitment of large woody debris, are likely to be adequate to protect other key riparian functions. The reviewed studies concluded that the vast majority of large woody debris is obtained within one site-potential tree height from the stream channel (Murphy and Koski, 1989; McDade *et al.*, 1990; Robison and Beschta, 1990; Van Sickle and Gregory, 1990; FEMAT, 1993; and Cederholm, 1994). Based on the available literature, Spence *et al.*, 1996 concluded that fully protected riparian management zones of one site-potential tree would adequately maintain 90 to 100 percent of most key riparian functions of Pacific Northwest forests if the goal was to maintain instream processes over a time frame of years to decades.

Based on experience gained since the designation of critical habitat for Snake River salmon and after considering public comments and reviewing additional scientific information regarding riparian habitats, NMFS defines coho salmon critical habitat based on key riparian functions. Specifically, the adjacent riparian area is defined as the area adjacent to a stream that provides the following functions: shade, sediment, nutrient or chemical regulation, streambank stability, and input of large woody debris or organic matter. Specific guidance on assessing the potential impacts of land use activities on riparian functions can be obtained by consulting with NMFS (see **ADDRESSES**), local foresters, conservation officers, fisheries biologists, or county extension agents.

The physical and biological features that create properly functioning

salmonid habitat vary throughout the range of coho salmon and the extent of the adjacent riparian zone may change accordingly, depending on the landscape under consideration. While a site-potential tree height can serve as a reasonable benchmark in some cases, site-specific analyses provide the best means to characterize the adjacent riparian zone because such analyses are more likely to accurately capture the unique attributes of a particular landscape. Knowing what may be a limiting factor to the properly functioning condition of a stream channel on a land use or land type basis and how that may or may not affect the function of the riparian zone will significantly assist Federal agencies in assessing the potential for impacts to listed coho salmon. On Federal lands within the range of the northern spotted owl, Federal agencies should continue to rely on the Aquatic Conservation Strategy of the Northwest Forest Plan to guide their consultations with NMFS. Where there is a Federal action on non-Federal lands, Federal agencies should consider the potential effects of the activities they fund, permit, or authorize on the riparian zone adjacent to a stream that may influence the following functions: shade, sediment delivery to the stream, nutrient or chemical regulation, streambank stability, and the input of large woody debris or organic matter. In areas where the existing riparian zone is seriously diminished (e.g., in many urban settings and agricultural settings where flood control structures are prevalent), Federal agencies should focus on maintaining any existing riparian functions and restoring others where appropriate by cooperating with local watershed groups and landowners. NMFS acknowledges in its description of riparian habitat function that different land use types (e.g., timber, urban, and agricultural) will have varying degrees of impact and that activities requiring a Federal permit will be evaluated on the basis of disturbance to the riparian zone. In many cases the evaluation of an activity may focus on a particular limiting factor for a watercourse (e.g., temperature, stream bank erosion, sediment transport) and whether that activity may or may not contribute to improving or degrading the riparian habitat.

Finally, NMFS emphasizes that a designation of critical habitat does not prohibit landowners from conducting actions that modify streams or the adjacent terrestrial habitat. Critical habitat designation serves to identify important areas and essential features within those areas, thus alerting both

Federal and non-Federal entities to the importance of the area for listed salmonids. Federal agencies are required by the ESA to consult with NMFS to ensure that any action they authorize, fund, or carry out is not likely to destroy or adversely modify critical habitat in a way that appreciably diminishes the value of critical habitat for both the survival and recovery of the listed species. The designation of critical habitat will assist Federal agencies in evaluating how their actions on Federal or non-Federal lands may affect listed coho salmon and determining when they should consult with NMFS on the impacts of their actions. When a private landowner requires a Federal permit that may result in the modification of coho salmon habitat, Federal permitting agencies will be required to ensure that the permitted action, regardless of whether it occurs in the stream channel, adjacent riparian zone, or upland areas, does not appreciably diminish the value of critical habitat for both the survival and recovery of the listed species or jeopardize the species' continued existence. For other actions, landowners should consider the needs of the listed fish and NMFS will assist them in assessing the impacts of actions.

#### **Barriers Within the Species' Range**

Within the range of the Oregon Coast ESU, coho salmon face a multitude of barriers that limit the access of juvenile and adult fish to essential freshwater habitats. In some cases these are natural barriers (e.g., waterfalls or high-gradient velocity barriers) that have been in existence for hundreds or thousands of years. Some pose an obvious physical barrier to any anadromous salmonids while others may only be surmountable during years when extreme river conditions (e.g., floods) provide passage.

Man-made barriers created in the past several decades can create significant problems for anadromous salmonids (California Department of Fish and Game (CDFG), 1965; CACSST, 1988; FEMAT, 1993; Botkin *et al.*, 1995; and National Research Council, 1996). The extent of barriers such as culverts and road crossing structures that impede or block fish passage appears to be substantial. For example, of 532 fish presence surveys conducted in Oregon coastal basins during the 1995 survey season, nearly 15 percent of the confirmed "end of fish use" were due to human barriers, principally road culverts (OCSRI, 1997). Pushup dams/diversions and irrigation withdrawals also present significant barriers or lethal conditions (e.g., stranding, high water temperatures) to coho salmon. However,

because these manmade barriers can, under certain flow conditions, be surmounted by fish or present only a temporary/seasonal barrier, NMFS does not consider them to delineate the upstream extent of critical habitat.

Since man-made impassable barriers are widely distributed throughout the range of the ESU, they can have a major downstream influence on coho salmon. Such impacts may include (1) depletion and storage of natural flows which can drastically alter natural hydrological cycles; (2) increased juvenile and adult mortality due to migration delays resulting from insufficient flows or habitat blockages; (3) loss of sufficient habitat due to delay and blockage; (4) stranding of fish resulting from rapid flow fluctuations; (5) entrainment of juveniles into poorly screened or unscreened diversions; and (6) increased mortality resulting from increased water temperatures (CACSST, 1988; Bergren and Filardo, 1991; CDFG, 1991; Reynolds *et al.*, 1993; Chapman *et al.*, 1994; Cramer *et al.*, 1995; and NMFS, 1996a). In addition to these factors, reduced flows negatively affect fish habitats in some areas due to increased deposition of fine sediments in spawning gravels, decreased recruitment of large woody debris and spawning gravels, and encroachment of riparian and non-endemic vegetation into spawning and rearing areas resulting in reduced available habitat (CACSST, 1988; FEMAT, 1993; Botkin *et al.*, 1995; and NMFS, 1996a). These dam-related factors will be effectively addressed through ESA section 7 consultations and the recovery planning process.

Several hydropower and water storage projects have been built which either block access to areas used historically by coho salmon or alter the hydrograph of downstream river reaches. NMFS has identified several dams within the range of the Oregon Coast ESU that currently have no fish passage facilities to allow coho salmon access to former spawning and rearing habitats (see Table 27 to this part). While these blocked areas are potentially significant in certain basins (e.g., areas above several dams in the Umpqua River basin), NMFS believes that currently accessible habitat may be sufficient for the conservation of the ESU. NMFS has concluded that the potential for restoring access to former spawning and rearing habitat above currently impassable man-made barriers is a significant factor to be considered in determining whether such habitat is essential for the conservation of species. NMFS solicits comments and scientific information on this issue and will consider such information prior to

issuing any final critical habitat designation. This may result in the inclusion of areas above some man-made impassable barriers in a future critical habitat designation.

In the range of this ESU, at least one hydropower dam (e.g., Soda Springs Dam) is undergoing or is scheduled for relicensing by the Federal Energy Regulatory Commission (FERC). NMFS will evaluate information developed during the process of relicensing to determine whether fish passage facilities are needed at such dams to restore access to historically available habitat. Even though habitat above such barriers is not currently designated as critical, this conclusion does not foreclose the potential importance of restoring access to these areas. Therefore, NMFS will determine on a case-by-case basis during FERC relicensing proceedings whether fish passage facilities will be required to provide access to habitat that is essential for the conservation of Oregon Coast coho salmon.

#### **Land Ownership Within the Species' Range**

Table 27 to this part summarizes the major river basins inhabited by the Oregon Coast ESU, as well as counties containing basins designated as critical habitat. Major river basins containing spawning and rearing habitat for this ESU comprise approximately 10,606 square miles in Oregon. The following counties lie partially or wholly within these basins: Benton, Clatsop, Columbia, Coos, Curry, Douglas, Jackson, Josephine, Lane, Lincoln, Polk, Tillamook, Washington, and Yamhill. NMFS has also derived estimates of land ownership for each of the major river basins in the range of this ESU. Due to data limitations which prevent mapping the precise river reaches inhabited by coho salmon, the ownership estimates were based on land area within entire river basins.

Aggregating all basins in the Oregon Coast ESU yields ownership estimates of approximately 35 percent Federal, 9 percent state/local, 56 percent private/other, and less than 1 percent tribal lands. These data underscore that all landholders have a role to play in protecting and restoring coho salmon and their habitat in the Oregon Coast ESU.

#### **Critical Habitat and Indian Lands**

The unique and distinctive political relationship between the United States and Indian tribes is defined by treaties, statutes, executive orders, judicial decisions, and agreements, and differentiates tribes from the other

entities that deal with, or are affected by, the Federal Government. This relationship has given rise to a special Federal trust responsibility, involving the legal responsibilities and obligations of the United States toward Indian tribes and the application of fiduciary standards of due care with respect to Indian lands, tribal trust resources, and the exercise of tribal rights.

Indian lands (Indian lands are defined in the Secretarial Order of June 5, 1997, as "any lands title to which is either: (1) held in trust by the United States for the benefit of any Indian tribe or individual; or (2) held by any Indian tribe or individual subject to restrictions by the United States against alienation") were retained by tribes or have been set aside for tribal use pursuant to treaties, statutes, judicial decisions, executive orders, or agreements. These lands are managed by Indian tribes in accordance with tribal goals and objectives, within the framework of applicable laws.

As a means of recognizing the responsibilities and relationship described here and implementing the Presidential Memorandum of April 24, 1994, Government-to-Government Relations with Native American Tribal Governments, the Secretary of Commerce, and the Secretary of the Interior issued the Secretarial Order entitled "American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act" on June 5, 1997. The Secretarial Order clarifies the responsibilities of NMFS and the U.S. Fish and Wildlife Service (Services) when carrying out authorities under the ESA and requires that they consult with, and seek the participation of, the affected Indian tribes to the maximum extent practicable. The Secretarial Order further provides that the Services "shall consult with the affected Indian tribe(s) when considering the designation of critical habitat in an area that may impact tribal trust resources, tribally owned fee lands, or the exercise of tribal rights. Critical habitat shall not be designated in such areas unless it is determined essential to conserve a listed species."

NMFS has determined that the Indian tribes potentially affected by a critical habitat designation for the Oregon Coast ESU include the Siletz Tribe, Cow Creek Tribe, Coquille Tribe, and Coos/Lower Umpqua/Siuslaw Tribe. The major river basins containing reservation lands are identified in Table 27 to this part. NMFS has not yet identified tribally owned fee lands or other areas where designation of critical habitat may impact tribal trust resources or the exercise of tribal rights. NMFS will identify any such lands during

government-to-government consultation with affected tribes.

NMFS will notify and work with these tribes in accordance with the agency's trust responsibilities and the Secretarial Order concerning critical habitat designation in this ESU, but the agency is not proposing to designate critical habitat on the described tribal lands at this time. In addition, tribally owned fee lands and other areas where critical habitat designation may impact the exercise of tribal rights or trust resources may be identified and included or excluded from critical habitat designation in a subsequent action. If any such lands are determined to be essential to conserve listed coho salmon, such lands may be designated critical habitat in a subsequent action.

#### **Need for Special Management Considerations or Protection**

An array of management issues encompasses these habitats and their features, and special management considerations will be needed (especially on lands and streams under Federal ownership) to ensure that the essential areas and features are maintained or restored. Activities that may require special management considerations for freshwater and estuarine life stages of listed coho salmon include, but are not limited to, (1) land management; (2) timber harvest; (3) point and non-point water pollution; (4) livestock grazing; (5) habitat restoration; (6) beaver removal; (7) irrigation water withdrawals and returns; (8) mining; (9) road construction; (10) dam operation and maintenance; (11) diking and streambank stabilization; and (12) dredge and fill activities. Not all of these activities are necessarily of current concern within every watershed; however, they indicate the potential types of activities that will require consultation in the future. Activities that are conducted on private or state lands that are not federally permitted or funded, are not subject to any additional regulations under this proposed rule.

However, non-Federal landowners should be aware that any significant habitat modifications that could adversely affect listed fish, could result in a "taking" (i.e., harming or killing) of the listed species, which is prohibited under section 9 of the ESA. While marine areas are also a critical link in the species' life cycle, NMFS has not yet concluded that special management considerations are needed to conserve the habitat features in these areas. Hence, only the freshwater and estuarine areas (and their adjacent

riparian zones) are being proposed for critical habitat at this time.

#### **Activities That May Affect Critical Habitat**

A wide range of activities may affect the essential habitat requirements of listed coho salmon and other salmonids. More in-depth discussions are contained in the **Federal Register** documents announcing the proposed listing determination (60 FR 38011, July 25, 1995) as well as NMFS' document entitled "Steelhead Factors for Decline: A Supplement to the Notice of Determination for West Coast Steelhead" (NMFS, 1996a). These activities include water and land management actions of Federal agencies (i.e., USFS, BLM, U.S. Army Corps of Engineers (Corps), Federal Highway Administration (FHA), U.S. Environmental Protection Agency (EPA), Natural Resource Conservation Service (NRCS), and FERC and related or similar actions of other federally regulated projects and lands including livestock grazing allocations by USFS and BLM; hydropower sites licensed by FERC; dams built or operated by the Corps; timber sales conducted by the USFS and BLM; road building activities authorized by the FHA, USFS, and BLM; and mining and road building activities authorized by the State of Oregon. Other actions of concern include dredge and fill, mining, diking, and bank stabilization activities authorized or conducted by the Corps, and habitat modifications authorized by the Federal Emergency Management Agency (FEMA). Additionally, actions of concern could include approval of water quality standards and pesticide labeling and use restrictions administered by EPA.

The Federal agencies that will most likely be affected by this critical habitat designation include the USFS, BLM, Corps, FHA, NRCS, FEMA, EPA, and FERC. This designation will provide clear notification to these agencies, private entities, and the public of critical habitat designated for Oregon Coast coho salmon and of the boundaries of the habitat and protection provided for that habitat by the section 7 consultation process. This designation will also assist these agencies and others in evaluating the potential effects of their activities on coho salmon and their critical habitat and in determining if consultation with NMFS is needed.

#### **Expected Economic Impacts**

The economic impacts to be considered in a critical habitat designation are the incremental effects of critical habitat designation above the

economic impacts attributable to listing or attributable to authorities other than the ESA (see Consideration of Economic and Other Factors). Incremental impacts result from special management activities in those areas, if any, outside the present distribution of the listed species that NMFS has determined to be essential to the conservation of the species. For the Oregon Coast ESU, NMFS has determined that the present geographic extent of their freshwater and estuarine range is likely sufficient to provide for conservation of the species, although the quality of that habitat needs improvement on many fronts. Because NMFS is not designating any areas beyond the current range of this ESU as critical habitat, the designation will result in few, if any, additional economic effects beyond those that may have been caused by listing and by other statutes.

USFS and BLM manage areas of proposed critical habitat for the Oregon Coast ESU. The Corps and other Federal agencies that may be involved with funding or permits for projects in critical habitat areas may also be affected by this designation. Because NMFS believes that virtually all "adverse modification" determinations pertaining to critical habitat would also result in "jeopardy" conclusions under ESA section 7 consultations (i.e., as a result of the species being listed), the designation of critical habitat is not expected to result in significant incremental restrictions on Federal agency activities. Critical habitat designation will, therefore, result in few, if any, additional economic effects beyond those that may have been caused by the ESA listing and by other statutes.

#### **Public Comments Solicited**

To ensure that the final action resulting from this proposal will be as accurate and effective as possible, NMFS is soliciting comments and suggestions from the public, other governmental agencies, the scientific community, industry, and any other interested parties.

NMFS requests quantitative evaluations describing the quality and extent of marine, estuarine, and freshwater habitats (including adjacent riparian zones) for juvenile and adult coho salmon as well as information on areas that may qualify as critical habitat in coastal Oregon. Areas that include the physical and biological features essential to the recovery of the species should be identified. Essential features include, but are not limited to, (1) habitat for individual and population growth and for normal behavior; (2)

food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for reproduction and rearing of offspring; and (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of the species. NMFS is also requesting information regarding coho salmon distribution and habitat requirements within the range of Indian lands identified in this proposal and whether these lands should be considered essential for the conservation of the listed species or whether recovery can be achieved by limiting the designation to other lands.

NMFS recognizes that there are areas within the proposed boundaries of the ESU that historically constituted coho salmon habitat but may not be currently occupied. NMFS requests information about coho salmon in these currently unoccupied areas and whether these habitats should be considered essential to the recovery of the species or excluded from designation.

For areas where natural barriers are believed to pose a migration barrier for the species, NMFS specifically requests data and analyses concerning the following: (1) Historic accounts indicating coho salmon or other anadromous salmonids occurred above the barrier; (2) data or reports analyzing the likelihood that coho salmon or other anadromous salmonids would migrate above the barrier; and (3) other information indicating that a particular barrier is or is not naturally impassable to anadromous salmonid migration. NMFS will evaluate all new information received concerning this issue and will reconsider this issue in its final critical habitat designation.

For areas potentially qualifying as critical habitat, NMFS is requesting the following information: (1) The activities that affect the area or could be affected by the designation and (2) the economic costs and benefits of additional requirements of management measures likely to result from the designation. The economic cost to be considered in the critical habitat designation under the ESA is the probable economic impact "of the [critical habitat] designation upon proposed or ongoing activities" (50 CFR 424.19). NMFS must consider the incremental costs resulting specifically from a critical habitat designation that are above the economic effects attributable to listing the species. Economic effects attributable to listing include actions resulting from section 7 consultations under the ESA to avoid jeopardy to the species and from the taking prohibitions under section 9 of

the ESA. Comments concerning economic impacts should distinguish the costs of listing from the incremental costs that can be directly attributed to the designation of specific areas as critical habitat.

NMFS will review all public comments and any additional information regarding critical habitat of the Oregon Coast ESU and complete a final rule as soon as practicable. The availability of new information may cause NMFS to reassess the proposed critical habitat designation of this ESU.

#### Public Hearings

Joint Department of Commerce and Interior ESA implementing regulations state that the Secretaries shall promptly hold at least one public hearing if any person so requests within 45 days of publication of a proposed regulation to list species or to designate critical habitat (50 CFR 424.16(c)(3)). Public hearings on the proposed rule provide the opportunity for the public to give comments and to permit an exchange of information and opinion among interested parties. NMFS encourages the public's involvement in such ESA matters.

The public hearings on this action are scheduled as follows:

1. Monday, May 24, 6:30 p.m. to 9:00 p.m., Tillamook County Courthouse, Commissioners Conference Room, 201 Laurel Avenue, Tillamook, Oregon.
2. Tuesday, May 25, 6:30 p.m. to 9:00 p.m., Umpqua Discovery Center, 409 Riverfront Way, Reedsport, Oregon.
3. Wednesday, May 26, 6:30 p.m. to 9:00 p.m., Douglas County Courthouse, Room 216, 1036 SE Douglas Avenue, Roseburg, Oregon.
4. Thursday, May 27, 6:30 p.m. to 9:00 p.m., Eugene City Hall, Council Chambers, 777 Pearl Street, Eugene, Oregon.

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other aids should be directed to Garth Griffin (see **ADDRESSES**) by 7 days prior to each meeting date.

Requests for specific locations or additional public hearings must be received by June 24, 1999 (see **ADDRESSES**).

#### References

A complete list of all references cited herein and maps describing the range of listed coho salmon ESUs are available upon request (see **ADDRESSES**) or via the internet at [www.nwr.noaa.gov](http://www.nwr.noaa.gov).

#### Classification

NMFS has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared for this critical habitat designation made pursuant to the ESA. See *Douglas County v. Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied, 116 S.Ct. 698 (1996).

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS proposes to designate only the current range of the Oregon Coast ESU as critical habitat. Given the affinity of this species to spawn in small tributaries, this current range encompasses a wide range of habitat, including headwater streams, as well as mainstem, off-channel, and estuarine areas. Areas excluded from this proposed designation include marine habitats in the Pacific Ocean and historically occupied areas above 6 impassable dams and headwater areas above impassable natural barriers (e.g., long-standing, natural waterfalls). Since NMFS is designating the current range of the listed species as critical habitat, this designation will not impose any additional requirements or economic effects upon small entities beyond those which may accrue from section 7 of the ESA. Section 7 requires Federal agencies to ensure that any action they carry out, authorize, or fund is not likely to jeopardize the continued existence of any listed species or to result in the destruction or adverse modification of critical habitat (ESA section 7(a)(2)). The consultation requirements of section 7 are nondiscretionary and are effective at the time of species' listing. Therefore, Federal agencies must consult with NMFS and ensure that their actions do not jeopardize a listed species, regardless of whether critical habitat is designated.

In the future, should NMFS determine that designation of habitat areas outside the species' current range is necessary for conservation and recovery, NMFS will analyze the incremental costs of that action and assess its potential impacts on small entities, as required by the Regulatory Flexibility Act. Until that time, a more detailed analysis would be premature and would not reflect the true economic impacts of the proposed action on local businesses, organizations, and governments.

Accordingly, the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that the

proposed critical habitat designation, if adopted, would not have a significant economic impact on a substantial number of small entities, as described in the Regulatory Flexibility Act.

This proposed rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

#### List of Subjects in 50 CFR Part 226

Endangered and threatened species, Incorporation by reference.

Dated: May 4, 1999.

**Penelope D. Dalton,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 226 is proposed to be amended as follows:

#### PART 226—DESIGNATED CRITICAL HABITAT

1. The authority citation for part 226 continues to read as follows:

**Authority:** 16 U.S.C. 1533

##### **§§ 226.211—226.214 [Added and reserved]**

2. Sections 226.211 through 226.214 are added and reserved.
3. Section 226.215 is added to read as follows:

##### **§ 226.215 Oregon Coast coho salmon (*Oncorhynchus kisutch*).**

Critical habitat is designated to include all river reaches accessible to listed coho salmon within the range of this ESU, except for reaches on Indian lands defined in Table 27 to this part. Critical habitat consists of the water, substrate, and adjacent riparian zone of estuarine and riverine reaches in hydrologic units and counties identified in Table 27 to this part. Accessible reaches are those within the historical range of the ESU that can still be occupied by any life stage of coho salmon. Inaccessible reaches are those above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years) and specific dams within the historical range of the ESU identified in Table 27 to this part. Hydrologic units are those defined by the Department of the Interior (DOI), U.S. Geological Survey (USGS) publication, "Hydrologic Unit Maps," Water Supply Paper 2294, 1987, and by the following DOI, USGS, 1:500,000 scale hydrologic unit map: State of Oregon (1974), which is incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the USGS publication and

maps may be obtained from the USGS, Map Sales, Box 25286, Denver, CO 80225. Copies may be inspected at NMFS, Protected Resources Division, 525 NE Oregon Street—Suite 500, Portland, OR 97232-2737, or NMFS, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(a) *Oregon Coast coho salmon* (*Oncorhynchus kisutch*). Critical habitat is designated to include all river reaches

accessible to listed coho salmon from coastal streams south of the Columbia River and north of Cape Blanco, Oregon. Critical habitat consists of the water, substrate, and adjacent riparian zone of estuarine and riverine reaches (including off-channel habitats) in hydrologic units and counties identified in Table 27 of this part. Accessible reaches are those within the historical range of the ESU that can still be occupied by any life stage of coho salmon. Inaccessible reaches are those

above specific dams identified in Table 27 of this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(b) [Reserved]

**Tables 7 through 26 to this part [Added and reserved]**

4. Tables 7 through 26 to this part are added and reserved.

5. Table 27 is added to part 226 to read as follows:

TABLE 27 TO PART 226—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR OREGON COAST COHO SALMON, TRIBAL LANDS WITHIN THE RANGE OF THE ESU, AND DAMS/RESERVOIRS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties and <i>tribal lands</i> contained in hydrologic unit and within the Range of ESU <sup>1,2</sup>	Dams
Necanicum .....	17100201	Clatsop (OR), Tillamook (OR).	
Nehalem .....	17100202	Clatsop (OR), Columbia (OR), Tillamook (OR), Washington (OR).	
Wilson-Trask-Nestucca .....	17100203	Lincoln (OR), Polk (OR), Tillamook (OR), Washington (OR), Yamhill (OR).	McGuire Dam.
Siletz-Yaquina .....	17100204	Benton (OR), Lincoln (OR), Polk (OR), Tillamook (OR); <i>Siletz Tribe</i> .	
Alsea .....	17100205	Benton (OR), Lane (OR), Lincoln (OR).	
Siuslaw .....	17100206	Benton (OR), Douglas (OR), Lane (OR).	
Siltcoos .....	17100207	Douglas (OR), Lane (OR).	
North Umpqua .....	17100301	Douglas (OR), Lane (OR) .....	Cooper Creek Dam; Soda Springs Dam. Ben Irving Dam; Galesville Dam.
South Umpqua .....	17100302	Coos (OR), Douglas (OR), Jackson (OR), Josephine (OR); <i>Cow Creek Tribe</i> .	
Umpqua .....	17100303	Coos (OR), Douglas (OR), Lane (OR).	
Coos .....	17100304	Coos (OR), Douglas (OR); <i>Coos, Lower Umpqua, and Siuslaw Tribe; Coquille Tribe</i> .	Lower Pony Creek Dam.
Coquille .....	17100305	Coos (OR), Curry (OR), Douglas (OR).	
Sixes .....	17100306	Coos (OR), Curry (OR).	

<sup>1</sup> Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.

<sup>2</sup> Tribal lands are specifically excluded from critical habitat for this ESU.