

Dated: December 22, 1999.

Penelope D. Dalton,

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

For the reasons set out in the preamble, 50 CFR part 223 is proposed to be amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 is revised to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 223.12 also issued under 16 U.S.C. 1361 *et seq.*

2. Section 223.209 is added to read as follows:

§ 223.209 Tribal plans.

(a) *Prohibitions.* The prohibitions of section 9 of the ESA (16 U.S.C. 1538) relating to endangered species apply to the threatened species of salmon listed in § 223.102(a), except as provided in paragraph (b) of this section.

(b) *Limits on the take prohibitions.*

(1) The prohibitions of paragraph (a) of this section relating to threatened species of salmonids listed in § 223.102 do not apply to any activity undertaken by a tribe, tribal member, tribal permittee, or tribal agent in compliance with a Tribal resource management plan (Tribal Plan), provided that:

(i) The Secretary determines that implementation of such Tribal Plan will not appreciably reduce the likelihood of survival and recovery of the listed salmonids. In making that determination the Secretary shall use the best available biological data to determine the Tribal Plan's impact on the biological requirements of the species, and will assess the effect of the Tribal Plan on survival and recovery, consistent with legally enforceable tribal rights and with the Secretary's trust responsibilities to tribes;

(ii) A Tribal Plan may include but is not limited to plans that address fishery harvest, artificial production, research, habitat, or land management, and may be developed by one tribe or jointly

with other tribes. The Secretary will consult on a government-to-government basis with any tribe that so requests, to provide technical assistance in examining impacts on listed salmonids and other salmonids as tribes develop Tribal resource management plans that meet the management responsibilities and needs of the tribes. A Tribal Plan must specify the procedures by which the tribe will enforce its provisions;

(iii) Where there exists a Federal court proceeding with continuing jurisdiction over the subject matter of a Tribal Plan, the plan may be developed and implemented within the ongoing Federal Court proceeding. In such circumstances, compliance with the Tribal Plan's terms shall be determined within that Federal Court proceeding;

(iv) The Secretary shall seek comment from the public on the Secretary's pending determination whether or not implementation of a Tribal Plan will appreciably reduce the likelihood of survival and recovery of the listed salmonids; and

(v) The Secretary shall publish notification in the *Federal Register* of any determination regarding a Tribal Plan and the basis for that determination.

(2) [Reserved]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[I.D. 110599D]

RIN 0648–AL82

**Designated Critical Habitat:
Reproposed Critical Habitat for
Johnson's Seagrass; Extension of
Public Comment Period**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; extension of public comment period.

SUMMARY: NMFS is extending the public comment period on the reproposed rule to designate critical habitat for Johnson's seagrass (*Halophila johnsonii*).

DATES: The public comment period, which would otherwise close on January 3, 2000, has been extended and now closes on February 2, 2000.

ADDRESSES: Written comments and materials regarding the proposed rule should be directed to Mr. Charles Oravetz, Assistant Regional Administrator, Protected Resources Division, NMFS, Southeast Regional Office, 9721 Executive Center Drive North, St. Petersburg, Florida 33702–2432. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Layne Bolen, Panama City Laboratory, Protected Resources Division, NMFS, 850–234–6541 ext. 237, layne.bolen@noaa.gov or Marta Nammack, Office of Protected Resources, NMFS, 301–713–1401, marta.nammack@noaa.gov.

SUPPLEMENTARY INFORMATION: On December 2, 1999, NMFS published a reproposed rule to designate critical habitat for Johnson's seagrass under the Endangered Species Act (64 FR 67536). Public comments were solicited, a public hearing was announced, and the comment period was set to expire on January 3, 2000. NMFS is extending the public comment period to end on February 2, 2000, in order to provide at least 60 days for public comment following publication in the **Federal Register**.

Dated: December 23, 1999.

Ann Terbush,

*Acting Director, Office of Protected Resources,
National Marine Fisheries Service.*

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