42422, July 10, 2000) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the rule do not apply to actions undertaken in compliance with an RMP developed jointly by the Tribes and the State of Washington (joint plan) and determined by the Secretary to be in accordance with the salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000).

Dated: October 1, 2002.

Chris Mobley,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–25333 Filed 10–3–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061202A]

Endangered and Threatened Species; Notice of Availability for the Final Recovery Plan for Johnson's Seagrass

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

ACTION: Notice of Availability.

SUMMARY: NMFS announces the availability of the final recovery plan for Johnson's seagrass (*Halophila johnsonii Eiseman*) as required by the Endangered Species Act.

ADDRESSES: Requests for a copy of the final recovery plan should be addressed to: David Bernhart, NMFS, Southeast Regional Office, Protected Resources Division, 9721 Executive Center Drive North, St. Petersburg, FL 33702. A copy of the Final Recovery Plan can also be downloaded from the following web address: *http://www.nmfs.noaa.gov/prot__res/PR3/recovery.html.*

FOR FURTHER INFORMATION CONTACT: David Bernhart, (727) 570–5312 or David O'Brien, (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

Johnson's seagrass, *Halophila johnsonii*, is a marine plant species found growing in lagoonal waters along approximately 200 km of coastline in southeastern Florida between Sebastian Inlet and north Biscayne Bay. The species often grows in a patchy, non-contiguous distribution at water depths extending from the intertidal down to 3 meters. Halophila johnsonii is rare, has a limited reproductive capacity, and is vulnerable to a number of anthropogenic and natural disturbances. Johnson's seagrass is listed as threatened under the Endangered Species Act of 1973, as ammended, 16 USC 1531 *et seq.*(ESA) and is the first marine plant to be listed under the ESA. Principal threats to the species' survival include: (1) habitat degradation and destruction from dredging and filling, construction and shading from in- and overwater structures, prop scarring, altered water quality, and siltation; (2) inadequacy of existing regulatory mechanisms to protect seagrasses; and (3) stochastic storm events.

The recovery plan contains a synopsis of the biology and distribution of Johnson's seagrass, a description of factors affecting species recovery, an outline of actions needed to recover the species, and an implementation schedule for completing the recovery tasks. The recovery plan for Johnson's seagrass, prepared for NMFS by an eight-member recovery team, provides a framework for addressing a multitude of biological concerns and outlines Federal agency responsibilities under the ESA with the sole purpose of insuring long-term survival of the species. NMFS published a notice of availability of the draft recovery plan for Johnson's seagrass in the **Federal Register** on June 26, 2000 (65 FR 39369). Comments were received from nine parties during the 60–day comment period. The majority of the comments were editorial and were incorporated as received. More substantive comments from the reviewers and NMFS' responses to these comments are summarized here.

Comments and Responses

Comment 1: One commenter suggested the use of historic ecological parameters to compare with existing ecological conditions in order to evaluate the extent of perturbations on Johnson's seagrass and its habitat within the current ecosystem.

Response: NMFS agrees with this commenter and the value of comparing historical and existing ecological conditions; however, only limited historical data of this type exists for Johnson's seagrass. With the implementation of the plan's recovery tasks, including the establishment of long-term monitoring sites and the evaluation of ecological parameters, a historical database for Johnson's seagrass will be developed and available for comparative use.

Comment 2: A few reviewers questioned the accuracy of previous research results that were discussed and referenced in the recovery plan.

Response: The recovery plan cites previous research considered relevant to the understanding and recovery of Johnson's seagrass. The information and research results used in the development of the plan represent the best scientific and commercial data available at the time the plan was written. The recovery plan's research review describes what is currently known about Johnson's seagrass and helps identify research needs for the species. NMFS refers any reviewers with questions or comments concerning results or conclusions expressed in a specific reference directly to the author of that citation.

Comment 3: One commenter stated that *H. johnsonii* is regularly found in areas that would not appear to be conducive to seagrasses, such as in finger canals and portions of the Lake Worth Lagoon near the C–51 canal. Based on these observations, H. johnsonii is considered by the commenter to be much more widespread than indicated in the recovery plan.

Response: Johnson's seagrass is known to be patchily distributed in lagoons along approximately 200 km of coastline in southeastern Florida. As stated in the final critical habitat designation (65 FR 17786; April 5, 2000), an abundant core of *Halophila* species, including Johnson's seagrass, has been documented in the middle of its range (Lake Worth Lagoon, Palm Beach County). The species is known to occur in euryhaline areas and has been observed growing perennially near the mouths of freshwater discharge canals (Gallegos and Kenworthy, 1996). Johnson's seagrass uses the niche available to it, often occurring in areas that are generally not conducive to the growth of larger seagrasses. The recovery team is aware of documented observations of *H. johnsonii* in finger canals within the species' range. NMFS is interested in all reports or sightings of Johnson's seagrass. All verified sightings or surveys of Johnson's seagrass are added to a database documenting the species' abundance, distribution, and ecological parameters.

Comment 4: One reviewer commented on the need to identify the Florida Fish and Wildlife Conservation Commission (FWC), Division of Marine Resources (DMR), as an active agency in the Conservation Measures of the plan and to address the critical role that this state agency plays in the management, enforcement, and conservation of seagrass and marine habitat.

Response: A descriptive paragraph about the FWC, DMR, has been added to the recovery plan's ''State Conservation Measures'' section. The FWC was created in 1998 with the merger of the Florida Game and Fresh Water Fish Commission and the Marine Fisheries Commission. This new state agency has full constitutional rulemaking authority, under the Florida Endangered and Threatened Species Act, Chapter 372.072 of the Florida Statutes (F.S.), to protect and manage threatened and endangered marine species. However, the Florida Endangered and Threatened Species Act (F.S. 372.072) limits the definitions of endangered and threatened species to only include members of the animal kingdom (any species of fish and wildlife).

Although federally listed, Johnson's seagrass is not managed as a threatened marine species by the FWC. The FWC, Bureau of Protected Species Management, provides comments and recommendations to state permitting agencies on actions that may impact seagrass, including Johnson's seagrass, based on the protection of essential habitat for the listed manatees and marine turtles. Projects are not reviewed by the state solely for impacts to Johnson's seagrass or its designated critical habitat. The plan describes FWC's role in protecting Florida's seagrass habitat, including Johnson's seagrass throughout its range, through its (a) permitting program for the harvest of seagrass (for educational or research purposes), (b) regulation of fishery practices that may harm seagrasses, (c) enforcement efforts of state regulations to protect seagrass and marine habitat, (d) management-oriented research programs for seagrass, and (e) seagrass outreach and education efforts.

Despite these valuable conservation measures, degradation or destruction of Johnson's seagrass habitat (including dredge and fill, construction and shading from overwater structures, prop scarring and anchor mooring, and altered water quality) continues throughout this species' limited range. NMFS would support efforts by the state of Florida to strengthen regulatory mechanisms for greater protection of Johnson's seagrass, including, for example, revision of the Florida Endangered and Threatened Species Act (F.S. 372.072) to include all state and/or federally listed endangered and threatened plant species (upland, freshwater, and marine) occurring in Florida.

Comment 5: One reviewer requested an Environmental Impact Assessment to evaluate the effect of listing of this species on local and state economics.

Response: The listing of a species under the ESA is based solely on the needs of the species. Neither an Environmental Assessment nor an Environmental Impact Statement is a requirement for ESA listing. Section 4(f) of the ESA directs the responsible Federal agency to develop and implement a recovery plan for listed species. A recovery plan is a guide for the recovery and persistence of the species and will not have a significant impact on the environment. Estimates of the time required and the cost to carry out the recovery goals have been incorporated into the recovery plan in the form of an implementation table. The goals and objectives of the plan will be attained and funds expended contingent upon agency appropriations and priorities. The actions that an agency implements according to the plan may have to be reviewed at that time for National Environmental Policy Act (NEPA) requirements.

Comment 6: One commenter suggested refinement of the habitat requirements, taking into account sediment requirements for the species.

Response: We refined recovery task 3.01 to discuss sediment characteristic and habitat requirements for the species.

Comment 7: One reviewer stated that the plan does not address how permitting of work within or adjacent to designated critical habitat will be affected. That is, the reviewer questioned how a proposed project located within critical habitat will be treated compared to projects located outside of critical habitat.

Response: The review of federally permitted actions is independent of the recovery plan and is addressed under section 7 of the ESA (Interagency Cooperation). Federal action agencies must review their proposed actions to determine whether any action may affect a listed species or critical habitat. Under section 7, Federal agencies must consult with NMFS on proposed actions to determine whether any such action is likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat.

Comment 8: A commenter was concerned with the use of the term ''hybridization'' in the ''Growth Form and Reproductive Biology'' section. The commenter stated that some could take this word to mean that the seagrass is not a distinct species, and accordingly, not entitled to protection under the ESA.

Response: Halophila johnsonii has been identified as a distinct species since 1980. *Halophila johnsonii* was previously referred to either as *H. decipiens* or *H. baillonis* Ascherson, but it most closely resembles *H. ovalis* (R. Brown) Hooker f., an Indo-Pacific species, both morphologically and genetically (McMillan and Williams, 1980). Newly developing genetic evidence also suggests that *H. johnsonii* is more closely related, phylogenetically, to *H. ovalis* than with the other *Halophila* species, including *H. decipiens*, which is commonly found in mixed seagrass beds with Johnson's seagrass. Because of this new genetic data, the use of the term ''hybridization'' in the plan's ''Growth Form and Reproductive Biology'' section was no longer needed and was removed.

Comment 9: One commenter suggested the definition ''stable, self-sustaining population,'' as used in the plan's recovery criteria, be revised and that objective criteria be incorporated to further define ''self-sustaining.'' Another reviewer commented that the plan did not include sufficient recovery objectives and criteria.

Response: The definition for ''stable, self-sustaining population'' was revised and clarified as ''a population that has been documented to persist for at least 10 years.'' Substantial changes were also made to the ''Objectives and Criteria'' section of the plan's Recovery Chapter. The section now reads as follows: ''The recovery objective for *H. johnsonii* is to delist the species by assuring its long-term persistence throughout its range. *Halophila johnsonii* should be considered for delisting when all of the following criteria are met:

(1) The species' present geographic range remains stable for at least 10 years or increases, (2) self-sustaining populations are present throughout the range at distances less than or equal to the maximum dispersal distance to allow for stable vegetative recruitment and genetic diversity, and (3) populations and supporting habitat in its geographic range have long-term protection (through regulatory action or purchase acquisition).

Quantitative information, including the number of self-sustaining populations necessary and the quality and quantity of habitat required to further define and meet these criteria, are included as recovery plan tasks in the Final Recovery Plan.

Comment 10: One commenter felt that the range-wide monitoring tasks for Johnson's seagrass would not include information or data on adverse impacts (such as dredging or recreational boating prop scarring) occurring to the species and its habitat throughout its range.

Response: Adverse impacts to Johnson's seagrass could be detected during detailed mapping, which is specified as a recovery task in the plan. Johnson's seagrass distribution, abundance, shoot density and cover, and a suite of environmental parameters (such as optical water quality, water depth, and salinity) would be determined at monitoring locations range-wide. Year-to-year variation of these parameters at these sites would be examined and tracked. In addition, attempts will be made to match these monitoring site locations to locations within the range of Johnson's seagrass that have historical water quality data or currently have water quality data collections taking place.

Comment 11: One commenter felt that a sufficient buffer distance should be included in the plan's recommendation to preserve natural shoreline buffers.

Response: NMFS agrees with this comment and the need to define sufficient buffer distances. Recovery plan tasks 5.11 and 5.12 address the importance of preserving and acquiring natural shoreline buffers in the protection of Johnson's seagrass habitat. However, the plan does not include a fixed buffer distance since this distance can vary based on conditions, including local variation in topography and upland characteristics. Data on sufficient buffer distances are not currently available and developing this information is beyond the scope of this plan. State agencies such as the Florida Department of Environmental Protection (FDEP), Bureau of Beaches and Coastal Systems or Aquatic Preserves Program; Water Management Districts; Florida Forever Act Program; or the State Comprehensive Plan may have Geographic Information System information on Florida shorelines and the future capability for developing broad-scale, standardized buffer distances.

Comment 12: A few commenters requested clarification of the restoration recovery tasks. For recovery task 7.01, a commenter suggested to specifically reference ''both excavated vegetative fragments and naturally dislodged and free floating and 'intertidal driftline' vegetative fragments'' as sources for the proposed experiments.

A second commenter was concerned that the development of restoration techniques and a restoration program can be seen by some as a way to avoid recovering the species in the wild. The commenter added that these programs should not become a substitute for addressing existing threats.

A third commenter was concerned with identifying and using ''superior stock'' of Johnson's seagrass for restoration purposes because ''the use of seagrass stock that is restricted in genetic variability could lead to over-representation of a particular genotype within the regional population.'' This commenter suggested a clarification of the term ''superior stock'' and how the use of such stock will account for maintaining genetic variability throughout the range of the species.

Response: The recovery team further examined and edited this section. Recovery task 7.01 was rewritten to read, ''Conduct mesocosm and field experiments to test the feasibility of transplanting excavated and naturally-dislodged (free floating and intertidal driftline) vegetative fragments of *H. johnsonii* under a broad range of environmental conditions.''

Recovery tasks 7.03, 7.04, and 7.05 were also rewritten and task 7.06 was removed based upon comments. NMFS agrees that a restoration (or transplanting) program should not take precedence over addressing the existing threats to Johnson's seagrass or the recovery and protection of the species in the wild. NMFS believes it is possible, however, that the recovery of lost populations may be enhanced by transplantation of natural or cultivated vegetative fragments because of the limited or absent sexual reproduction in this species. The identification of superior stock characteristics of Johnson's seagrass and the maintenance of stocks with these characteristics can be a valuable tool in the restoration of damages or losses to the species. Care will have to be taken that any restoration does not have adverse effects on the species' genetic diversity. NMFS does not consider the identification and maintenance of superior stocks of Johnson's seagrass for restoration as a substitute for avoiding and minimizing impacts to the species or its critical habitat or a replacement to the protection and wise management of the species in the wild.

Comment 13: One commenter suggested that the management section of the plan be expanded and that the plan address the issue of cooperation with the state of Florida under section 6 of the ESA.

Response: NMFS recognizes the necessity of intergovernmental coordination in the protection of Johnson's seagrass and its habitat. A primary goal of the Johnson's seagrass recovery plan is to determine and implement habitat management needs and techniques for protection of the species. Specific management recovery tasks in the final plan that incorporate interagency cooperation, including state agencies, include tasks 5.03., 5.05., 5.09., and 5.13. A section 6 agreement under the ESA with may be one way to facilitate interagency coordination in the protection of Johnson's seagrass. NMFS will explore this option with the state of Florida.

Comment 14: Various commenters suggested specific project methodologies and techniques be added to the recovery tasks. One commenter, for example, stated that many of the tasks do not contain detailed narratives as to how each recovery task will be implemented.

Response: These comments offer valuable technical input. Specific methods or scientific procedures (such as for genetic sampling or the use of grating material for dock grating) used to implement recovery tasks will be developed according to the specific project design. The plan does not specify research methodologies in advance since methodologies and techniques used to complete these recovery tasks will be developed based on a project's goals and objectives, the current state of technology, and upon the decisions made by the primary investigator(s).

Comment 15: A few commenters suggested that a summary or list of the recovery tasks or a prioritized list of the recovery tasks be added to the recovery plan.

Response: Both a summary and a prioritized list have been added to the final recovery plan.

Comment 16: One reviewer commented that the recovery plan is based on conjecture and speculation and that little, if anything, proposed in the plan would cause any recovery of the species.

Response: The recovery plan is based on the best scientific and commercial data available at the time it was written. The basis for listing Johnson's seagrass' as threatened are human impacts on the plant and its habitat, the species' reproductive strategy, and its limited geographic distribution. Section 4(f) of the ESA directs NMFS to develop and implement a recovery plan for Johnson's seagrass, unless such a plan would not promote the conservation of the species. NMFS determined that a recovery plan would promote conservation and recovery of Johnson's seagrass. The Recovery Team and NMFS believe that the tasks defined and implemented will lead to the survival and recovery of *H. johnsonii*. The goal of the plan is the eventual delisting of the species.

Comment 17: Numerous reviewers commented on implementation table costs, adequacy of funding, and availability of current funding. A few

commenters expressed concern for how the plan will be implemented and enforced.

Response: NMFS is committed to the implementation of the Johnson's seagrass recovery plan and in establishing an implementation team to address research and management goals. NMFS agrees with the Johnson's Seagrass Recovery Team that the goals and objectives of this recovery plan can be achieved only if a long-term commitment is made to support the actions recommended here. Achieving these goals and objectives will require the cooperation of state and Federal government agencies as well as private individuals and organizations. Goals and objectives will be attained and funds expended contingent upon agency appropriations and priorities.

Comment 18: Numerous commenters expressed support of the plan and described it as informative, well-written, and comprehensive. One of these commenters stated that the plan ''includes helpful research tasks, however, there is a lack of discussion regarding certain recovery tasks.'' The Florida Department of Community Affairs determined the plan to be consistent with the Florida Coastal Management Program.

Response: The Johnson's seagrass Recovery Team was dedicated to producing a comprehensive and effective plan that will promote the protection and sustainability of Johnson's seagrass and its habitat. The introductory narratives for the eight major recovery tasks were reviewed and revised by the team for the final plan. Further discussion or clarification was made to the narratives and the specific recovery tasks as needed.

Recovery Task Priority Changes

Priority 1 recovery tasks are actions that must be taken to prevent extinction or to identify those actions necessary to prevent extinction. An action that must be taken to prevent a significant decline in population numbers, habitat quality, or other significant negative impacts short of extinction is a priority 2 task. All other actions necessary to provide for full recovery of listed species are priority 3 tasks.

NMFS has modified the priorities assigned to certain recovery tasks in the Implementation Schedule to better reflect NMFS guidance on priority rankings (55 FR 24296, June 14, 1990). These changes resulted in downgrading from priority 1 to 2 the following recovery tasks: 1.01, 2.01, 2.02, 5.02, 5.10, 6.01, and 7.01. Recovery task 3.06 (with edits) was changed from priority 1 to priority 3. Recovery tasks downgraded from priority 2 to 3 include: 3.01, 3.02, 3.03, 5.14, 7.02, and 8.05. Recovery task 5.09 was changed from priority 2 to priority 1. Recovery tasks 4.03 and 5.01 were changed from priority 3 to priority 2.

Additional notable edits to the recovery tasks include the following:

(a) 1.02, 1.03, and 1.05 in the draft plan were changed to recovery tasks 1.01A, 1.01B, and 1.01C, respectively, in the final plan.

(b) 1.04 and 1.06 were combined into task 1.02.

(c) 3.02 was changed to task 5.01.

(d) 3.08 was rewritten and changed to 3.06.

(e) 5.01 was rewritten and changed to 5.02.

(f) 5.05 was merged into 5.06.

(g) 5.10 was rewritten and changed to 5.14.

(h) 7.02, 7.04, and 7.06 were combined to 7.03.

(i) 7.03 was separated into tasks 7.02 and 7.04.

Implementation of the Plan

NMFS is committed to the implementation of the Johnson's Seagrass Recovery Plan and to developing an implementation team to address research and management goals. A long-term management plan will be developed by an implementation team, and the approved Johnson's Seagrass Final Recovery Plan will be used to address and implement recovery strategies for H. johnsonii. The goals and objectives of the plan will be attained and funds expended contingent upon agency appropriations and priorities. The recovery plan and criteria may be revised in the future on the basis of new information. Public notice and an opportunity for public review and comment would be provided prior to final approval of a revised recovery plan.

Authority: 16 U.S.C. 1531–1543 *et seq.*

Dated: September 26, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 02–25328 Filed 10–3–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091002A]

Marine Mammals; File No. 1032–1679–00

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Robert A. Garrott, Ph.D., Ecology Department, Montana State University, 310 Lewis Hall, Bozeman, Montana 59717 (PI: Dr. Robert Garrott), has been issued a permit to take Antarctic pinnipeds for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Carrie Hubard (301)713–2289.

SUPPLEMENTARY INFORMATION: On July 12, 2002, notice was published in the **Federal Register** (67 FR 46179) that a request for a scientific research permit to take Antarctic pinnipeds, target species, Weddell seals (*Leptonychotes weddellii*), had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

A Permit was issued to take Weddell seals by capture to tag, tissue and blood sample, instrument, and incidentally harass crabeater seal (*Lobodon carcinophagus*), leopard seal (*Hydrurga leptonyx*), Ross seal (*Ommatophoca rossii*), southern elephant seal (*Mirounga leonina*), and Antarctic fur seal (*Archtocephalus gazella*). Activities will occur in McMurdo Sound, Antarctica and the Ross Sea. The Holder is also authorized to import samples collected from live captures and hard parts collected from carcasses during the above-listed activities.

Dated: September 25, 2002.

Trevor Spradlin,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–25329 Filed 10–3–02; 8:45 am]

BILLING CODE 3510–22–S