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List of Subjects in 18 CFR part 45

Electric utilities; Reporting and recordkeeping requirements.

By direction of the Commission.

Linda Mitry,
Deputy Secretary.

In consideration of the foregoing, the Commission proposes to amend part 45, Chapter I, Title 18, *Code of Federal Regulations*, as follows:

PART 45—APPLICATION FOR AUTHORITY TO HOLD INTERLOCKING POSITIONS

1. The authority citation for part 45 is revised to read as follows:

Authority: 16 U.S.C. 791a-825r, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352; 3 CFR 142.

2. Section 45.3 is revised to read as follows:

§ 45.3 Timing of filing application.

The holding of positions within the purview of section 305(b) of the Act shall be unlawful unless the holding shall have been authorized by order of the Commission. Nothing in this part shall be construed as authorizing the holding of positions within the purview of section 305(b) of the Act prior to order of the Commission on application therefor. Applications must be filed and authorization must be granted prior to holding any interlocking positions within the purview of section 305(b) of the Act; late-filed applications will be denied. The term "holding", as used in this section, shall mean acting as, serving as, voting as, or otherwise performing or assuming the duties and responsibilities of officer or director within the purview of section 305(b) of the Act.

3. In § 45.9, paragraph (b) is revised and paragraph (c)(5) is added to read as follows:

§ 45.9 Automatic authorization of certain interlocking positions.

* * * * *

(b) *Conditions of authorization.* As a condition of authorization, any person authorized to hold interlocking positions under this section must submit, prior to assuming the duties of the position, an informational report in accordance with paragraph (c) of this section, unless that person is already authorized to hold interlocking positions of the type governed by this section. Failure to timely file the informational report will constitute a failure to satisfy this condition, and will constitute automatic denial.

(c) *Informational report.* * * *

(5) The dates that the person assumed the duties and responsibilities of each position listed in paragraphs (c)(2) and (c)(3) of this section.

[FR Doc. 05-6690 Filed 4-4-05; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 050310069-5069-01; I.D. 030205C]

RIN 0648-XB30

Listing Endangered and Threatened Species and Designating Critical Habitat: Petition to List Puget Sound Steelhead as an Endangered or Threatened Species under the Endangered Species Act

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

ACTION: Notice of finding; request for information; and initiation of status review.

SUMMARY: NMFS received a petition from Mr. Sam Wright on September 13, 2004, to list Puget Sound (Washington) steelhead (*Oncorhynchus mykiss*) as a threatened or endangered species under the Endangered Species Act (ESA). NMFS finds that the petition presents substantial scientific and commercial information indicating that the petitioned action may be warranted. Accordingly, NMFS is initiating a status review of the species. To ensure that the status review is complete and based

upon the best available scientific and commercial information, NMFS is soliciting information regarding the viability of, and threats to, Puget Sound *O. mykiss* populations, efforts being made to protect the species, and the names of potential peer reviewers.

DATES: Information and comments on the subject action must be received by June 6, 2005

ADDRESSES: You may submit comments and information by any of the following methods. Please identify submittals as pertaining to the "Puget Sound *O. mykiss* status review update."

- E-mail: PS.Omykiss.nwr@noaa.gov. Include "Puget Sound *O. mykiss* status review update" in the subject line of the message.

- Federal e-rulemaking portal: <http://www.regulations.gov>

- Mail: Submit written comments and information to Chief, NMFS, Protected Resources Division, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232. You may hand-deliver written comments to our office during normal business hours at the street address given above.

- Hand Delivery/Courier: NMFS, Protected Resources 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232.

- Fax: 503-230-5441

FOR FURTHER INFORMATION CONTACT: For further information regarding this action contact Garth Griffin, NMFS, Northwest Region, (503) 231-2005, or Marta Nammack, NMFS, Office of Protected Resources, (301) 713-1401.

SUPPLEMENTARY INFORMATION:

Background

On September 13, 2004, NMFS received a petition from Mr. Sam Wright of Olympia, WA, to list Puget Sound steelhead as an endangered or threatened species under the ESA, and to designate critical habitat. Copies of the petition are available from NMFS by request, or on the Internet (See **ADDRESSES** section, above, and "References" section, below).

ESA Statutory and Policy Provisions

Section 4(b)(3) of the ESA contains provisions concerning petitions from interested persons requesting the Secretary of Commerce (Secretary) to list species under the ESA (16 U.S.C. 1533(b)(3)(A)). Section 4(b)(3)(A) requires that, to the maximum extent practicable, within 90 days after receiving such a petition, the Secretary make a finding whether the petition presents substantial scientific and commercial information indicating that the petitioned action may be warranted.

NMFS' ESA implementing regulations define substantial information as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. In evaluating a petitioned action, the Secretary considers several factors, including whether the petition contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species (50 CFR 424.14(b)(2)(ii)). In addition, the Secretary considers whether the petition provides information regarding the status of the species over all or a significant portion of its range (50 CFR 424.14(b)(2)(iii)).

To be considered for listing under the ESA, a group of organisms must constitute a "species," which is defined in section 3 of the ESA to include "any subspecies of fish or wildlife or plants, and any *distinct population segment* of any species of vertebrate fish or wildlife which interbreeds when mature" (emphasis added). NMFS has determined that, to qualify as a distinct population segment (DPS), a Pacific salmon or *O. mykiss* population must be substantially reproductively isolated and represent an important component in the evolutionary legacy of the biological species. A population meeting these criteria is considered to be an "evolutionarily significant unit" (ESU) (56 FR 58612, November 20, 1991). In its listing determinations for Pacific salmonids under the ESA, NMFS has treated an ESU as constituting a DPS, and hence a "species," under the ESA.

Life History of West Coast O. mykiss

Steelhead is the name commonly applied to the anadromous form of the biological species *O. mykiss*. The present distribution of steelhead extends from Kamchatka in Asia, east to Alaska, and down to the U.S. Mexico border (Busby *et al.*, 1996; 67 FR 21586, May 1, 2002). *O. mykiss* exhibit perhaps the most complex suite of life history traits of any species of Pacific salmonid. They can be anadromous ("steelhead"), or freshwater residents ("rainbow or redband trout"), and under some circumstances yield offspring of the opposite life-history form. Those that are anadromous can spend up to 7 years in freshwater prior to smoltification (the physiological and behavioral changes required for the transition to salt water), and then spend up to 3 years in salt water prior to first spawning. *O. mykiss* is also iteroparous (meaning individuals may spawn more than once), whereas

the Pacific salmon species are principally semelparous (meaning individuals generally spawn once and die). Within the range of West Coast steelhead, spawning migrations occur throughout the year, with seasonal peaks of activity. In a given river basin there may be one or more peaks in migration activity; since these "runs" are usually named for the season in which the peak occurs, some rivers may have runs known as winter, spring, summer, or fall steelhead.

Steelhead can be divided into two basic reproductive ecotypes, based on the state of sexual maturity at the time of river entry and duration of spawning migration (Burgner *et al.*, 1992). The summer or "stream-maturing" type enters fresh water in a sexually immature condition between May and October, and requires several months to mature and spawn. The winter or "ocean-maturing" type enters fresh water between November and April with well-developed gonads and spawns shortly thereafter. In basins with both summer and winter steelhead runs, the summer run generally occurs where habitat is not fully utilized by the winter run, or where an ephemeral hydrologic barrier separates them, such as a seasonal waterfall. Summer steelhead usually spawn farther upstream than winter steelhead (Withler, 1966; Roelofs, 1983; Behnke, 1992).

Previous ESA Status Review

In 1996, NMFS conducted a comprehensive status review of coastal and inland steelhead stocks in California, Oregon, Washington, and Idaho (Busby *et al.*, 1996). NMFS convened a Biological Review Team (BRT) of Federal scientists to: (1) identify ESUs of West Coast steelhead, each of which constitutes a "species" for consideration under the ESA; and (2) evaluate the risk of extinction for the identified ESUs. As part of this review, NMFS identified a Puget Sound ESU of coastal steelhead occupying river basins of the Strait of Juan de Fuca, Puget Sound, and Hood Canal (Washington), as far west as the Elwha River, and as far north as the Nooksack River and the United States/Canada border. The Puget Sound ESU is primarily composed of winter steelhead stocks, but also includes several small stocks of summer steelhead occupying limited habitat. The BRT also included the resident life-history form in the Puget Sound ESU. Genetic studies generally show that, in the same geographic area, the resident and anadromous life forms of *O. mykiss* are more similar to each other than either is to the same form from a different geographic area. In particular,

the BRT cited a scientific study indicating that rainbow trout and steelhead are not reproductively isolated in two river basins within the Puget Sound ESU (Leider *et al.*, 1995).

The BRT concluded that the Puget Sound steelhead ESU was not in danger of extinction or likely to become endangered in the foreseeable future. However, the BRT was concerned that 17 of 21 stocks in the ESU for which there were adequate data exhibited overall declining trends. Positive trends in abundance for the two largest steelhead runs in the ESU (the Skagit and Snohomish Rivers) mitigated the immediacy of extinction risk, although there was significant concern regarding the sustainability of other steelhead runs in the ESU (most notably the Deer Creek summer and Lake Washington winter steelhead stocks, and stocks in the Hood Canal area). Given the lack of strong trends in abundance for the major stocks and the apparent limited contribution of hatchery fish to natural production, the BRT concluded that most winter steelhead stocks in the Puget Sound ESU appeared to be naturally self-sustaining.

The BRT noted concern about the potential threat to the genetic integrity of Puget Sound steelhead posed by past and present hatchery practices in the Puget Sound area. Hatchery production in this ESU is widespread and managed to support harvest. Most of the hatchery fish propagated in the Puget Sound region are winter steelhead derived from a single stock (the Chambers Creek hatchery stock) that is indigenous to the ESU but generally is not native to the local river basins where it is propagated. The summer steelhead hatchery programs in the Puget Sound area are derived from an out-of-ESU stock (the Skamania summer steelhead stock from the Columbia River). The Skamania hatchery stock has generally been introduced in river systems where summer steelhead did not naturally exist, although it has been introduced in some Puget Sound river basins having native summer steelhead populations (e.g., the Skagit, Stillaguamish, and Snohomish Rivers). The Washington Department of Fish and Wildlife (WDFW) employs a hatchery management strategy of promoting isolation between hatchery and natural stocks by releasing smolts early and selecting for advanced spawn timing in winter steelhead hatchery programs. This separation in run timing is intended to allow for high rates of selective harvest on returning hatchery fish, while limiting harvest mortality on wild stocks; and to minimize competition (as smolts and adults) and

opportunities for interbreeding between naturally spawning hatchery fish and wild fish. However, the BRT noted that separation of run timing is seldom complete. Naturally spawning hatchery fish comprise a substantial proportion of the spawning escapement in many of the rivers in the ESU, possibly competing with, and posing genetic risks to, the local steelhead populations. Additionally, the BRT discussed evidence for hatchery introgression in some natural Puget Sound winter steelhead populations (Phelps *et al.*, 1994).

Informed by the BRT's findings (Busby *et al.*, 1996), NMFS concluded that the Puget Sound steelhead ESU did not warrant listing under the ESA (61 FR 41541; August 9, 1996), but expressed concern regarding the sustainability of summer steelhead populations and potentially adverse impacts from hatchery practices in Puget Sound.

Analysis of Petition

NMFS evaluated whether the information presented in the petition concerning Puget Sound steelhead met the ESA's standard for "substantial information." The agency also reviewed other information readily available to NMFS scientists (i.e., currently within agency files) to determine whether there is general agreement with the information presented in the petition.

The petition restates several of the findings of the 1996 status review for the Puget Sound steelhead ESU, including the BRT's ESU delineation, evaluation of extinction risk, and consideration of artificial propagation. Most significantly, the petition provides 10 years of new harvest, spawning escapement, and total-run-size data for nine Puget Sound steelhead stocks (provided to the petitioner by WDFW). The petition concludes that new status information describes significant short- and long-term downward trends in nearly all river systems where the WDFW data are available, despite significant reductions in recreational and tribal harvest rates on wild steelhead. The petition asserts that there is only one river system, the Skagit River, with a steelhead population large enough to appear resilient to adverse environmental conditions and depensatory (small population size) risks. The petition argues that the spatial structure of the Puget Sound ESU has been severely degraded in the period since the 1996 status review, with four geographic regions at risk of extirpation: the Juan de Fuca Strait, Bellingham Bay, Hood Canal, and South Puget Sound. The petition argues that

populations are at such low levels of abundance that catastrophic events, environmental variability, and depensation confer a high level of extinction risk into the foreseeable future.

The petition also describes risks to the diversity of the Puget Sound steelhead ESU. Hybridization between *O. mykiss* and coastal cutthroat trout (*O. clarki*) is described as a threat to diversity, as well as potentially confounding factor in evaluating abundance information that may include visually indistinguishable *O. mykiss*, hybrids, and cutthroat trout. The petition underscores concerns described in the 1996 status review regarding adverse impacts from hatchery fish. Additionally, the petition describes new information suggesting that early winter-run hatchery steelhead males hold over in freshwater for an extended period of time and spawn with late winter-run wild steelhead females (McMillan, 2004), and hatchery juveniles residualizing and competing with native rainbow trout and steelhead (McMichael *et al.*, 1997; Viola and Schuck, 1995). The petition notes that hatchery smolt production has increased since the 1996 status review, and that the proportion of hatchery-origin smolts and naturally spawning adults has increased. The petition asserts that the large-scale hatchery steelhead programs in the Puget Sound area provide no benefit to the viability of the Puget Sound ESU, but rather have negative impacts including: widespread genetic introgression compromising local adaptations; competition with wild fish as juveniles and adults; and predation on wild steelhead fry by residualized hatchery steelhead smolts.

In addition to the petition narrative and the new harvest and run size data provided, the information presented in the petition includes: (1) a WDFW report on the genetic relationship among anadromous and resident *O. mykiss* in the Cedar River and Lake Washington in Puget Sound; (2) a paper by the petitioner (Sam Wright) advocating for the management of salmonid populations in terms of smolt production rather than traditional metrics of numbers of recruits or adult spawners; and (3) a copy of comments submitted by the petitioner (Wright, 2004) regarding NMFS' proposed policy for the consideration of hatchery-origin fish in ESA listing determinations for Pacific salmon and steelhead (69 FR 31354; June 3, 2004). The petition concludes, based on the information presented in the petition, that the Puget Sound steelhead ESU is in danger of extinction throughout all or a significant

portion of its range or is likely to become so in the foreseeable future.

Petition Finding

After reviewing the information contained in the petition and reviewing information readily available to NMFS scientists (i.e., currently within agency files), NMFS determines that the petition to list the Puget Sound steelhead presents substantial scientific and commercial information indicating that the petitioned action may be warranted. In accordance with section 4(b)(3)(B) of the ESA and NMFS' implementing regulations (50 CFR 424.14(b)(2)), NMFS will commence a review of the status of the Puget Sound *O. mykiss* ESU and make a determination of whether the petitioned action is warranted.

Listing Factors and Basis for Determination

Under section 4(a)(1) of the ESA, NMFS is to determine whether a species is a threatened or endangered species because of any of the following factors: (1) the present or threatened destruction, modification, or curtailment of a species' habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting the species' continued existence. Under section 4(b)(1)(A) of the ESA, listing determinations are to be made based solely on the best available scientific and commercial data after conducting a review of the status of the species and after taking into account any efforts being made by any state or foreign nation to protect the species.

Information Solicited

To ensure that the updated status review is complete and based on the best available and most recent scientific and commercial data, NMFS is soliciting information and comments (see **DATES** and **ADDRESSES**) concerning the Puget Sound ESU of *O. mykiss*, inclusive of the anadromous and resident life history forms. NMFS is particularly interested in information that has become available since, or was otherwise not considered in, the 1996 steelhead status review.

Biological Information

NMFS is soliciting pertinent information on the viability of naturally spawned and hatchery populations within these ESUs such as: data on population abundance, recruitment, productivity, escapement, and

reproductive success (e.g., spawner-recruit or spawner-spawner survivorship, fecundity, smolt production estimates, and smolt-to-adult ocean survival rates); historical and present data on hatchery fish releases, outmigration, survivorship, returns, straying rates, replacement rates, and reproductive success in the wild; data on age structure and migration patterns of juveniles and adults; meristic, morphometric, and genetic studies; information on harvest rates on hatchery and wild fish; and spatial or temporal trends in the accessibility, quality and quantity of freshwater, estuarine, and marine habitats.

NMFS also requests information regarding the ecological and genetic relationship of hatchery and natural populations in the Puget Sound area, including: the stock origin and broodstock practices of individual hatchery programs; the degree of known or inferred genetic divergence between hatchery and natural stocks; behavioral, morphological, and life-history traits of hatchery stocks, and the degree of ecological divergence between hatchery and natural stocks; the potential risks and benefits posed by specific artificial propagation programs to naturally spawned populations; and planned changes in hatchery management that may contribute to, or hinder, the viability of the Puget Sound *O. mykiss* ESU.

NMFS is also soliciting pertinent information about resident rainbow trout populations (above and below natural and man-made barriers to fish passage) and their relationship with the anadromous life-history form within the geographic range occupied by the ESU. Specifically, NMFS is seeking information regarding: the range, distribution, and habitat-use patterns of resident rainbow trout populations; the abundance, density, and presence/absence of resident rainbow trout; genetic or other relevant data indicating the amount of reproductive exchange between the two life-history forms; the frequency with which a given life-history produces offspring of the opposite life-history form; the historic and current degree of relatedness between steelhead and resident rainbow trout life history forms; the existence of natural and man-made barriers to passage for anadromous and resident populations; the relationship of resident fish located above impassible natural and man-made barriers to anadromous and resident populations below such barriers to fish passage; and the spatial and temporal trends in the quality and quantity of freshwater habitat.

Information Regarding Protective Efforts

Section 4(b)(1)(A) of the ESA requires the Secretary to make listing determinations solely on the basis of the best scientific and commercial data available after conducting a review of the status of a species and after taking into account efforts being made to protect the species. Therefore, in making its listing determinations, NMFS first assesses the status of the species and identifies factors that have led to its current status. NMFS then assesses conservation measures to determine whether they ameliorate a species' extinction risk (50 CFR 424.11(f)). In judging the efficacy of conservation efforts, NMFS considers the following: the substantive, protective, and conservation elements of such efforts; the degree of certainty that such efforts will reliably be implemented; the degree of certainty that such efforts will be effective in furthering the conservation of the species; and the presence of monitoring provisions to determine effectiveness of recovery efforts and that permit adaptive management (68 FR 15100; March 28, 2003). In some cases, conservation efforts may be relatively new or may not have had sufficient time to demonstrate their biological benefit. In such cases, provisions of adequate monitoring and funding for conservation efforts are essential to ensure that the intended conservation benefits will be realized. NMFS encourages all parties to submit information on ongoing efforts to protect and conserve steelhead and rainbow trout populations in Puget Sound, as well as information on recently implemented or planned activities (i.e., since the 1996 status review) and their likely impact(s).

Information Regarding Potential Critical Habitat

Critical habitat is defined in section 3 of the ESA as: (1) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the ESA, on which are found those physical or biological features (a) essential to the conservation of the species and (b) which may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by the species at the time it is listed upon a determination that such areas are essential for the conservation of the species. Once critical habitat is designated, section 7 of the ESA requires Federal agencies to ensure that they do not fund, authorize or carry out any actions that are likely to destroy or adversely modify that habitat. This

requirement is in addition to the section 7 requirement that Federal agencies ensure that their actions do not jeopardize the continued existence of listed species.

Section 4(a)(3)(a) of the ESA requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. Designations of critical habitat must be based on the best scientific data available and must take into consideration the economic, national security, and other relevant impacts of specifying any particular area as critical habitat. In advance of any determination to propose listing the Puget Sound *O. mykiss* ESU under the ESA, NMFS is soliciting information that would assist the agency in developing a critical habitat proposal.

Joint NMFS U.S. Fish and Wildlife Service regulations for listing endangered and threatened species and designating critical habitat (50 CFR 424.12(b)) state that the agency "shall consider those physical and biological features that are essential to the conservation of a given species and that may require special management considerations or protection (referred to above as "essential physical and biological features"). Pursuant to the regulations, such requirements include, but are not limited to the following: (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, rearing of offspring, germination, or seed dispersal; and generally, (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species. These regulations emphasize that the agency shall focus on essential features within the specific areas considered for designation. These features "may include, but are not limited to, the following: spawning sites, feeding sites, seasonal wetland or dryland, water quality or quantity, geological formation, vegetation type, tide, and specific soil types." For other ESUs of West Coast *O. mykiss*, NMFS has identified the following physical or biological features as essential to their conservation: (1) Freshwater spawning sites with water quantity and quality conditions and substrate supporting spawning, incubation and larval development. (2) Freshwater rearing sites with water quantity and floodplain connectivity to form and maintain physical habitat conditions and support juvenile growth and mobility; water

quality and forage supporting juvenile development; and natural cover such as shade, submerged and overhanging large wood, log jams and beaver dams, aquatic vegetation, large rocks and boulders, side channels, and undercut banks. (3) Freshwater migration corridors free of obstruction with water quantity and quality conditions and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, side channels, and undercut banks supporting juvenile and adult mobility and survival. (4) Estuarine areas free of obstruction with water quality, water quantity, and salinity conditions supporting juvenile and adult physiological transitions between fresh- and saltwater; natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, and side channels; and juvenile and adult forage, including aquatic invertebrates and fishes, supporting growth and maturation. (5) Nearshore marine areas free of obstruction with water quality and quantity conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation; and natural cover such as submerged and overhanging large wood, aquatic vegetation, large rocks and boulders, and side channels. (6) Offshore marine areas with water quality conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation. NMFS is soliciting comment on the applicability of these features to Puget Sound *O. mykiss* and is also soliciting information regarding the specific areas within the geographical area occupied by Puget Sound *O. mykiss* where such essential physical and biological features may be found.

Section 4(b)(2) of the ESA requires the Secretary to consider the "economic impact, impact on national security, and any other relevant impact," of designating a particular area as critical

habitat. Section 4(b)(2) further authorizes the Secretary to exclude any area from a critical habitat designation if the Secretary finds that the benefits of exclusion outweigh the benefits of designation, unless excluding that area will result in extinction of the species. We seek information regarding the benefits of designating specific areas geographically within the Puget Sound *O. mykiss* ESU as critical habitat (i.e., specific areas within the river basins of the Strait of Juan de Fuca, Puget Sound, and Hood Canal, Washington, as far west as the Elwha River, and as far north as the Nooksack River and the United States/Canada border). We also seek information on the economic impact of designating particular areas as part of the critical habitat designation. In keeping with the guidance provided by the Office of Management and Budget (2000, 2003), we seek information that would allow the monetization of these effects to the extent possible, as well as information on qualitative impacts to economic values. We are also seeking information on impacts to national security and any other relevant impacts of designating critical habitat in these areas.

In accordance with the Secretarial Order on American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act (June 5, 1997), if it is determined that the Puget Sound *O. mykiss* ESU warrants listing we will coordinate with Federally recognized American Indian Tribes on a government-to-government basis to determine how to make critical habitat assessments in areas that may impact tribal trust resources. In accordance with our regulations (50 CFR 424.13) we will consult as appropriate with affected states, interested persons and organizations, other affected Federal agencies, and, in cooperation with the Secretary of State, with the country or countries in which the species concerned are normally found or whose citizens harvest such species from the

high seas. Data reviewed may include, but are not limited to, scientific or commercial publications, administrative reports, maps or other graphic materials, information received from experts, and comments from interested parties.

Identification of Peer Reviewers

On July 1, 1994, NMFS, jointly with the U.S. Fish and Wildlife Service, published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270). The intent of the peer review policy is to ensure that listings are based on the best scientific and commercial data available. On December 15, 2004, the Office of Management and Budget issued a "Final Information Quality Act Bulletin for Peer Review," which establishes peer review requirements for Federal agencies before disseminating important scientific information. If NMFS determines that listing is warranted, the agency will solicit the expert opinions of qualified specialists, concurrent with the public comment period following the publication of a proposed rule. In advance of any such determination, NMFS is soliciting the names and affiliations of experts from the academic and scientific community, Native American tribal groups, federal and state agencies, and the private sector, as potential reviewers.

References

Copies of the petition and related materials are available on the Internet at <http://www.nwr.noaa.gov>, or upon request (see ADDRESSES section above).

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

Dated: March 30, 2005.

William T. Hogarth,

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

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