

Federalism implications as that term is defined in Executive Order 13132.

#### **Administrative Procedure Act/ Regulatory Flexibility Act**

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for notices concerning grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: April 9, 2004.

**Mary Pleffner,**

*Acting Assistant Secretary for Economic Development.*

[FR Doc. 04-8547 Filed 4-14-04; 8:45 am]

**BILLING CODE 3510-24-P**

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

[I.D. 032604B]

#### **Endangered and Threatened Species; Take of Anadromous Fish**

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

**ACTION:** Notice of availability and request for comment.

**SUMMARY:** The Puget Sound Treaty Tribes and the Washington Department of Fish and Wildlife submitted to NMFS, pursuant to the protective regulations promulgated for Puget Sound chinook salmon under the Endangered Species Act (ESA), a jointly developed Resource Management Plan (RMP). The RMP specifies the future management of commercial, recreational and tribal salmon fisheries potentially affecting listed Puget Sound chinook salmon from May 1, 2004, through April 30, 2010. This document serves to notify the public of the availability for comment of the proposed evaluation of the Secretary of Commerce (Secretary) as to how the RMP addresses the criteria in the ESA.

**DATES:** Written comments on the Secretary's proposed evaluation must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific Daylight Time on May 17, 2004.

**ADDRESSES:** Comments and requests for copies of the proposed evaluation

should be addressed to Keith Schultz, Sustainable Fisheries Division, National Marine Fisheries Service, 7600 Sand Point Way NE, Seattle, Washington 98115-0070, or faxed to (206) 526-6736. Comments on this proposed evaluation may be submitted by e-mail. The mailbox address for providing e-mail comments is *PSHARVEST.nwr@noaa.gov*. Include in the subject line the following document identifier: "PSHARVEST proposed evaluation". The document is also available on the internet at *www.nwr.noaa.gov/1sustfsh/limit6/lmt6sbmt.htm*.

**FOR FURTHER INFORMATION CONTACT:** Susan Bishop, Puget Sound Team Leader, at phone number: (206) 526-4587, or e-mail: *susan.bishop@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** This notice is relevant to the Puget Sound chinook salmon (*Oncorhynchus tshawytscha*) Evolutionarily Significant Unit (ESU).

#### **Background**

The Puget Sound Treaty Tribes and the Washington Department of Fish and Wildlife have provided to NMFS a jointly developed Resource Management Plan for Puget Sound chinook salmon. The RMP encompasses fisheries within the area defined by the Puget Sound Chinook Salmon ESU, as well as the western Strait of Juan de Fuca, which is not within the ESU. Harvest objectives specified in the RMP account for fisheries-related mortality throughout the migratory range of Puget Sound chinook salmon from Oregon and Washington to Southeast Alaska. The RMP also includes implementation, monitoring and evaluation procedures designed to ensure fisheries are consistent with these objectives.

As required by Sec. 223.203(b)(6) of the ESA 4(d) rule (50 CFR 223.203), the Secretary must determine pursuant to 50 CFR 223.209, and pursuant to the government-to-government processes therein, whether the RMP for Puget Sound chinook salmon would appreciably reduce the likelihood of survival and recovery of the Puget Sound chinook salmon and other affected threatened ESUs. The Secretary must consider how the RMP addresses the criteria in Sec. 223.203(b)(4) in making that determination.

#### **Authority**

Under section 4(d) of the ESA, 16 U.S.C. 1533(d), the Secretary is required to adopt such regulations as he deems necessary and advisable for the conservation of the species listed as threatened. The ESA salmon and

steelhead 4(d) rule (65 FR 42422, July 10, 2000) specifies categories of activities that contribute to the conservation of listed salmonids or are governed by a program that adequately limits impacts on 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 a resource management plan developed jointly within the continuing jurisdiction of United States v. Washington by the Puget Sound Treaty Tribes and the State of Washington (joint plan) and determined by the Secretary to be in accordance with the provisions of 50 CFR sec. 223.203(b)(6).

Dated: March 30, 2004.

**Susan Pultz,**

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

[FR Doc. 04-8115 Filed 4-14-04; 8:45 am]

**BILLING CODE 3510-22-S**

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

[I.D. 020304D]

#### **Endangered and Threatened Species; Establishment of Species of Concern List, Addition of Species to Species of Concern List, Description of Factors for Identifying Species of Concern, and Revision of Candidate Species List Under the Endangered Species Act**

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

**ACTION:** Notice of establishment of species of concern list, addition of species to species of concern list, description of factors for identifying species of concern, and revision of candidate species list.

**SUMMARY:** NMFS establishes a species of concern list, places 45 species on this list, describes the factors it will consider when identifying species of concern, and revises the candidate species list. NMFS also solicits information and comments concerning the status of, research and stewardship opportunities for, and the factors for identifying species of concern.

**DATES:** These actions are effective on April 15, 2004.

**ADDRESSES:** Send comments and documentation regarding the status of any species of concern to the Chief of