submissions into electronic formats, for both individual units and central collection units.

Since the 2003 annual collection cycle, all form types can be completed on the Internet. For the 2007 Census, 18,708 governments responded using our Web site. For the 2008 Annual survey, 6,589 or 31% of the governments sample responded using our Web site.

III. Data

OMB Number: 0607–0452.

Form Number: E–1, E–2, E–3, E–4, E–5, E–6, E–7, E–9.

Type of Review: Regular.

Affected Public: State governments, county governments, consolidated city-county governments, independent cities, towns, townships, special district governments, and public school systems.

Estimated Number of Respondents: 16,956.

Estimated Time per Response: The average for all forms is 49 minutes.

Estimated Total Annual Burden Hours: 13,973.

Estimated Total Annual Cost: $ 316,524.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 United States Code, section 161 & 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Gwelnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–23533 Filed 9–29–09; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR62

Endangered and Threatened Species; Recovery Plans

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

ACTION: Notice of Availability.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the adoption of an Endangered Species Act (ESA) recovery plan for the Middle Columbia River Steelhead (Oncorhynchus mykiss) Distinct Population Segment (DPS), which spawns and rears in tributaries to the Columbia River in central and eastern Washington and Oregon. The Plan includes four locally developed management unit plans that address tributary conditions, included as appendices to the Plan, as well as two ''modules'' developed by NMFS to address conditions affecting all steelhead populations in the Columbia River mainstem and estuary - the Hydro Module, based on the NMFS 2008 Biological Opinion on the Federal Columbia River Power System (FCRPS BiOP), and the Estuary Module (NMFS 2007). The Plan also incorporates Hatchery and Genetic Management Plans (HGMPs); site-specific actions in the FCRPS BiOp Reasonable and Prudent Alternative 39 for updating HGMPs, Artificial Production for Pacific Salmon (FCRPS BiOp, Appendix C of Supplemental Comprehensive Analysis, NMFS 2008); and fishery management planning through *U.S.* v. *Oregon* for mainstem fisheries, the Pacific Salmon Treaty and Pacific Fishery Management Council guidelines and constraints for marine fisheries, and Fisheries Management Evaluation Plans (FMEPs) and Tribal Resource Management Plans for tributary fisheries.

ADDRESSES: Additional information about the plan may be obtained by writing to Lynn Hatcher, National Marine Fisheries Service, 304 S. Water Street, Suite ι 201, Ellensburg, WA 98926, or by calling (509) 962–8911. Electronic copies of the Plan and a summary of and response to public comments on the Proposed (Draft) Recovery Plan are available online at *http://www.nwr.noaa.gov/Salmon-Recovery-Planning/Recovery-Domains/Interior-Columbia/Mid-Columbia/Mid-Col-Plan.cfm.* A CD ROM of these documents can be obtained by calling Sharon Houghton at 503–230–5418 or by emailing a request to *sharon.houghton@noaa.gov* with the subject line ''CD ROM Request for Final ESA Recovery Plan for Middle Columbia River Steelhead.

FOR FURTHER INFORMATION CONTACT: Lynn Hatcher, NMFS Middle Columbia Steelhead Salmon Recovery Coordinator, at 509–962–8911, or Elizabeth Gaar, NMFS Salmon Recovery Division, at 503–230–5434.

SUPPLEMENTARY INFORMATION:

Background

Recovery plans describe actions beneficial to the conservation and recovery of species listed under the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*). The ESA requires that recovery plans, to the extent practicable, incorporate: (1) objective, measurable criteria which, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the plan's goals; and (3) estimates of the time required and costs to implement recovery actions. The ESA requires the development of recovery plans for each listed species unless such a plan would not promote its recovery.

NMFS is responsible for developing and implementing ESA recovery plans for listed salmon and steelhead. In so doing, NMFS' goal is to restore endangered and threatened Pacific salmonids to the point that they are again self-sustaining members of their ecosystems and no longer need the protections of the ESA. Local support of recovery plans by those whose activities directly affect the listed species, and whose actions will be most affected by recovery efforts, is essential. NMFS therefore supports and participates in locally led collaborative efforts to develop recovery plans that involve local communities, state, tribal, and Federal entities, and other stakeholders.

NMFS recognizes that to achieve recovery of ESA listed salmon and steelhead in the Columbia River Basin, site-specific actions addressing all limiting factors and threats (habitat, hydropower, hatcheries, harvest) are necessary. In this recovery plan, the relative impacts of this full range of limiting factors and threats are identified and evaluated, although effective site-specific actions may be better developed or more feasible to implement in some sectors than in others. At this time, site-specific management actions are more fully developed for tributary habitat and

mainstem hydropower than for hatcheries and harvest. Given that habitat protection and restoration actions generally take some time to yield ecosystem responses and improvements in fish populations, it is important to implement actions with more immediate benefits, as well as those whose benefits will accrue in the future.

Hatchery and harvest actions developed in other management processes will be important for recovery. For hatcheries, site-specific actions are being developed pursuant to the 2008 FCRPS Biological Opinion, which requires updated Hatchery and Genetic Management Plans for all facilities that affect listed salmon and steelhead in the Columbia Basin. Mainstem fisheries in the Columbia River will be implemented consistent with the recently completed U.S v. Oregon Agreement, which extends through 2017. Tributary fisheries are subject to Fishery Management and Evaluation Plans and Tribal Resource Management Plans, many of which are now under review or scheduled for completion in the near future. Ocean fisheries are managed according to the Pacific Salmon Treaty and Pacific Fishery Management Council guidelines and constraints. Such plans have been and will be developed to be consistent with recovery plans, section 7(a)(2), and other ESA requirements. NMFS will continue to monitor these plans, using adaptive management, to assess implementation progress and consistency with recovery plans.

The Plan

This Plan is the product of a collaborative process initiated by NMFS with assistance from the Middle Columbia Recovery Forum, a group convened by NMFS to provide input on the development of the DPS recovery plan. Participants include representatives of the Oregon Department of Fish and Wildlife (ODFW), Washington Department of Fish and Wildlife (WDFW), the Yakama Nation, Confederated Tribes of the Warm Springs Indian Reservation, Confederated Tribes of the Umatilla Indian Reservation, Washington Governor's Salmon Recovery Office, Oregon Governor's Natural Resources Office, Snake River Salmon Recovery Board (SRSRB), Yakima Basin Fish and Wildlife Recovery Board (YBFWRB), U.S. Bureau of Reclamation (BOR), U.S. Fish and Wildlife Service (USFWS), U.S. Forest Service (USFS), U.S. Army Corps of Engineers (COE), U.S. Bureau of Land Management (BLM), Klickitat County, and NMFS Northwest Region. The goal was to produce a plan that meets ESA requirements for recovery plans as well as the State of Washington's recovery planning outline and guidance (*www.governor.wa.gov/gsro/*) and the State of Oregon's Native Fish Conservation Policy guidance (*http://ftp.dfw.state.or.us/fish/nfcp/nfcp.pdf*).

Recovery Domains and Technical Recovery Teams

For the purpose of recovery planning for the 19 ESA-listed species of Pacific salmon and steelhead in the Pacific Northwest, NMFS Northwest Region designated five geographically based ''recovery domains.'' The Middle Columbia steelhead DPS spawning range is in the Interior Columbia domain. For each domain, NMFS appointed a team of scientists, nominated for their geographic and species expertise, to provide a solid scientific foundation for recovery plans. The Interior Columbia Technical Recovery Team (ICTRT), which contributed to this Plan, included biologists from NMFS, states, tribes, and academic institutions.

All the TRTs used the same biological principles for developing their recommendations for ESU/DPS and population viability criteria. These principles are described in a NMFS technical memorandum, *Viable Salmonid Populations and the Recovery of Evolutionarily Significant Units* (McElhany *et al.*, 2000). Viable salmonid populations (VSP) are defined in terms of four parameters: abundance, productivity or growth rate, spatial structure, and diversity. A viable ESU/DPS is naturally self-sustaining, with a high probability of persistence over a 100–year time period.

Management Units

In each domain, NMFS worked with state, tribal, local, and other Federal entities to develop planning forums that build to the extent possible on ongoing, locally led recovery efforts. NMFS defined ''management units'' based on jurisdictional boundaries as well as areas where local planning efforts were underway. The Middle Columbia management units are the following: (1) Oregon; (2) Washington Gorge, which, in turn, is subdivided into three planning areas (White Salmon, Klickitat, and Rock Creek); (3) Yakima subbasin; and (4) Southeast Washington. A recovery plan was developed for each management unit; for the Washington Gorge management unit, however, there are three plans, one for each planning area.

The White Salmon plan for steelhead will also contribute to recovery for three other species, the Lower Columbia River Chinook, Lower Columbia River coho, and Columbia River chum, which historically spawned in the White Salmon River watershed. The Lower Columbia River ESA recovery plan is an ecosystem plan that addresses all listed species in the Lower Columbia subbasin; therefore, the White Salmon Plan for Middle Columbia steelhead is not being finalized now; it will become part of the Lower Columbia plan and will be finalized along with that plan in late 2010 or early 2011.

The management unit plans, Appendices A-E, are the work of local groups and county, state, Federal, and tribal entities within the Middle Columbia River region. The management unit plans are as follows:

(1) Oregon. *Conservation and Recovery Plan for Oregon Steelhead Populations in the Middle Columbia River Steelhead Distinct Population Segment* (Appendix A).

(2) Washington Gorge: *Recovery Plan for the Klickitat Population of the Middle Columbia River Steelhead* (Appendix B) and *Recovery Plan for the Rock Creek Population of the Middle Columbia River Steelhead* (Appendix C).

(3) Yakima Basin. *Yakima Steelhead Recovery Plan* (Appendix D).

(4) Southeast Washington. *The Snake River Salmon Recovery Plan for Southeast Washington* (Appendix E).

The two modules, Appendices F and G, address all species that use the Columbia River estuary (Estuary Module) and that are affected by the Federal Columbia River Power System (Hydro Module.)

The Draft Plan, including the four management unit plans, two modules, and two scientific reports that provide the scientific basis for the Plan (McClure et al, 2003; ICTRT 2007), was made available for public review as a Proposed Recovery Plan. A notice of availability soliciting public comments on the Proposed Recovery Plan was published in the **Federal Register** on September 24, 2008 (73 FR 55045). NMFS received 38 comment letters on the Proposed Recovery Plan. An itemized record of all comments is available on the NOAA website. NMFS summarized the public comments, prepared responses, and identified the public comments that prompted revisions to the Plan. The final Plan is now available on the NMFS website at *www.nwr.noaa.gov/Salmon Recovery Planning/Recovery Domains/Interior Columbia/Middle Columbia/Index.cfm*.

Public hearings were conducted at the following locations, dates, and times:

Goldendale, WA, November 18, 2008, at the Klickitat County PUD building, 6:30 - 8:30 pm.

Yakima, WA, November 19, 2008, at the Yakima Arboretum, 6:30 - 8:30 pm.

Walla Walla, WA, November 20, 2008, at the Walla Walla Community College, 6:30 - 8:30 pm.

John Day, OR, November 6, 2008, U.S. Forest Service Office, 6:30 - 8:30 p.m.

Redmond, OR, November 12, 2008, Juniper Golf Club, 6:30 - 8:30 p.m.

Hermiston, OR, November 24, 2008, Stafford Hansel Government Center, 6:30 - 8:30 p.m.

The Dalles, OR, December 2, 2008, Civic Center Auditorium ,6:30 -8:30 p.m.

Portland, OR, December 11, 2008, Metro Regional Government Council Chambers, 6:30 - 8:30 p.m.

CDs of the DPS plan and the MU plans were available at each public meeting and upon request from Sharon Houghton, at (503) 230–5418. Announcements of the public meetings were placed in the local newspapers.

NMFS revised the Plan based on the comments received, and this final version now constitutes the ESA Recovery Plan for Middle Columbia Steelhead.

NMFS intends this plan to assist Federal agencies in fulfilling their section 7(a)(1) obligations. NMFS also expects the Plan to guide NMFS and other Federal agencies in evaluating Federal actions under ESA section 7(a)(2) and other ESA decisions. For example, the Plan will provide greater biological context for evaluating the effects that a proposed action may have on a species. This context will be enhanced by using recovery plan information in ESA section 7 consultations, section 10 habitat conservation plans, and other ESA decisions. Such information includes viability criteria for the DPS, better understanding of and information on limiting factors and threats facing the DPS, better information on priority areas for addressing specific limiting factors, and better geographic context for where the DPS can tolerate varying levels of risk.

DPS Addressed and Planning Area

''Steelhead'' is the name commonly applied to the anadromous (migratory) form of the biological species *Oncorhynchus mykiss*. The common names of the non-anadromous, or resident, form are rainbow trout and redband trout. When NMFS originally listed the Middle Columbia River steelhead as threatened on March 25, 1999 (64 FR 14517), it was classified as an ''evolutionarily significant unit'' (ESU) of salmonids that included both the anadromous and resident forms. Recently, NMFS revised its species determinations for West Coast steelhead under the ESA, delineating anadromous, steelhead-only ''distinct population segments'' (DPS). NMFS listed the Middle Columbia River steelhead DPS as threatened on January 5, 2006 (71 FR 834). Rainbow trout and redband trout are under the jurisdiction of the states unless they are listed, when they come under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS). This recovery plan addresses steelhead and not rainbow trout, consistent with the 2006 ESA listing decision.

Middle Columbia River steelhead spawn and rear in tributaries to the Columbia River in the Columbia plateau of central and eastern Washington and Oregon. The DPS includes all naturally spawned populations of steelhead in drainages upstream of the Wind River, Washington, and the Hood River, Oregon, up to, and including, the Yakima River, Washington, excluding steelhead from the Snake River Basin (64 FR 14517; 71 FR 849). Most of these populations are summer run; however, the Middle Columbia River steelhead DPS also includes populations of inland winter steelhead in the Klickitat River, White Salmon River, Fifteenmile Creek, and possibly Rock Creek.

Four artificial propagation programs are considered part of the DPS: the Touchet River Endemic Summer Steelhead Program, the Yakima River Kelt Reconditioning Program, and the Umatilla River and Deschutes River steelhead hatchery programs.

The ICTRT (McClure *et al.*, 2003) identified 20 historical populations of Middle Columbia steelhead, based on genetic information, geography, life history traits, morphological traits, and population dynamics. Seventeen of these populations are extant, and three extirpated (White Salmon River, Crooked River, and Willow Creek). Reintroduction of native steelhead or natural recolonization is planned for blocked areas of the Upper Deschutes and Crooked Rivers and the White Salmon River, respectively.

The ICTRT stratified the Middle Columbia River steelhead populations into major population groups (MPGs) based on ecoregion characteristics, life history types, and other geographic and genetic considerations. It identified four MPGs: Cascades Eastern Slope Tributaries, Yakima River, John Day River, and Umatilla/Walla Walla.

The Plan's Recovery Goals and Recovery Criteria

To meet the ESA requirement for objective, measurable criteria for delisting, the Plan provides biological recovery (viability) criteria based on the ICTRT viability criteria for Middle Columbia steelhead, as well as ''threats'' criteria based on the listing factors defined in ESA section 4(a)(1).

Biological Viability Criteria

Biological viability criteria describe DPS characteristics associated with a low risk of extinction for the foreseeable future. These criteria are expressed in terms of the VSP parameters of abundance, productivity, spatial structure, and diversity (McElhany *et al.*, 2000; ICTRT, 2007a). The ICTRT calculated varying levels of risk of extinction and related the risk levels to their criteria. The Plan shows the minimum abundance and productivity thresholds required for the Middle Columbia steelhead populations to have a 95 percent probability of persistence for the next 100 years.

Since MPGs are geographically and genetically cohesive groups of populations, they are critical components of ESU or DPS spatial structure and diversity. NMFS' criterion for long-term DPS viability, based on the ICTRT recommendations, is that all extant MPGs and any extirpated MPGs critical for proper functioning of the ESU/DPS should be at low risk (ICTRT, 2007a). MPG viability depends on the abundance, productivity, spatial structure, and diversity associated with its component populations.

The risk levels of the populations within the DPS collectively determine MPG viability and, in turn, the likely persistence of the DPS. The ICTRT recommended that all MPGs in a DPS should be viable; however, it may not be necessary for all of the populations in each MPG to attain the lowest risk level. There may be more than one way for a DPS to meet the viability criteria. The ICTRT considered various combinations of viability status for individual populations that would meet the MPG viability criteria and result in overall DPS viability. These combinations of viability status are called recovery scenarios. Population-level status could range from ''highly viable,'' – a 99 percent probability of persistence over 100 years, to ''viable'' – 95 percent probability, to ''maintained'' or moderate risk – 75 percent probability of persistence over 100 years. However, because of the many uncertainties in predicting biological responses to recovery actions, the ICTRT cautioned

against prematurely closing off the options for any population (ICTRT, 2007a).

Threats Criteria

Listing factors (or threats) are those features that are evaluated under section 4(a)(1) when initial determinations are made whether to list species for protection under the ESA. They are as follows:

A. Present or threatened destruction, modification, or curtailment of [the species'] habitat or range;

B. Over-utilization for commercial, recreational, scientific, or educational purposes;

C. Disease or predation;

D. Inadequacy of existing regulatory mechanisms; or

E. Other natural or human-made factors affecting [the species'] continued existence.

At the time of a delisting decision for Middle Columbia steelhead, NMFS will examine whether the section 4(a)(1) listing factors have been addressed. To assist in this examination, NMFS will use the listing factors (or threats) criteria described in Section 3.3 of the Plan, in addition to evaluation of biological recovery criteria and other relevant data and policy considerations. The threats should be addressed to the point that delisting is not likely to result in their re-emergence. It is possible that currently perceived threats could become insignificant in the future due to changes in the natural environment or changes in the way threats affect the entire life cycle of salmon. It is also possible that new threats will emerge. Consequently, the relative priority of threats could change over time. During status reviews, NMFS will evaluate and review the listing factor criteria (threats) as they apply at that time.

Current DPS Status

Applying the Plan's biological recovery (viability) criteria, the ICTRT rated the majority of natural Middle Columbia steelhead populations as presently at moderate risk for abundance and productivity, but low to moderate risk for spatial structure and diversity. Currently, one population is ''highly viable'' (North Fork John Day) and two populations are viable (Deschutes Eastside and Fifteenmile); eleven are at moderate risk, with good prospects for improving. Three populations are at high risk (Deschutes Westside, Naches, and Upper Yakima), and these are key to DPS viability. As a minimum, for the Cascades Eastern Slope Tributaries MPG and the Yakima River MPG to meet viability criteria, the Deschutes Westside population and one of the two large Yakima populations (Naches or Upper Yakima) should reach viable status, with the other large Yakima population at no more than moderate risk.

None of the MPGs meets the low risk criteria. Thus, the Middle Columbia steelhead DPS does not currently meet viability criteria, based on the determination that the four component MPGs are not at low risk.

Limiting Factors and Threats

Based on information from the ICTRT, the four management unit plans, the 2008 FCRPS BiOP and its Supplemental Comprehensive Analysis, and the Estuary and Hydro modules, the major factors limiting the viability of Middle Columbia steelhead populations are degraded tributary habitat, impaired mainstem and tributary fish passage, hatchery-related effects, particularly those of out-of- DPS hatchery strays, and predation/competition/disease. The DPS plan and management unit plans contain detailed descriptions of tributary habitat, hatchery, and harvest limiting factors and threats, while the modules provide detailed examination of conditions in mainstem Columbia River and estuary.

Recovery Strategy

NMFS' overall goal for DPS viability, as formulated by the ICTRT and described in Chapter 3 of this plan, is to have all four extant MPGs at viable (low risk) status, with representation of all the major life history strategies present historically, and with the abundance, productivity, spatial structure and diversity attributes required for long-term persistence.

The ICTRT's current status assessment for the Middle Columbia steelhead DPS and the gaps analysis show that for this DPS, the outlook is optimistic. One population, North Fork John Day, is currently at very low risk or ''highly viable.'' Two populations are currently viable (Deschutes Eastside, Fifteenmile); eleven are at moderate risk, with good prospects for improving. However, the three large populations at high risk (Deschutes Westside, Naches, and Upper Yakima), are important to DPS viability; as a minimum, Deschutes Westside and one of the two large Yakima populations should also reach viable status, with the other large Yakima population at least reaching ''maintained'' status. These present significant, though not insuperable, challenges.

If, as we believe, the decline of the Middle Columbia River steelhead DPS is caused by widespread habitat degradation, impaired mainstem and tributary passage, hatchery effects, and predation/ competition/ disease, then actions taken to improve, change, mitigate, reduce those factors will result in increased survival and improvements in abundance, survival, spatial structure, and diversity. Because of the steelhead's complex life cycle and the many changes that have taken place in its environment, the factors limiting its survival must be addressed in concert, and in an integrated way. The work needs to occur at a regional level, in terms of commitment to strategies, programmatic actions, and funding, and at the local level, population by population and site by site. Significant investments of research, planning, regional coordination, actions, and political will are already underway. The intent for the DPS plan is to build upon, help to coordinate, and add to the ongoing efforts.

The recovery strategy for the Middle Columbia steelhead DPS addresses both the basin-wide issues that affect all populations, such as conditions in the migratory corridor, and the subbasin and side-specific issues that are the focus of the management unit plans. The DPS Plan describes the overall strategy, summarizes the MPG-level strategies, and refers to Appendices A-G for more site-specific, population level actions.

The DPS-level recovery strategy for the Middle Columbia steelhead is made up of the following elements:

- Affirm and address the 2006 listing decision recommendations to address the limiting factors for the DPS and populations.
- Protect and restore tributary habitat and Columbia River mainstem habitat, through strategies and actions at both the Basin/programmatic level and at the local level as detailed in the management unit plans.
- Address impaired fish passage through strategies and actions in the mainstem Columbia River, as detailed in the 2008 FCRPS Biological Opinion (as summarized in the Hydro Module) and in the tributaries as detailed in the management unit plans
- Implement hatchery reforms at the population and site specific level through Hatchery and Genetic Management Plans (HGMPs) as required by the 2008 FCRPS Biological Opinion and as described in Appendix C of the Supplemental Comprehensive Analysis, (NMFS 2008a).
- Address ecosystem imbalances in predation, competition, and disease through the strategies and actions in the management unit plans, estuary module and FCRPS Biop.

• Maintain current low harvest levels, through fishery management planning for mainstem fisheries through the U.S. v. Oregon 10–year agreement, updated Fisheries Management Evaluation Plans and Tribal Resource Management Plans for tributary fisheries, and Pacific Salmon Treaty and Pacific Fishery Management Council processes.

• Protect and restore the estuary and Columbia River plume as detailed in the Columbia River Estuary module.

• Respond to climate change threats with a strategy based on the principle of preserving biodiversity.

• Implement the Plan through effective coordination and governance.

• Research critical uncertainties, monitor and evaluate implementation and effectiveness and adjust course, as appropriate through adaptive management.

NMFS believes that if this strategy is implemented and the biological response is as expected, the Middle Columbia steelhead DPS could achieve viable status within 25 to 50 years.

The approach for addressing the major categories of limiting factors is as follows:

Widespread Habitat Degradation Tributaries and Mainstem Columbia River

Actions to protect and improve habitat in the tributaries and Columbia mainstem are essential to achieving recovery objectives for the Middle Columbia steelhead DPS. Unlike some other salmonid species, steelhead, which are ''stream-type'' salmonids, use mainstem tributary, upper tributary, and side channel habitats for spawning, juvenile rearing, and overwintering. Steelhead populations are particularly susceptible to the effects of degraded freshwater habitat because most steelhead spend one or more years in freshwater before migrating. While improving survival in the mainstem Columbia River and estuary is also an important part of DPS-wide strategy, and will benefit all salmonid populations, protecting existing high quality or good quality tributary habitat and restoring degraded habitat will specifically benefit Middle Columbia steelhead populations in the spawning and rearing life stages. Improved spawning and rearing means that more fish will reproduce, more juveniles will survive to migrate, and consequently more adults will return, even if the other factors remain as they are today.

The actions for tributary habitat include the following:

• Implementation of locally developed management unit plans to address protection and restoration of tributary habitat.

• Implementation of Federal, state, and tribal programs, such as, for example, U.S. Forest Service and BLM best management practices for grazing, mining, and recreation, and EPA and tribal programs to implement TMDLs and cold water refugia, in a manner that addresses primary habitat strategies and actions at the local level.

Relatively little information is available concerning Middle Columbia River steelhead use of mainstem Columbia River habitat above Bonneville, aside from passage through the dams. NMFS believes it is important to assess nearshore habitat and cold water refugia in the mainstem and to explore opportunities for, and potential benefits from, restoration and protection of these areas.

Impaired Fish Passage – Mainstem Columbia River

Passage for juvenile steelhead migrating to the ocean and adult steelhead returning to their natal streams is limited primarily by the four Federal dams on the Lower Columbia River mainstem – Bonneville, John Day, The Dalles, and McNary dams – which are part of the Federal Columbia River Power System (FCRPS). NMFS issued a final biological opinion on the effects of FCRPS operations on salmonids, including Middle Columbia River steelhead, and on the predicted results of current and planned improvements to the system that are intended to improve fish survival (NMFS 2008).

The plan for current mainstem hydro operations, as detailed in the 2008 FCRPS BiOp and summarized in the Hydro Module, and any further improvements for fish survival that may result from the ongoing FCRPS collaborative process, represent the hydropower recovery strategy for all listed salmonids that migrate through the mainstem Columbia River, including the Middle Columbia steelhead populations.

These improvements are expected to increase the in-river survival of Middle Columbia River juvenile steelhead by 0.3 percent, 5.1 percent, 8.2 percent, and 10.2 percent, depending on the number of dams they must pass. The survival of steelhead adults through the four dams is thought to be relatively high at the present time (about 98.5 percent per project from Bonneville to McNary), and is expected to be maintained or improved.

Dissenting View of State of Oregon Regarding Mainstem Operations

At the time this recovery plan is being finalized, August 2009, it is the position of the State of Oregon that additional or alternative actions should be taken in mainstem operations of the FCRPS for ESA-listed salmon and steelhead. Some additional or alternative actions recommended by Oregon, while considered, were not included in NOAA's FCRPS Biological Opinion. At this time, Oregon is a plaintiff in litigation against various federal agencies, including NOAA, challenging the adequacy of the measures contained in the current FCRPS Biological Opinion. NOAA is not in agreement with Oregon regarding the need for or efficacy of Oregon's additional or alternative actions.

Hatchery-Related Effects

The hatchery programs in the Middle Columbia River are managed under the Mitchell Act and the *U.S.* v. *Oregon* process, involving the fisheries co-managers and regulated by NMFS. NMFS is working with the funding agencies and hatchery operators to update and complete Hatchery and Genetic Management Plans (HGMPs) for every hatchery program in the Middle Columbia region as a means of organizing hatchery review and reform. New HGMPs are also being developed for the Interior Columbia River hatchery programs that are responsible for adult out-of-DPS hatchery fish that stray into the MCR steelhead area, causing a priority limiting factor in the John Day and Deschutes populations. The HGMPs are the basis for NMFS' biological opinions on hatchery programs under sections 7 and 10 and the 4(d) rule, which relate to incidental and direct take of listed species. The HGMPs describe each hatchery's operations and the actions taken to support recovery and minimize ecological or genetic impacts, such as straying and other forms of competition with naturally produced fish.

Artificial Propagation for Pacific Salmon, Appendix C of the 2008 FCRPS Biological Opinion (NMFS 2008), is a review of key factors for assessing the benefits and risks of hatchery programs relative to the conservation of Pacific salmon and to U.S. treaty responsibilities and sustainable fisheries mandates. The paper recommends strategies and practices to support salmon and steelhead conservation. The new FCRPS Biological Opinion (NMFS 2008) requires the hatchery operators and the Action Agencies to submit to NMFS updated HGMPs describing site-

specific applications of the ''best management practices'' for the hatchery programs as described in Appendices C and D of the Supplemental Comprehensive Analysis (SCA) of the Biological Opinion for those mitigation hatchery programs funded by the FCRPS Action Agencies.

Evaluating the factors that influence interactions between hatchery fish and naturally produced fish under varying freshwater conditions and ocean conditions is an important area of future research and is identified as a critical uncertainty in the DPS plan.

Predation, Competition, and Disease

The Plan addresses major avian, marine mammal and piscivorous fish predation issues in the mainstem Columbia River and tributaries and recommends immediate actions as well as research and monitoring to track trends in predator populations, understand their impacts on steelhead, and develop appropriate management techniques to reduce predation. Competition of hatchery fish with naturally produced fish, for food, spawning areas, or other habitat resources, can be an issue at any life stage. The Plan recommends actions, research and monitoring in areas where competition may be a problem, particularly in the Klickitat, John Day, and Deschutes populations. Disease in salmonids is caused by multiple factors and probably cannot be directly addressed by recovery actions except in specific instances of known causal factors. It is more likely that nearly all of the recommended recovery actions that improve spawning, rearing, and passage conditions for steelhead and increase the survival, abundance, and productivity of naturally produced fish will result in decreasing incidence of disease.

Following are summaries of the MPG-level recovery strategies for each MPG.

Cascades Eastern Slope Tributaries MPG

Present Status:

Viable - Fifteenmile Creek and Deschutes Eastside

Moderate risk - Klickitat (a provisional rating, based on insufficient abundance and productivity data and an unknown degree of diversity risk from hatchery influence)

High risk- Rock Creek (provisional, because of lack of data) and Deschutes Westside Functionally extirpated - White Salmon

Extirpated - Crooked River

Recovery Scenario: For the Eastern Cascades Slope Tributaries MPG to meet viability criteria based on the currently extant populations, the Klickitat, Fifteenmile, and both the Deschutes Eastside and Westside populations should reach viable status, with one highly viable. The Rock Creek population should reach ''maintained'' status (moderate risk -- 25 percent or less risk level). MPG viability could be further bolstered if reintroduction of steelhead into the Upper Deschutes and Crooked Rivers succeeds and if the White Salmon population is successfully reintroduced to its historical habitat.

Primary Limiting Factors and Threats:

- Degraded tributary habitat
- Mainstem passage
- Hatchery-related effects - evidence of hatchery fish from non-native broodstock straying and spawning in the Deschutes Basin
- Blocked migration to historically accessible habitat
- Predation, competition, disease - in mainstem and estuary; possibly also in Deschutes Westside as competition with resident rainbow trout.

Key Actions Proposed:

- Protect, improve, and increase freshwater habitat for steelhead production. Improvements to freshwater habitat should be targeted to address specific limiting factors in specific areas as described in the Oregon Recovery Plan and the Washington Gorge plans.
- Improve survival in mainstem and estuary through actions detailed in NMFS Estuary Module (NMFS 2007) and FCRPS Biological Opinion (NMFS 2008).
- Reduce straying of out-of-DPS hatchery fish onto natural spawning grounds within the Deschutes subbasin.
- Restore historical passage to Deschutes Westside tributaries to the Deschutes and Crooked Rivers above Pelton Round Butte dam complex and the White Salmon River above Condit Dam.
- Improve hatchery management to minimize impacts from hatchery releases on naturally produced steelhead within the Deschutes West and East and Klickitat subbbasins.
- Coordinate between scientists, planners, and implementers of recovery actions, including priority research, monitoring and evaluation, on both sides of the river for sequencing of recovery actions and monitoring for adaptive management.
- Fill data gaps for better assessment of Klickitat and Rock Creek steelhead populations.

John Day River MPG

Present Status:

Highly viable - North Fork John Day

Moderate risk - John Day Upper Mainstem, John Day Lower Mainstem, Middle Fork John Day, South Fork John Day

Recovery Scenario: For the John Day River MPG to meet viability criteria, the Lower Mainstem John Day River, North Fork John Day River, and either the Middle Fork John Day River or Upper Mainstem John Day River populations should achieve viable status, with one highly viable.

Main Limiting Factors and Threats:

- Degraded tributary habitat
- Mainstem passage
- Hatchery-related effects
- Predation/ competition/disease in mainstem and estuary

Key Actions Proposed:

- Protect and improve freshwater habitat conditions and connectivity for steelhead production. Improvements to freshwater habitat should be targeted to address specific factors in specific areas as described in the Oregon Recovery Plan.
- Improve survival in mainstem and estuary through actions detailed in NMFS Estuary Module (NMFS 2007) and FCRPS Biological Opinion (NMFS 2008).
- Reduce straying from out-of-DPS hatchery fish onto natural spawning grounds within the John Day subbasin by improving hatchery management strategies in Interior Columbia River hatcheries.

Yakima River MPG

Present Status:

Moderate risk - Satus Creek, Toppenish Creek

High risk - Naches River, Upper Yakima River

Recovery Scenario: For the Yakima River MPG to meet viability criteria, two populations should be rated as viable, including at least one of the two classified as Large the Naches River and the Upper Yakima River and the other Large population should meet at least the ''maintained'' or moderate risk criteria (greater than 75 percent probability of persistence). The remaining two populations should, at a minimum, meet the maintained criteria.

Main Limiting Factors and Threats:

- Tributary habitat: Altered hydrology; degraded habitat, loss of habitat; impaired fish passage; reduced outmigrant survival in Yakima

mainstem, due to the influence of major irrigation system development.

• Mainstem passage (these fish must pass four dams)

Key Actions Proposed:

• Protect and enhance habitat in key tributary watersheds in the Yakima Basin.

• Restore passage to blocked areas in the Naches and Upper Yakima population areas.

• Improve flow conditions for Middle Columbia steelhead by altering irrigation delivery and storage operations in the Yakima Basin and use managed high flows to maintain floodplain habitat.

• Improve channel and floodplain function and reduce predation through the mainstem Yakima and Naches Rivers.

• Improve survival in the mainstem Columbia and its estuary through actions detailed in the NMFS Estuary Module (NMFS 2007) and FCRPS Biological Opinion (NMFS 2008) as summarized in the Hydro Module.

Umatilla/Walla Walla MPG

Present Status:

Moderate risk - Umatilla, Walla Walla
High risk - Touchet (a provisional rating because of insufficient data)
Recovery Scenario: For the Umatilla/Walla Walla MPG to meet viability criteria, two populations sFhould be viable, and one should be highly viable. The Umatilla River is the only large population, and therefore needs to be viable. Either the Walla Walla River or Touchet River population also needs to be viable

Main Limiting Factors and Threats:

• Mainstem passage (Touchet and Walla Walla populations pass four major dams: the Umatilla population passes three.)

• Tributary habitat

• Hatchery-related effects

• Predation/competition/disease

Key Actions Proposed:

• Protect and improve freshwater habitat conditions and access for steelhead production. Improvements to freshwater habitat should be targeted to address specific factors in specific areas as described in the Southeast Washington Plan and the Oregon Recovery Plan.

• Reduce straying from out-of-DPS hatchery fish onto natural spawning grounds within the Umatilla/Walla Walla subbasins.

• Improve survival in mainstem and estuary through actions detailed in NMFS Estuary Module (NMFS 2007) and FCRPS Biological Opinion (NMFS 2008) as summarized in the Hydro Module.

• Coordinate between planners, scientists, and those implementing recovery actions in Washington and Oregon for sequencing, monitoring, and adaptive management

Site-specific Management Actions

The proposed site-specific management actions at the population level for the tributaries are described in detail in Appendices A through E of the Plan. Proposed site-specific actions for the mainstem Columbia River and estuary are described in detail in the FCRPS Biological Opinion (NMFS 2008), the Hydro Module (Appendix F), and the Estuary Module (NMFS 2007) (Appendix G), and Artificial Propagation for Pacific Salmon, Appendix C of the Supplemental Comprehensive Analysis of the FCRPS Biological Opinion (NMFS 2008).

Time Required and Cost Estimates

There are unique challenges to estimating time and cost for salmon and steelhead recovery, given the complex relationship of these fish to the environment and to human activities on land. NMFS estimates that recovery of the Middle Columbia steelhead DPS, like recovery for most of the ESA-listed Pacific Northwest salmon and steelhead, could take 50 to 100 years, although the optimistic view is that it could be 25 to 50 years. The management unit plans (Appendices A through E) contain extensive lists of actions to recover the Middle Columbia steelhead DPS populations. These projects were developed using the most up-to-date assessment of Middle Columbia steelhead recovery needs. The management unit plans focus, for the most part, on actions within the next 5 to 15 years. There are many uncertainties involved in predicting the course of recovery and in estimating total costs. Such uncertainties include biological and ecosystem responses to recovery actions as well as long-term and future funding.

Cost estimates for recovery projects were provided by the management unit entities where available information was sufficient to do so, using the methods described in each management unit plan. All applied guidance provided by NMFS and used similar cost calculation methodologies. However, the approaches vary to some degree given the local and independent nature of the planning groups. There are differences in the timeframes for cost estimates, whether administrative costs were included or not, and whether research, monitoring, and evaluation costs were calculated.

No cost estimates are provided for (1) programs that are already in existence, which are listed as Not Applicable (N/A); or (2) actions that need costs to be developed, need unit costs, and/or need project scale estimates -- these are listed as To Be Determined (TBD). Each management unit will work with regional experts to identify costs, scale, or unit costs for actions that require more information during the public comment period. Individual management unit costs will be updated with this new information for the final steelhead DPS recovery plan.

The total estimated cost for the Middle Columbia steelhead DPS is approximately $235 million over the initial 5–year period, and approximately $996 million over 25 to 50 years for all DPS-wide recovery actions for which sufficient information exists upon which to base an estimate. This estimate includes expenditures by local, tribal, state, and Federal governments, private business, and individuals in implementing both capital projects and non-capital work. In most cases, administrative costs are embedded in the total management unit cost estimates. Preliminary research, monitoring and evaluation costs have, in some cases, been estimated at the management unit level; however, these costs are not included at this time, pending completion of research and monitoring plans and further development of each project.

Potential Effects of Proposed Recovery Actions

A quantitative analysis of the potential effects of all the proposed recovery actions on the abundance and productivity of Middle Columbia River steelhead was performed using two models, the Ecosystem Diagnosis and Treatment model and the All-H-Analyzer model. The analysis indicates, based on the suites of proposed actions in all the sectors, that all Middle Columbia River steelhead populations for which there are adequate data are expected to achieve 95 percent probability of persistence (less than 5 percent risk of extinction within 100 years) for abundance/productivity if the most intensive (major) restoration scenarios are implemented and the projected habitat changes are realized. Under minimum restoration scenarios, three populations (Deschutes Westside, Satus, and Upper Yakima) may not achieve less than 5 percent risk for abundance/productivity. However, even under poor ocean conditions and

minimum restoration actions, the abundance and productivity of these three populations are expected to increase considerably over the baseline.

Coordination/Governance

Coordination of actions and information-sharing among fisheries biologists, Tribes, local governments, citizen groups, and state and Federal agencies based in both Oregon and Washington is a key component of recovery for this DPS. Benefits of coordination include:

- Dealing with shared migration areas consistently
- Developing coherent MPG-level strategies where populations are in two states (Cascades Eastern Slope MPG; Umatilla/Walla Walla MPG), or the same population is in both states (Walla Walla population)
- Promoting consistent methods for setting recovery objectives, evaluating strategies, and monitoring progress across populations, MPGs, and the DPS

This coordination is under development. The recent creation of the Middle Columbia Recovery Forum, to be convened regularly by NMFS, is intended to facilitate such collaboration between scientists and recovery planners on both sides of the Columbia River. The Plan describes in more detail the proposed roles and responsibilities.

Research, Monitoring, and Adaptive Management

The Plan identifies the many knowledge gaps and uncertainties involved in designing recovery actions for Middle Columbia steelhead. Because the proposed recovery actions are based on hypotheses about the relationships between fish, limiting factors, human activities, and the environment, the Plan recommends research and monitoring to determine progress in recovery. Monitoring is the basis for adaptive management -- the process of adjusting management actions and/or directions based on new information. Research, monitoring, and adaptive management will be built into the implementation plans for each management unit plan, after this Plan is approved.

Public Reviews

The ESA requires that, at least every 5 years, the Secretary of Commerce shall conduct a review of all ESA-listed species and determine whether any species should: (1) be removed from such list; (2) be changed in status from an endangered species to a threatened species; or (3) be changed in status from a threatened species to an endangered species. Accordingly, at five-year intervals, NMFS will conduct reviews of the Middle Columbia steelhead DPS. These reviews will consider information that has become available since the most recent listing determinations, and make recommendations whether there is substantial information to suggest that a change in listing status may be warranted. If an ESU or DPS may warrant a change in status NMFS will conduct a formal, much more in-depth, ESA status review consistent with section 4(a) of the Act. Any formal status reviews will be based on the NMFS Listing Status Decision Framework and will be informed by the information obtained through implementation of the monitoring, research, and evaluation programs in each management unit plan and the recovery modules. Similarly, new information considered during the five-year reviews may also compel more in-depth assessments of implementation and effectiveness monitoring and associated research to inform adaptive management decisions at the management unit and module level.

Conclusion

NMFS has reviewed the Plan, the public comments, and the conclusions of the ICTRT from its reviews of the Plan. Based on that review, NMFS concludes that the Plan meets the requirements in section 4(f) of the ESA for developing a recovery plan.

Literature Cited

ICTRT (Interior Columbia Technical Recovery Team). 2007. Viability Criteria for Application to Interior Columbia Basin Salmonid ESUs. Review draft March 2007. Available at: *www.nwfsc.noaa.gov/trt/trt__viability.cfm*

ICTRT (Interior Columbia Technical Recovery Team). 2008. Current Status Reviews: Interior Columbia Basin Salmon and Steelhead ESUs. Volume III: Middle Columbia River Steelhead Distinct Population Segment (DPS). Draft, May 9, 2008.

McClure, M.M., E.E. Holmes, B.L. Sanderson, and C.E. Jordan. 2003. A large-scale, multispecies status assessment: Anadromous salmonids in the Columbia River basin. Ecological Applications 13(4):964–989.

McElhany, P., M.H. Ruckelshaus, M.J. Ford, T.C. Wainwright, and E.P. Bjorkstedt. 2000. Viable salmon populations and the recovery of evolutionarily significant units. U.S. Dept. of Commerce, NOAA Tech. Memo., NMFS NWFSC 42, 156p.

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

National Marine Fisheries Service (NMFS). 2008. Recovery Plan Module for Mainstem Columbia River Hydropower Projects (''Hydro Module''). NMFS Northwest Region. Portland, Oregon.

National Marine Fisheries Service (NMFS). 2007. Columbia River Estuary ESA Recovery Plan Module for Salmon and Steelhead. November 5, 2007. Available at *www.nwr.noaa.gov/Salmon-Recovery-Planning/ESA-Recovery-Plans/Estuary-Module.cfm*

National Marine Fisheries Service (NMFS). 2008. Endangered Species Act - Section 7 Consultation Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Consultation: consultation on remand for operation of the Columbia River Power System and 19 Bureau of Reclamation Projects in the Columbia Basin (''FCRPS BiOp''). NMFS, Portland, Oregon.

Dated:September 22, 2009.

Angela Somma,

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

[FR Doc. E9–23604 Filed 9–29–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR72

Endangered Species; File No. 10022

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

ACTION: Notice; receipt of application for modification.

SUMMARY: Notice is hereby given that Raymond Carthy, Department of Wildlife Ecology and Conservation, University of Florida, P.O. Box 110485, Gainesville, Florida 23611–0450, has requested a modification to scientific research Permit No. 10022.

DATES: Written, telefaxed, or e–mail comments must be received on or before October 30, 2009.

ADDRESSES: The modification request and related documents are available for review upon written request or by appointment in the following offices:

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; andSoutheast Region, NMFS, 263 13th Ave South, St. Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5309.