For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–2771 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–18, RM–9414]

Radio Broadcasting Services; Washburn, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by The State of Wisconsin Educational Communications Board proposing the allotment of Channel 284A to Washburn, Wisconsin, and reservation of the channel for noncommercial educational use. The channel can be allotted to Washburn without a site restriction at coordinates 46–40–12 NL and 90–53–36 WL. Canadian concurrence will be requested for the allotment of Channel *284A at Washburn.

DATES: Comments must be filed on or before March 22, 1999, and reply comments on or before April 6, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Todd D. Gray, Margaret L. Miller, Christine J. Newcomb, Dow Lohnes & Albertson, pllc, 1200 New Hampshire Avenue, N.W., Suite 800, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–18, adopted January 13, 1999, and released January 29, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–2772 Filed 2–4–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 990128036–9036–01; I.D. 033198A]

RIN 0648–AG49

Designated Critical Habitat: Proposed Critical Habitat for Nine Evolutionarily Significant Units of Steelhead in Washington, Oregon, Idaho, and California

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to designate critical habitat for nine evolutionarily significant units (ESUs) of steelhead (*Oncorhynchus mykiss*) previously listed and currently proposed for listing under the Endangered Species Act (ESA). Proposed critical habitat occurs in the States of Washington, Oregon, Idaho, and California. The areas described in this proposed rule represent the current freshwater and estuarine range inhabited by the ESU. Freshwater critical habitat includes all waterways and substrates below longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years) and several dams that block access to former anadromous habitats. The economic and other impacts resulting from this critical habitat designation are expected to be minimal.

DATES: Comments must be received by May 6, 1999. Requests for public hearings must be received by March 22, 1999.

ADDRESSES: Comments on this proposed rule or requests for reference materials should be sent to Branch Chief, Protected Resources Division, NMFS, Northwest Region, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737; telefax (503) 230–5435.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, (503) 231–2005, Craig Wingert, (562) 980–4021, or Chris Mobley, 301–713–1401.

SUPPLEMENTARY INFORMATION:

Background

On May 20, 1993, NMFS announced its intent to conduct a status review to identify all coastal steelhead ESU(s) within California, Oregon, and Washington and to determine whether any identified ESU(s) warranted listing under the ESA. Subsequently, on February 16, 1994, NMFS received a petition from the Oregon Natural Resources Council and from 15 co-petitioners to list all steelhead (or specific ESUs, races, or stocks) within the states of California, Oregon, Washington, and Idaho. In response to this petition, NMFS announced the expansion of its status review to include inland steelhead populations occurring in eastern Washington and Oregon and the State of Idaho (59 FR 27527, May 27, 1994).

On August 9, 1996, NMFS published a proposed rule to list 10 ESUs of west coast steelhead as threatened or endangered under the ESA; NMFS solicited comments on the proposal (61 FR 41541, August 9, 1996). In this document, NMFS concluded that the Middle Columbia River ESU warranted classification as a candidate species since NMFS was concerned about the status of steelhead in this area, but lacked sufficient information to merit a proposed listing, and that the Upper Willamette River steelhead ESU did not warrant listing, based on available scientific information.

On August 18, 1997, NMFS published a final rule listing five ESUs as threatened and endangered under the ESA (62 FR 43937). In a separate document published on the same day,

NMFS determined that substantial scientific disagreement remained for five proposed ESUs (62 FR 43974, August 18, 1997). In accordance with section 4(b)(6)(B)(i) of the ESA, NMFS deferred its decision on these remaining steelhead ESUs for 6 months, until February 9, 1998, for the purpose of soliciting additional data. By court order, NMFS' deadline for issuing determinations on these five remaining ESUs was extended to March 13, 1998.

On March 10, 1998, NMFS published a proposed rule to list the Upper Willamette River and Middle Columbia River ESUs as threatened species (63 FR 11798). On March 19, 1998, NMFS published a final rule to list the Lower Columbia River and Central Valley, California, ESUs as threatened species (63 FR 13347). NMFS now proposes critical habitat for all nine currently listed and proposed steelhead ESUs.

Critical Habitat

Section 4(a)(3)(A) of the ESA requires that, to the maximum extent prudent and determinable, NMFS designate critical habitat concurrently with a determination that a species is endangered or threatened. NMFS has determined that sufficient information exists to propose designating critical habitat for the nine ESUs of steelhead previously listed and currently proposed for listing under the ESA. NMFS will consider all available information and data in finalizing this proposal.

The use of the term ''essential habitat'' within this document refers to critical habitat as defined by the ESA and should not be confused with the requirement to describe and identify Essential Fish Habitat pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq*.

Definition of Critical Habitat

''Critical habitat'' is defined in section 3(5)(A) of the ESA as ''(i) the specific areas within the geographical area occupied by the species * * * on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species * * * upon a determination by the Secretary that such areas are essential for the conservation of the species.'' The term ''conservation,'' as defined in section 3(3) of the ESA, means '' * * * to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary.''

In designating critical habitat, NMFS considers the following requirements of the species: (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, or rearing offspring; and, generally, (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of this species (50 CFR 424.12(b)). In addition to these factors, NMFS also focuses on the known physical and biological features (primary constituent elements) within the designated area that are essential to the conservation of the species and that may require special management considerations or protection. These essential features may include, but are not limited to, spawning sites, food resources, water quality and quantity, and riparian vegetation (50 CFR 424.12(b)).

Consideration of Economic and Other Factors

The economic and other impacts of a critical habitat designation have been considered and evaluated in this proposed rulemaking. NMFS identified present and anticipated activities that may adversely modify the area(s) being considered or that may be affected by a designation. An area may be excluded from a critical habitat designation if NMFS determines that the overall benefits of exclusion outweigh the benefits of designation, unless the exclusion will result in the extinction of the species (16 U.S.C. 1533(b)(2)).

The impacts considered in this analysis are only those incremental impacts resulting specifically from a critical habitat designation, above the economic and other impacts attributable to listing the species or resulting from other authorities. Since listing a species under the ESA provides significant protection to a species' habitat, in many cases, the economic and other impacts resulting from the critical habitat designation, over and above the impacts of the listing itself, are minimal. In general, the designation of critical habitat highlights geographical areas of concern and reinforces the substantive protection resulting from the listing itself.

Impacts attributable to listing include those resulting from the ''take'' prohibitions contained in section 9 of the ESA and associated regulations. ''Take,'' as defined in the ESA means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532(19)). Harm can occur through destruction or modification of habitat (whether or not designated as critical) that significantly impairs essential behaviors, including breeding, feeding, rearing or migration (63 FR 24148, May 1, 1998).

Significance of Designating Critical Habitat

The designation of critical habitat does not, in and of itself, restrict human activities within an area or mandate any specific management or recovery actions. A critical habitat designation contributes to species conservation primarily by identifying important areas and by describing the features within those areas that are essential to the species, thus alerting public and private entities to the area's importance. The only regulatory impact of a critical habitat designation is through the provisions of section 7 of the ESA. Section 7 applies only to actions with Federal involvement (e.g., authorized, funded, or conducted by a Federal agency) and does not affect exclusively state or private activities.

Under the section 7 provisions, a designation of critical habitat would require Federal agencies to ensure that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of designated critical habitat. Activities that destroy or adversely modify critical habitat are defined as those actions that ''appreciably diminish the value of critical habitat for both the survival and recovery'' of the species (50 CFR 402.02). Regardless of a critical habitat designation, Federal agencies must ensure that their actions are not likely to jeopardize the continued existence of the listed species. Activities that jeopardize a species are defined as those actions that ''reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery'' of the species (50 CFR 402.02). Using these definitions, activities that are likely to destroy or adversely modify critical habitat would also be likely to jeopardize the species. Therefore, the protection provided by a critical habitat designation generally duplicates the protection provided under the section 7 jeopardy provision. Critical habitat may provide additional benefits to a species in cases where areas outside the species' current range have been designated. Federal agencies are required to consult with NMFS under section 7 (50 CFR 402.14(a)), when these designated areas

may be affected by their actions. The effects of these actions on designated areas may not have been recognized but for the critical habitat designation.

A designation of critical habitat provides Federal agencies with a clear indication as to when consultation under section 7 of the ESA is required, particularly in cases where the proposed action would not result in direct mortality, injury, or harm to individuals of a listed species (e.g., an action occurring within the critical habitat area when a migratory species is not present). The critical habitat designation, in describing the essential features of the habitat, also helps determine which activities conducted outside the designated area are subject to section 7 (i.e., activities outside critical habitat that may affect essential features of the designated area).

A critical habitat designation will also assist Federal agencies in planning future actions because the designation establishes, in advance, those habitats that will be given special consideration in section 7 consultations. With a designation of critical habitat, potential conflicts between Federal actions and endangered or threatened species can be identified and possibly avoided early in an agency's planning process.

Another indirect benefit of designating critical habitat is that it helps focus Federal, state, and private conservation and management efforts in such areas. Management efforts may address special considerations needed in critical habitat areas, including conservation regulations that restrict private as well as Federal activities. The economic and other impacts of these actions would be considered at the time regulations are proposed and, therefore, are not considered in the critical habitat designation process. Other Federal, state, and local authorities, such as zoning or wetlands and riparian lands protection, may also benefit critical habitat areas.

Process for Designating Critical Habitat

Developing a proposed critical habitat designation involves three main considerations. First, the biological needs of the species are evaluated, and essential habitat areas and features are identified. If alternative areas exist that would provide for the conservation of the species, such alternatives are also identified. Second, the need for special management considerations or protection of the area(s) or features identified are evaluated. Finally, the probable economic and other impacts of designating these essential areas as ''critical habitat'' are evaluated. After considering the requirements of the species, the need for special management, and the impacts of the designation, a notification of the proposed critical habitat is published in the **Federal Register** for comment. The final critical habitat designation is promulgated after considering all comments and any new information received on the proposal. Final critical habitat designations may be revised, using the same process, as new information becomes available.

A description of the essential habitat, need for special management, impacts of designating critical habitat, and the proposed action are described in the following sections.

Critical Habitat of Steelhead ESUs

Biological information for steelhead can be found in NMFS species status reviews (Busby *et al.*, 1996), species life history summaries (Shapavalov and Taft, 1954; Barnhart, 1986; Pauley *et al.*, 1986; Groot and Margolis, 1991), and in **Federal Register** announcements of proposed and final listing determinations (61 FR 41541, August 9, 1996; 62 FR 43937, August 18, 1997; 63 FR 11798, March 10, 1998; 63 FR 13347, March 19, 1998). Historically, steelhead were distributed throughout the North Pacific Ocean from the Kamchatka Peninsula in Asia to the northern Baja Peninsula. Presently, the species distribution extends from the Kamchatka Peninsula, east and south along the Pacific coast of North America, to at least Malibu Creek in southern California. There are infrequent anecdotal reports of steelhead occurring as far south as the Santa Margarita River in San Diego County (McEwan and Jackson, 1996). The species' marine distribution south of Punta Gorda, California, appears to encompass a relatively narrow, nearshore strip less than 100 kilometers (km) wide (NOAA, 1990). North of Punta Gorda, the distribution widens to encompass nearly all marine areas north of 42° N latitude in the North Pacific Ocean and Gulf of Alaska (NOAA, 1990). Any attempt to describe the current distribution of steelhead must take into account the fact that many extant populations and densities are a small fraction of historical levels. Hence, some populations considered extinct could in fact exist but be represented by only a few individuals that could escape detection during surveys.

In the Central California Coast ESU, the major populations are found in the Russian and San Lorenzo Rivers. In the South-Central California Coast ESU, major rivers include the Big Sur, Carmel, Little Sur, Pajaro, and Salinas Rivers. In the Southern California Coast ESU, major rivers include Malibu Creek and the Santa Clara, Santa Ynez, and Ventura Rivers. Within the range of the California Central Valley ESU, major tributaries supporting steelhead in the Sacramento-San Joaquin River Basins include the American, Feather, Merced, Mokelumne, Tuolumne, and Yuba Rivers, as well as numerous smaller tributaries.

The Columbia River serves as a migration corridor as well as an important estuary for all of the listed or proposed steelhead ESUs in Washington, Oregon, and Idaho. Major tributaries known to support steelhead in the Upper Columbia River ESU include the Entiat, Methow, Okanogan, and Wenatchee Rivers. In the Snake River Basin ESU, major tributaries include the Clearwater, Grande Ronde, Salmon, Selway, and Tucannon Rivers. In the Middle Columbia River ESU, major tributaries include the Deschutes, John Day, Klickitat, Umatilla, and Yakima Rivers. In the Lower Columbia River ESU, major tributaries include the Clackamas, Cowlitz, Hood, Kalama, Lewis, Sandy, Washougal, and Wind Rivers. Finally, in the Upper Willamette River ESU, major tributaries known to support steelhead include the Molalla and Santiam Rivers.

In addition to the rivers identified, many smaller rivers and streams in each ESU also provide important habitat for steelhead, but access is often constrained by seasonal fluctuations in hydrological conditions.

Defining specific river reaches that are critical for steelhead is difficult because of the current low abundance of the species and of our imperfect understanding of the species' freshwater distribution, both current and historical. The latter is due, in large part, to the lack of comprehensive sampling effort dedicated to monitoring the species. Based on consideration of the best available information regarding the species' current distribution, NMFS believes that the preferred approach to identifying critical habitat for steelhead is to designate all areas accessible to the species within the range of specified river basins in each ESU. NMFS believes that adopting a more inclusive, watershed-based description of critical habitat is appropriate because it (1) recognizes the species' extensive use of diverse habitats and underscores the need to account for all of the habitat types supporting the species' freshwater and estuarine life stages; (2) takes into account the natural variability in habitat use that makes precise mapping problematic (e.g., some streams may have fish present only in years with

plentiful rainfall); and (3) reinforces the important linkage between aquatic areas and adjacent riparian/upslope areas.

While NMFS is proposing to focus on accessible (i.e., fish bearing) river reaches, it is important to note that habitat quality is intrinsically related to the quality of upland areas and upstream areas (including headwater or intermittent streams) which provide key habitat elements (e.g., large woody debris, gravel, water quality) crucial for steelhead in downstream reaches. NMFS recognizes that estuarine habitats are critical for steelhead and has included them in this designation. Marine habitats (i.e., oceanic or nearshore areas seaward of the mouth of coastal rivers) are also vital to the species, and ocean conditions may have a major influence on steelhead survival. However, NMFS is still evaluating whether these areas currently warrant consideration as critical habitat, particularly whether marine areas require special management consideration or protection. Therefore, NMFS is not proposing to designate critical habitat in marine areas at this time. If additional information becomes available that supports the inclusion of such areas, NMFS may revise this designation.

Introductions of non-native species and habitat modifications have resulted in increased predator populations in numerous river systems, thereby increasing the level of predation experienced by salmonids. Predation by marine mammals is also of concern in areas experiencing dwindling steelhead run sizes. NMFS recently published a report describing the impacts of California sea lions and Pacific harbor seals upon salmonids and on the coastal ecosystems of Washington, Oregon, and California (NMFS, 1997). This report concludes that, in certain cases where pinniped populations co-occur with depressed salmonid populations, salmon populations may experience severe impacts due to predation. An example of such a situation is Ballard Locks, Washington, where sea lions are known to consume significant numbers of adult winter steelhead. This study further concludes that data regarding pinniped predation is quite limited and that substantial additional research is needed to fully address this issue. Existing information on the seriously depressed status of many salmonid stocks is sufficient to warrant actions to remove pinnipeds in areas of co-occurrence where pinnipeds prey on depressed salmonid populations (NMFS, 1997).

Essential features of steelhead critical habitat include adequate (1) substrate; (2) water quality; (3) water quantity; (4) water temperature; (5) water velocity; (6) cover/shelter; (7) food; (8) riparian vegetation; (9) space; and (10) safe passage conditions. Given the vast geographic range occupied by each of these steelhead ESUs and the diverse habitat types used by the various life stages, it is not practical to describe specific values or conditions for each of these essential habitat features. However, good summaries of these environmental parameters and freshwater factors that have contributed to the decline of this and other salmonids can be found in reviews by Barnhart (1986), Pauley *et al.* (1986), California Advisory Committee on Salmon and Steelhead Trout (CACSST) (1988), Bjornn and Reiser (1991), Nehlsen *et al.* (1991), California State Lands Commission (1993), Reynolds *et al.* (1993), Botkin *et al.* (1995), McEwan and Jackson (1996), NMFS (1996), and Spence *et al.* (1996).

An array of management issues encompasses these habitats and their features, and special management considerations will be needed, especially on lands and streams under Federal ownership (see Activities That May Affect Critical Habitat and Need for Special Management Considerations or Protection). While marine areas are also a critical link in the species' life cycle, NMFS has not yet concluded that special management considerations are needed to conserve the habitat features in these areas. Hence, only the freshwater and estuarine areas (and their adjacent riparian zones) are being proposed for critical habitat at this time.

Adjacent Riparian Zones

NMFS' past critical habitat designations for listed anadromous salmonids have included the adjacent riparian zone as part of the designation. In the final designations for Snake River spring/summer chinook, fall chinook, and sockeye (58 FR 68543, December 28, 1993), NMFS included the adjacent riparian zone as part of critical habitat and defined it in the regulation as those areas within a horizontal distance of 300 feet (91.4 meters) from the normal high water line. In the critical habitat designation for Sacramento River winter run chinook (58 FR 33212, June 16, 1993), NMFS included ''adjacent riparian zones'' as part of the critical habitat but did not define the extent of that zone in the regulation. The preamble to that rule stated that the adjacent riparian zone was limited to ''those areas that provide cover and shade.''

Streams and stream functioning are inextricably linked to adjacent riparian and upland (or upslope) areas. Streams regularly submerge portions of the riparian zone via floods and channel migration, and portions of the riparian zone may contain off-channel rearing habitats used by juvenile salmonids during periods of high flow. The riparian zone also provides an array of important watershed functions that directly benefit salmonids. Vegetation in the zone shades the stream, stabilizes banks, and provides organic litter and large woody debris. The riparian zone stores sediment, recycles nutrients and chemicals, mediates stream hydraulics, and controls microclimate. Healthy riparian zones help ensure water quality essential to salmonids as well as the forage species they depend on (Reiser and Bjornn, 1979; Meehan, 1991; FEMAT, 1993; and Spence *et al.*, 1996). Human activities in the adjacent riparian zone, or in upslope areas, can harm stream function and can harm salmonids, both directly and indirectly, by interfering with the watershed functions described here. For example, timber harvest, road-building, grazing, cultivation, and other activities can increase sediment, destabilize banks, reduce organic litter and woody debris, increase water temperatures, simplify stream channels, and increase peak flows. These adverse modifications reduce the value of habitat for salmon and, in many instances, may result in injury or mortality of fish. Because human activity may adversely affect these watershed functions and habitat features, NMFS concluded the adjacent riparian zone could require special management consideration, and, therefore, was appropriate for inclusion in critical habitat.

The Snake River salmon critical habitat designation relied on analyses and conclusions reached by the Forest Ecosystem Management Assessment Team (FEMAT, 1993) regarding interim riparian reserves for fish-bearing streams on Federal lands within the range of the northern spotted owl. The interim riparian reserve recommendations in the FEMAT report were based on a systematic review of the available literature, primarily for forested habitats, concerning riparian processes as a function of distance from stream channels. The interim riparian reserves identified in the FEMAT report for fish-bearing streams on Federal forest lands are intended to (1) provide protection to salmonids, as well as riparian-dependent and associated species, through the protection of riparian processes that influence stream function, and (2) provide a high level of fish habitat and riparian protection until

site-specific watershed and project analyses can be completed. The FEMAT report identified several alternative ways that interim riparian reserves providing a high level of protection could be defined, including the 300-foot (91.4 meter) slope distance, a distance equivalent to two site potential tree heights, the outer edges of riparian vegetation, the 100-year flood plain, or the area between the edge of the active stream channel to the top of the inner gorge, whichever is greatest. The U.S. Forest Service (USFS) and U.S. Bureau of Land Management (BLM) ultimately adopted these riparian reserve criteria as part of an Aquatic Conservation Strategy aimed at conserving fish, amphibians, and other aquatic- and riparian-dependent species in the Record of Decision for the Northwest Forest Plan (FEMAT ROD, 1994).

While NMFS has used the findings of the FEMAT report to guide its analyses in ESA section 7 consultations with the USFS and BLM regarding management of Federal lands, NMFS recognizes that the interim riparian reserves may be conservative with regard to the protection of adjacent riparian habitat for salmonids since they are designed to protect salmonids as well as terrestrial species that are riparian dependent or associated. Moreover, NMFS' analyses have focused more on the stream functions important to salmonids and on how proposed activities will affect the riparian area's contribution to properly functioning conditions for salmonid habitat.

Since the adoption of the Northwest Forest Plan, NMFS has gained experience working with Federal and non-Federal landowners to determine the likely effects of proposed land management actions on stream functions. In freshwater and estuarine areas, these activities include, but are not limited to agriculture; forestry; grazing; bank stabilization; construction/urbanization; dam construction/operation; dredging and dredged spoil disposal; habitat restoration projects; irrigation withdrawal, storage, and management; mineral mining; road building and maintenance; sand and gravel mining; wastewater/pollutant discharge; wetland and floodplain alteration; and woody debris/structure removal from rivers and estuaries. NMFS has developed numerous tools to assist Federal agencies in analyzing the likely impacts of their activities on anadromous fish habitat. With these tools, Federal agencies are better able to judge the impacts of their actions on salmonid habitat, taking into account the location and nature of their actions. NMFS' primary tool guiding Federal agencies is a document titled ''Making Endangered Species Act Determinations of Effect for Individual or Grouped Actions at the Watershed Scale'' (NMFS, 1996a). This document presents guidelines to facilitate and standardize determinations of ''effect'' under the ESA and includes a matrix for determining the condition of various habitat parameters. This matrix is being implemented in several northern California and Oregon coastal watersheds and is expected to help guide efforts to define salmonid risk factors and conservation strategies throughout the West Coast.

Several recent literature reviews have addressed the effectiveness of various riparian zone widths for maintaining specific riparian functions (e.g., sediment control, large woody debris recruitment) and overall watershed processes. These reviews provide additional useful information about riparian processes as a function of distance from stream channels. For example, Castelle *et al.* (1994) conducted a literature review of riparian zone functions and concluded that riparian widths in the range of 30 meters (98 feet) appear to be the minimum needed to maintain biological elements of streams. They also noted that site-specific conditions may warrant substantially larger or smaller riparian management zones. Similarly, Johnson and Reba (1992) summarized the technical literature and found that available information supported a minimum 30-meter riparian management zone for salmonid protection.

A recent assessment funded by NMFS and several other Federal agencies reviewed the technical basis for various riparian functions as they pertain to salmonid conservation (Spence *et al.*, 1996). These authors suggest that a functional approach to riparian protection requires a consistent definition of riparian ecosystems based on ''zones of influence'' for specific riparian processes. They noted that in constrained reaches where the active channel remains relatively stable through time, riparian zones of influences may be defined based on site-potential tree heights and distance from the active channel. In contrast, they note that, in unconstrained reaches (e.g., streams in broad valley floors) with braided or shifting channels, the riparian zone of influence is more difficult to define, but recommend that it is more appropriate to define the riparian zone based on some measure of the extent of the flood plain.

Spence *et al.* (1996) reviewed the functions of riparian zones that are essential to the development and maintenance of aquatic habitats favorable to salmonids and the available literature concerning the riparian distances that would protect these functional processes. Many of the studies reviewed indicate that riparian management widths designed to protect one function in particular, recruitment of large woody debris, are likely to be adequate to protect other key riparian functions. The reviewed studies concluded that the vast majority of large woody debris is obtained within one site-potential tree height from the stream channel (Murphy and Koski, 1989; McDade *et al.*, 1990; Robison and Beschta, 1990; Van Sickle and Gregory, 1990; FEMAT, 1993; and Cederholm, 1994). Based on the available literature, Spence *et al.* (1996) concluded that fully protected riparian management zones of one site potential tree would adequately maintain 90 to 100 percent of most key riparian functions of Pacific Northwest forests if the goal was to maintain instream processes over a time frame of years to decades.

Based on experience gained since the designation of critical habitat for Snake River salmon and after considering public comments and reviewing additional scientific information regarding riparian habitats, NMFS defines steelhead critical habitat based on key riparian functions. Specifically, the adjacent riparian area is defined as the area adjacent to a stream that provides the following functions: shade, sediment, nutrient or chemical regulation, streambank stability, and input of large woody debris or organic matter. Specific guidance on assessing the potential impacts of land use activities on riparian functions can be obtained by consulting with NMFS (see **ADDRESSES**), local foresters, conservation officers, fisheries biologists, or county extension agents.

The physical and biological features that create properly functioning salmonid habitat vary throughout the range of steelhead and the extent of the adjacent riparian zone may change accordingly depending on the landscape under consideration. While a site-potential tree height can serve as a reasonable benchmark in some cases, site-specific analyses provide the best means to characterize the adjacent riparian zone because such analyses are more likely to accurately capture the unique attributes of a particular landscape. Knowing what may be a limiting factor to the properly functioning condition of a stream channel on a land use or land type basis

and how that may or may not affect the function of the riparian zone will significantly assist Federal agencies in assessing the potential for impacts to listed steelhead. On Federal lands within the range of the northern spotted owl, Federal agencies should continue to rely on the Aquatic Conservation Strategy of the Northwest Forest Plan to guide their consultations with NMFS. Where there is a Federal action on non-Federal lands, Federal agencies should consider the potential effects of the activities they fund, permit, or authorize on the riparian zone adjacent to a stream that may influence the following functions: shade, sediment delivery to the stream, nutrient or chemical regulation, streambank stability, and the input of large woody debris or organic matter. In areas where the existing riparian zone is seriously diminished (e.g., in many urban settings and agricultural settings where flood control structures are prevalent), Federal agencies should focus on maintaining any existing riparian functions and restoring others where appropriate, for example, by cooperating with local watershed groups and landowners. NMFS acknowledges in its description of riparian habitat function that different land use types (e.g., timber, urban, and agricultural) will have varying degrees of impact and that activities requiring a Federal permit will be evaluated on the basis of disturbance to the riparian zone. In many cases the evaluation of an activity may focus on a particular limiting factor for a water course (e.g., temperature, stream bank erosion, sediment transport) and whether that activity may or may not contribute to improving or degrading the riparian habitat.

Finally, NMFS emphasizes that a designation of critical habitat does not prohibit landowners from conducting actions that modify streams or the adjacent terrestrial habitat. Critical habitat designation serves to identify important areas and essential features within those areas, thus alerting both Federal and non-Federal entities to the importance of the area for listed salmonids. Federal agencies are required by the ESA to consult with NMFS to ensure that any action they authorize, fund, or carry out is not likely to destroy or adversely modify critical habitat in a way that appreciably diminishes the value of critical habitat for both the survival and recovery of the listed species. The designation of critical habitat will assist Federal agencies in evaluating how their actions on Federal or non-Federal lands may affect listed steelhead and determining when they should consult with NMFS on the impacts of their actions. When a private landowner requires a Federal permit that may result in the modification of steelhead habitat, Federal permitting agencies will be required to ensure that the permitted action, regardless of whether it occurs in the stream channel, adjacent riparian zone, or upland areas, does not appreciably diminish the value of critical habitat for both the survival and recovery of the listed species or jeopardize the species' continued existence. For other actions, landowners should consider the needs of the listed fish and NMFS will assist them in assessing the impacts of actions.

Barriers Within the Species' Range

Within the range of all threatened or endangered ESUs, steelhead face a multitude of barriers that limit the access of juvenile and adult fish to essential freshwater habitats. In some cases these are natural barriers (e.g., waterfalls or high-gradient velocity barriers) that have been in existence for hundreds or thousands of years. Some pose an obvious physical barrier to any anadromous salmonids (e.g., Palouse Falls on the Palouse River, Washington) while others may only be surmountable during years when extreme river conditions (e.g., floods) provide passage.

An example of the latter has recently been brought to NMFS' attention via a petition from Meridian Gold Company (Meridian) to revise critical habitat for Snake River spring/summer chinook salmon in Napias Creek, a tributary to the Salmon River, located near Salmon, Idaho (U.S. Geological Survey Hydrologic Unit ''Middle Salmon-Panther, 17060203''). Like chinook salmon, steelhead do not presently occur in Napias Creek; therefore, conclusions regarding the nature of this barrier are difficult since such conclusions must rely on indirect modeling efforts and surveys, as well as historical sources on the presence of anadromous fish. While NMFS believes it is likely steelhead could migrate above the falls at certain streamflows (NMFS, 1998), it is difficult to determine the frequency that steelhead would migrate above the falls or whether steelhead would recolonize habitat areas above the falls. The presence of relict indicator species above the falls (e.g., rainbow trout) tends to indicate steelhead may have occurred above the falls over evolutionary time periods; however, recent historical information indicates steelhead have not occurred in this area in recent times.

After analyzing new information and analyses submitted by Meridian, NMFS concludes Napias Creek Falls may constitute a naturally impassable barrier for steelhead. While the falls may be passable to steelhead at certain flows, available evidence suggests this species would not do so with any regularity. Given the scientific uncertainty associated with this conclusion, NMFS specifically requests data and analyses concerning this and other potentially impassable natural barriers (see Public Comments Solicited).

Manmade barriers created in the past several decades can create significant problems for anadromous salmonids (California Department of Fish and Game (CDFG), 1965; CACSST, 1988; Forest Ecosystem Management Assessment Team (FEMAT), 1993; Botkin *et al.*, 1995; and Nuclear Regulatory Commission, 1996). The extent of such barriers as culverts and road crossing structures that impede or block fish passage appears to be substantial. For example, of 532 fish presence surveys conducted in Oregon coastal basins during the 1995 survey season, nearly 15 percent of the confirmed ''end of fish use'' were due to human barriers, principally road culverts (Oregon Coastal Salmon Restoration Initiative, 1997). Pushup dams/diversions and irrigation withdrawals also present significant barriers or lethal conditions (e.g., high water temperatures) to steelhead in nearly all ESUs. However, because these manmade barriers can, under certain flow conditions, be surmounted by fish or present only a temporary/seasonal barrier, NMFS does not consider them to delineate the upstream extent of critical habitat.

Since man-made impassable barriers are widely distributed throughout the range of each ESU, they can have a major downstream influence on steelhead. Such impacts may include (1) depletion and storage of natural flows which can drastically alter natural hydrological cycles; (2) increased juvenile and adult mortality due to migration delays resulting from insufficient flows or habitat blockages; (3) loss of sufficient habitat due to deterring and blockage; (4) stranding of fish resulting from rapid flow fluctuations; (5) entrainment of juveniles into poorly screened or unscreened diversions; and (6) increased mortality resulting from increased water temperatures (CACSST, 1988; Bergren and Filardo, 1991; CDFG, 1991; Reynolds *et al.*, 1993; Chapman *et al.*, 1994; Cramer *et al.*, 1995; and NMFS, 1996b). In addition to these factors, reduced flows negatively affect

fish habitats due to increased deposition of fine sediments in spawning gravels, decreased recruitment of large woody debris and spawning gravels, and encroachment of riparian and non-endemic vegetation into spawning and rearing areas resulting in reduced available habitat (CACSST, 1988; FEMAT, 1993; Botkin *et al.*, 1995; and NMFS, 1996b). These dam-related factors will be effectively addressed through ESA section 7 consultations and the recovery planning process.

Numerous hydropower and water storage projects have been built which either block access to areas used historically by steelhead or alter the hydrograph of downstream river reaches. NMFS has identified numerous dams within the range of steelhead ESUs listed or proposed for listing that currently have no fish passage facilities to allow steelhead access to former spawning and rearing habitats (Tables 18 through 26). In some ESUs, blocked habitat constitutes up to 95 percent of the historical range (CACSST, 1988; and Reynolds *et al.*, 1993). While these blocked areas are significant in certain basins (e.g., areas in California's Central Valley), NMFS believes that currently accessible habitat may be sufficient for the conservation of affected steelhead ESUs. NMFS has concluded that the potential for restoring access to former spawning and rearing habitat above currently impassable man-made barriers is a significant factor to be considered in determining whether such habitat is essential for the conservation of species. NMFS solicits comments and scientific information on this issue and will consider such information prior to issuing any final critical habitat designation. This may result in the inclusion of areas above some man-made impassable barriers in a future critical habitat designation.

Throughout the range of west coast steelhead, numerous hydropower dams are undergoing, or are scheduled for, relicensing by the Federal Energy Regulatory Commission (FERC). NMFS will evaluate information developed during the process of relicensing to determine whether fish passage facilities are needed at such dams to restore access to historically available habitat. Even though habitat above such barriers is not currently designated as critical, this conclusion does not foreclose the potential importance of restoring access to these areas. Therefore, NMFS will determine on a case-by-case basis during FERC relicensing proceedings whether fish passage facilities will be required to provide access to habitat that is essential for the conservation of affected steelhead ESUs.

Critical Habitat and Indian Lands

The unique and distinctive political relationship between the United States and Indian tribes is defined by treaties, statutes, executive orders, judicial decisions, and agreements, and differentiates tribes from the other entities that deal with, or are affected by, the Federal Government. This relationship has given rise to a special Federal trust responsibility, involving the legal responsibilities and obligations of the United States toward Indian tribes and the application of fiduciary standards of due care with respect to Indian lands, tribal trust resources, and the exercise of tribal rights.

Indian lands (Indian lands are defined in the Secretarial Order of June 5, 1997, as ''any lands title to which is either: (1) held in trust by the United States for the benefit of any Indian tribe or individual; or (2) held by any Indian tribe or individual subject to restrictions by the United States against alienation'') were retained by tribes or have been set aside for tribal use pursuant to treaties, statutes, judicial decisions, executive orders, or agreements. These lands are managed by Indian tribes in accordance with tribal goals and objectives, within the framework of applicable laws.

As a means of recognizing the responsibilities and relationship described here and implementing the Presidential Memorandum of April 24, 1994, Government-to-Government Relations with Native American Tribal Governments, the Secretary of Commerce, and the Secretary of the Interior issued the Secretarial Order entitled ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act'' on June 5, 1997. The Secretarial Order clarifies the responsibilities of NMFS and the U.S. Fish and Wildlife Service (Services) when carrying out authorities under the ESA and requires that they consult with, and seek the participation of, the affected Indian tribes to the maximum extent practicable. The Secretarial Order further provides that the Services ''shall consult with the affected Indian tribe(s) when considering the designation of critical habitat in an area that may impact tribal trust resources, tribally owned fee lands, or the exercise of tribal rights. Critical habitat shall not be designated in such areas unless it is determined essential to conserve a listed species.''

NMFS has determined that the Indian Reservations containing Indian lands most likely to be affected by a critical habitat designation of listed or proposed steelhead ESUs are the Colville Indian Reservation (Upper Columbia River ESU); Nez Perce Indian Reservation (Snake River ESU); and the Umatilla, Warm Springs, and Yakama Indian Reservations (Middle Columbia River ESU). The major river basins containing reservation lands and listed or proposed steelhead ESUs are identified in Tables 24 through 26. NMFS has not yet identified tribally owned fee lands or other areas where designation of critical habitat may impact tribal trust resources or the exercise of tribal rights. NMFS will identify any such lands during government-to-government consultation with affected tribes.

Although NMFS notified the affected tribes of the proposed critical habitat designation, insufficient time was allotted for meaningful government-to-government consultation. NMFS will continue to consult with the tribes in accordance with the agency's trust responsibilities and the Secretarial Order concerning critical habitat designation in these ESUs. Therefore, NMFS is not proposing to designate critical habitat on the described reservation lands at this time. In addition, tribally owned fee lands and other areas where critical habitat designation may impact the exercise of tribal rights or trust resources may be identified and included or excluded from critical habitat designation in a subsequent action. If any such lands are determined to be essential to conserve listed steelhead, such lands may be designated critical habitat in a subsequent action.

Need for Special Management Considerations or Protection

In order to ensure that the essential habitat areas and features are maintained or restored, special management measures may be needed. Federal activities that may require special management considerations for freshwater and estuarine life stages of listed steelhead include, but are not limited to (1) land management; (2) timber harvest; (3) point and non-point water pollution; (4) livestock grazing; (5) habitat restoration; (6) irrigation water withdrawals and returns; (7) mining; (8) road construction; (9) dam operation and maintenance; and (10) dredge and fill activities. Not all of these activities are necessarily of current concern within every ESU; however, they indicate the potential types of activities that will require consultation in the future. Activities that are conducted on private or state lands that are not federally permitted or funded are not subject to any additional regulations under this rule. However, non-Federal

landowners should be aware that any significant habitat modifications that could adversely affect listed fish, could result in a ''taking'' (i.e., harming or killing) of the listed species, which is prohibited under section 9 of the ESA. No special management considerations have been identified for steelhead while they are residing in the ocean environment.

Activities That May Affect Critical Habitat

A wide range of activities may affect the essential habitat requirements of steelhead. More in-depth discussions are contained in the **Federal Register** documents announcing the listing determinations for each ESU (61 FR 41541, August 9, 1996; 62 FR 43937, August 18, 1997; 63 FR 11798, March 10, 1998; 63 FR 13347, March 19, 1998) as well as NMFS' document entitled ''Steelhead Factors for Decline: A Supplement to the Notice of Determination for West Coast Steelhead'' (NMFS, 1996b). These activities include water and land management actions of Federal agencies (i.e., U.S. Forest Service (USFS), U.S. Bureau of Land Management (BLM), U.S. Army Corps of Engineers (Corps), U.S. Bureau of Reclamation (BOR), Federal Highway Administration (FHA), U.S. Environmental Protection Agency (EPA), Natural Resource Conservation Service (NRCS), National Park Service (NPS), and FERC) and related or similar actions of other federally regulated projects and lands including livestock grazing allocations by USFS and BLM; hydropower sites licensed by FERC; dams built or operated by the Corps or BOR; timber sales conducted by the USFS and BLM; road building activities authorized by the FHA, USFS, BLM, and NPS; and mining and road building activities authorized by the states of Washington, Oregon, Idaho, and California. Other actions of concern include dredge and fill, mining, and bank stabilization activities authorized or conducted by the Corps and habitat modifications authorized by the Federal Emergency Management Agency (FEMA). Additionally, actions of concern could include approval of water quality standards and pesticide labeling and use restrictions administered by EPA.

The Federal agencies that will most likely be affected by this critical habitat designation include the USFS, BLM, BOR, Corps, FHA, NRCS, NPS, FEMA, and FERC. This designation will provide clear notification to these agencies, private entities, and the public of critical habitat designated for steelhead and of the boundaries of the habitat and protection provided for that habitat by the section 7 consultation process. This designation will also assist these agencies and others in evaluating the potential effects of their activities on steelhead and their critical habitat and in determining when consultation with NMFS is appropriate.

Expected Economic Impacts

The economic impacts to be considered in a critical habitat designation are the incremental effects of critical habitat designation above the economic impacts attributable to listing or attributable to authorities other than the ESA (see Consideration of Economic and Other Factors). Incremental impacts result from special management activities in those areas, if any, outside the present distribution of the listed species that NMFS has determined to be essential to the conservation of the species. For these steelhead ESUs, NMFS has determined that the present geographic extent of their freshwater and estuarine range is likely sufficient to provide for conservation of the species, although the quality of that habitat needs improvement on many fronts. Because NMFS is not designating any areas beyond the current range of these steelhead ESUs as critical habitat, the designation will result in few, if any, additional economic effects beyond those that may have been caused by listing and by other statutes.

USFS, BLM, BOR, and the Corps manage areas of proposed critical habitat for the steelhead ESUs. The Corps and other Federal agencies that may be involved with funding or permits for projects in critical habitat areas may also be affected by this designation. Because NMFS believes that virtually all ''adverse modification'' determinations pertaining to critical habitat would also result in ''jeopardy'' conclusions under ESA Section 7 consultations (i.e., as a result of the species being listed), the designation of critical habitat is not expected to result in significant incremental restrictions on Federal agency activities. Critical habitat designation will, therefore, result in few, if any, additional economic effects beyond those that may have been caused by the ESA listing and by other statutes.

Public Comments Solicited

To ensure that the final action resulting from this proposal will be as accurate and effective as possible, NMFS is soliciting comments and suggestions from the public, other governmental agencies, the scientific community, industry, and any other interested parties.

NMFS requests quantitative evaluations describing the quality and extent of marine, estuarine, and freshwater habitats (including adjacent riparian zones) for juvenile and adult steelhead as well as information on areas that may qualify as critical habitat in Washington, Oregon, Idaho, and California. Areas that include the physical and biological features essential to the recovery of the species should be identified. Essential features include, but are not limited to (1) habitat 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 reproduction and rearing of offspring; and (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of the species. NMFS is also requesting information regarding steelhead distribution and habitat requirements within the range of Indian lands identified in this proposal and whether these lands should be considered essential for the conservation of the listed species or whether recovery can be achieved by limiting the designation to other lands.

NMFS recognizes that there are areas within the proposed boundaries of these ESUs that historically constituted steelhead habitat but may not be currently occupied by steelhead. NMFS requests information about steelhead in these currently unoccupied areas and whether these habitats should be considered essential to the recovery of the species or excluded from designation.

For areas where natural barriers are believed to pose a migration barrier for steelhead (e.g., the Napias Creek Falls issue described earlier in this document), NMFS specifically requests data and analyses concerning the following: (1) Historic accounts indicating steelhead or other anadromous salmonids occurred above the barrier; (2) data or reports analyzing the likelihood steelhead or other anadromous salmonids would migrate above the barrier; and (3) other information indicating that a particular barrier is or is not naturally impassable to anadromous salmonid migration. NMFS will evaluate all new information received concerning this issue and will reconsider this issue in its final steelhead critical habitat designation.

For areas potentially qualifying as critical habitat, NMFS is requesting the following information: (1) The activities that affect the area or could be affected by the designation and (2) the economic

costs and benefits of additional requirements of management measures likely to result from the designation. The economic cost to be considered in the critical habitat designation under the ESA is the probable economic impact ''of the [critical habitat] designation upon proposed or ongoing activities'' (50 CFR 424.19). NMFS must consider the incremental costs resulting specifically from a critical habitat designation that are above the economic effects attributable to listing the species. Economic effects attributable to listing include actions resulting from section 7 consultations under the ESA to avoid jeopardy to the species and from the taking prohibitions under section 9 of the ESA. Comments concerning economic impacts should distinguish the costs of listing from the incremental costs that can be directly attributed to the designation of specific areas as critical habitat.

NMFS will review all public comments and any additional information regarding the status and critical habitat of the steelhead ESUs described herein and complete a final rule as soon as practicable. The availability of new information may cause NMFS to reassess the proposed critical habitat designation of steelhead ESUs.

Public Hearings

Joint Departments of Commerce and Interior ESA implementing regulations state that the Secretaries shall promptly hold at least one public hearing if any person so requests within 45 days of publication of a proposed regulation to list species or to designate critical habitat (50 CFR 424.16(c)(3)). NMFS will schedule public hearings on this proposed rule in the range of affected communities in a subsequent **Federal Register** document. Requests for specific locations or additional public hearings must be received by March 22, 1999. NMFS encourages the public's involvement in such ESA matters.

References

A complete list of all references cited herein and maps describing the range of listed or proposed steelhead ESUs are available upon request (see **ADDRESSES**).

Classification

NMFS has determined that Environmental Assessments or an Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared for this critical habitat designation. See *Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied, 116 S.Ct. 698 (1996).

NMFS proposes to designate only the current range of these steelhead ESUs as critical habitat. Areas excluded from this proposed designation include marine habitats in the Pacific Ocean and any historically occupied areas above impassable natural barriers (e.g., long-standing, natural waterfalls). NMFS concludes that the currently inhabited areas within the range of each ESU are the minimum habitat necessary to ensure the species' conservation and recovery.

Since NMFS is designating the current range of the listed species as critical habitat, this designation will not impose any additional requirements or economic effects upon small entities beyond those which may accrue from section 7 of the ESA. Section 7 requires Federal agencies to insure that any action they carry out, authorize, or fund is not likely to jeopardize the continued existence of any listed species or to result in the destruction or adverse modification of critical habitat (ESA section 7(a)(2)). The consultation requirements of section 7 are nondiscretionary and are effective at the time of species' listing. Therefore, Federal agencies must consult with NMFS and ensure that their actions do not jeopardize a listed species, regardless of whether critical habitat is designated.

In the future, should NMFS determine that designation of habitat areas outside the species' current range is necessary for conservation and recovery, NMFS will analyze the incremental costs of that action and assess its potential impacts on small entities, as required by the Regulatory Flexibility Act. Until that time, a more detailed analysis would be premature and would not reflect the true economic impacts of the proposed action on local businesses, organizations, and governments.

Accordingly, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed critical habitat designation, if adopted, would not have a significant economic impact on a substantial number of small entities, as described in the Regulatory Flexibility Act.

The Assistant Administrator for Fisheries, NOAA, has determined this rule is not significant for purposes of E.O. 12866.

This proposed rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 226

Endangered and threatened species, Incorporation by reference.

Dated: January 29, 1999.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 226 is proposed to be amended as follows:

PART 226—DESIGNATED CRITICAL HABITAT

1. The authority citation for part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

2. Section 226.29 is added to subpart C to read as follows:

§ 226.29 Lower Columbia River steelhead (Oncorhynchus mykiss), Upper Willamette River steelhead (Oncorhynchus mykiss), Central California Coast steelhead (Oncorhynchus mykiss), South-Central California Coast steelhead (Oncorhynchus mykiss), Southern California steelhead (Oncorhynchus mykiss), Central Valley steelhead (Oncorhynchus mykiss), Middle Columbia River steelhead (Oncorhynchus mykiss), Upper Columbia River steelhead (Oncorhynchus mykiss), Snake River Basin steelhead (Oncorhynchus mykiss).

Critical habitat is designated to include all river reaches accessible to listed steelhead within the range of the ESUs listed, except for reaches on Indian lands within Indian Reservations defined in Tables 24 through 26 to this part. Critical habitat consists of the water, substrate, and adjacent riparian zone of estuarine and riverine reaches in hydrologic units and counties identified in Tables 18 through 26 to this part for all of the steelhead ESUs listed in this section. Accessible reaches are those within the historical range of the ESUs that can still be occupied by any life stage of steelhead. Inaccessible reaches are those above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years) and specific dams within the historical range of each ESU identified in Tables 18 through 26 to this part. Hydrologic units are those defined by the Department of the Interior (DOI), U.S. Geological Survey (USGS) publication, ''Hydrologic Unit Maps, Water Supply Paper 2294, 1986, and by the following DOI, USGS, 1:500,000 scale hydrologic unit maps: State of California (1978), State of Idaho (1981), State of Oregon (1974), and State of Washington (1974) which are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C.

552(a) and 1 CFR part 51. Copies of the USGS publication and maps may be obtained from the USGS, Map Sales, Box 25286, Denver, CO 80225. Copies may be inspected at NMFS, Protected Resources Division, 525 NE Oregon St., Suite 500, Portland, OR 97232–2737, or NMFS, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(a) *Lower Columbia River steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches accessible to listed steelhead in Columbia River tributaries between the Cowlitz and Wind Rivers in Washington and the Willamette and Hood Rivers in Oregon, inclusive. Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to the Hood River in Oregon. Excluded are areas above specific dams identified in Table 18 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(b) *Upper Willamette River steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches accessible to listed steelhead in the Willamette River and its tributaries above Willamette Falls. Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to, and including, the Willamette River in Oregon. Excluded are areas above specific dams identified in Table 19 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(c) *Central California Coast steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches and estuarine areas accessible to listed steelhead in coastal river basins from the Russian River to Soquel Creek, California (inclusive), and the drainages of San Francisco and San Pablo Bays. Also included are all waters of San Pablo Bay westward of the Carquinez Bridge and all waters of San Francisco Bay (north of the San Francisco/Oakland Bay Bridge) from San Pablo Bay to the Golden Gate Bridge. Excluded is the Sacramento-San Joaquin River Basin of the California Central Valley as well as areas above specific dams identified in Table 20 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(d) *South-Central California Coast steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches and estuarine areas accessible to listed steelhead in coastal river basins from the Pajaro River (inclusive) to, but not including, the Santa Maria River, California. Excluded are areas above specific dams identified in Table 21 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(e) *Southern California steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches and estuarine areas accessible to listed steelhead in coastal river basins from the Santa Maria River to Malibu Creek, California (inclusive). Excluded are areas above specific dams identified in Table 22 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(f) *Central Valley steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches accessible to listed steelhead in the Sacramento and San Joaquin Rivers and their tributaries in California. Also included are river reaches and estuarine areas of the Sacramento-San Joaquin Delta, all waters from Chipps Island westward to Carquinez Bridge, including Honker Bay, Grizzly Bay, Suisun Bay, and Carquinez Strait, all waters of San Pablo Bay westward of the Carquinez Bridge, and all waters of San Francisco Bay (north of the San Francisco/Oakland Bay Bridge) from San Pablo Bay to the Golden Gate Bridge. Excluded are areas of the San Joaquin River upstream of the Merced River confluence and areas above specific dams identified in Table 23 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(g) *Middle Columbia River steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches accessible to listed steelhead in Columbia River tributaries (except the Snake River) between Mosier Creek in Oregon and the Yakima River in Washington (inclusive). Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to the Yakima River in Washington. Excluded are areas above specific dams identified in Table 24 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(h) *Upper Columbia River steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches accessible to listed steelhead in Columbia River tributaries upstream of the Yakima River, Washington, and downstream of Chief Joseph Dam. Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to Chief Joseph Dam in Washington. Excluded are areas above specific dams identified in Table 25 of this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

(i) *Snake River Basin steelhead (Oncorhynchus mykiss) geographic boundaries.* Critical habitat is designated to include all river reaches accessible to listed steelhead in the Snake River and its tributaries in Idaho, Oregon, and Washington. Also included are river reaches and estuarine areas in the Columbia River from a straight line connecting the west end of the Clatsop jetty (south jetty, Oregon side) and the west end of the Peacock jetty (north jetty, Washington side) upstream to the confluence with the Snake River. Excluded are areas above specific dams identified in Table 26 to this part or above longstanding, naturally impassable barriers (i.e., natural waterfalls in existence for at least several hundred years).

3. Tables 5 through 17 are added and reserved, and tables 18 through 26 are added to part 226 to read as follows:

TABLE 18 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR LOWER COLUMBIA RIVER STEELHEAD, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties contained in hydrologic unit and within range of ESU [1]	Dams
Middle Columbia-Hood	17070105	Hood River (OR), Skamania (WA).	
Lower Columbia-Sandy	17080001	Clackamas (OR), Multnomah (OR), Clark (WA), Skamania (WA)	Bull Run Dam #2.
Lewis	17080002	Clark (WA), Cowlitz (WA), Skamania (WA)	Merwin Dam.
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (OR), Cowlitz (WA), Skamania (WA), Wahkiakum (WA).	
Lower Cowlitz	17080005	Cowlitz (WA), Lewis (WA)	Mayfield Dam.
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Clackamas	17090011	Clackamas (OR), Marion (OR).	
Lower Willamette	17090012	Clackamas (OR), Columbia (OR), Multnomah (OR), Washington (OR).	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Reserved.

TABLE 19 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR UPPER WILLAMETTE RIVER STEELHEAD, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties contained in hydrologic unit and within range of ESU [1]	Dams
Lower Columbia-Sandy	17080001	Clark (WA)	Bull Run Dam.
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (WA), Cowlitz (WA), Wahkiakum (WA).	
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Middle Fork Willamette	17090001	Lane (OR)	Dexter Dam.
Coast Fork Willamette	17090002	Douglas (OR), Lane (OR)	Dorena Dam.
Upper Willamette	17090003	Benton (OR), Lane (OR), Lincoln (OR), Linn (OR), Polk (OR)	Cougar Dam.
McKenzie	17090004	Lane (OR), Linn (OR)	Big Cliff Dam.
North Santiam	17090005	Linn (OR), Marion (OR).	
South Santiam	17090006	Linn (OR)	Green Peter Dam.
Middle Willamette	17090007	Clackamas (OR), Marion (OR), Polk (OR), Washington (OR), Yamhill (OR).	
Yamhill	17090008	Lincoln (OR), Polk (OR), Tillamook (OR), Washington (OR), Yamhill (OR).	
Molalla-Pudding	17090009	Clackamas (OR), Marion (OR).	
Tualatin	17090010	Clackamas (OR), Columbia (OR), Multnomah (OR), Tillamook (OR), Washington (OR), Yamhill (OR).	
Lower Willamette	17090012	Clackamas (OR), Columbia (OR), Multnomah (OR).	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Reserved.

TABLE 20 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR CENTRAL CALIFORNIA COAST STEELHEAD, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties contained in hydrologic unit and within range of ESU [1]	Dams
Russian	18010110	Mendocino (CA), Sonoma (CA)	Coyote Dam, Warm Springs Dam.
Bodega Bay	18010111	Marin (CA), Sonoma (CA).	
Suisun Bay	18050001	Contra Costa (CA), Napa (CA), Solano (CA).	
San Pablo Bay	18050002	Marin (CA), Napa (CA)	San Pablo Reservoir.
Coyote	18050003	Alameda (CA), San Mateo (CA), Santa Clara (CA)	Calavera Reservoir.
San Francisco Bay	18050004	Alameda (CA), Contra Costa (CA), San Mateo (CA), Santa Clara (CA).	
Tomales-Drake Bays	18050005	Marin (CA), Sonoma (CA)	Nicasio Dam, Seeger Dam.
San Francisco Coastal South	18050006	San Mateo (CA).	
San Lorenzo-Soquel	18060001	San Mateo (CA), Santa Cruz (CA)	Newell Dam.

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Reserved.

TABLE 21 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR SOUTH-CENTRAL CALIFORNIA COAST STEELHEAD, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties contained in hydrologic unit and within range of ESU [1]	Dams
Pajaro	18060002	Monterey (CA), San Benito (CA), Santa Clara (CA), Santa Cruz (CA).	
Estrella	18060004	Monterey (CA), San Luis Obispo (CA).	
Salinas	18060005	Monterey (CA), San Benito (CA), San Luis Obispo (CA)	Salinas Dam.
Central Coastal	18060006	Monterey (CA), San Luis Obispo (CA).	
Alisal-Elkhorn Sloughs	18060011		
Carmel	18060012		Los Padres Dam.

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Reserved.

TABLE 22 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR SOUTHERN CALIFORNIA STEELHEAD, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties contained in hydrologic unit and within range of ESU [1]	Dams
Cuyama	18060007	San Luis Obispo (CA), Santa Barbara (CA)	Vaquero Dam.
Santa Maria	18060008	San Luis Obispo (CA), Santa Barbara (CA).	
San Antonio	18060009	Santa Barbara (CA).	
Santa Ynez	18060010	Santa Barbara (CA)	Bradbury Dam.
Santa Barbara Coastal	18060013	Santa Barbara (CA), Ventura (CA).	
Ventura	18070101	Santa Barbara (CA), Ventura (CA)	Casitas Dam, Robles Dam, Matilija Dam, Vern Freeman Diversion Dam.
Santa Clara	18070102	Los Angeles (CA), Santa Barbara (CA), Ventura (CA)	Santa Felicia Dam.
Calleguas	18070103	Los Angeles (CA), Ventura (CA).	
Santa Monica Bay	18070103	Los Angeles (CA), Ventura (CA)	Rindge Dam.

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Reserved.

TABLE 23 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR CENTRAL VALLEY STEELHEAD, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties contained in hydrologic unit and within range of ESU [1]	Dams
Sacramento-Lower Cow-Lower Clear.	18020101	Shasta (CA), Tehama (CA).	
Lower Cottonwood	18020102	Shasta (CA), Tehama (CA).	
Sacramento-Lower Thomes	18020103	Butte (CA), Glenn (CA), Tehama (CA)	Black Butte Dam.
Sacramento-Stone Corral	18020104	Butte (CA), Colusa (CA), Glenn (CA), Sutter (CA), Yolo (CA).	
Lower Butte	18020105	Butte (CA), Colusa (CA), Glenn (CA), Sutter (CA).	
Lower Feather	18020106	Butte (CA), Sutter (CA), Yuba (CA)	Oroville Dam.
Lower Yuba	18020107	Yuba (CA).	
Lower Bear	18020108	Placer (CA), Sutter (CA), Yuba (CA)	Camp Far West Dam.
Lower Sacramento	18020109	Placer (CA), Sacramento (CA), Solano (CA), Sutter (CA), Yolo (CA).	
Lower American	18020111	Placer (CA), Sacramento (CA), Sutter (CA)	Nimbus Dam.
Sacramento-Upper Clear	18020112	Shasta (CA)	Keswick Dam.
Cottonwood Headwaters	18020113	Shasta (CA), Tehama (CA).	
Upper Elder-Upper Thomes	18020114	Tehama (CA).	
Upper Cow-Battle	18020118	Shasta (CA), Tehama (CA)	Whiskeytown Dam.
Mill-Big Chico	18020119	Butte (CA), Shasta (CA), Tehama (CA).	
Upper Butte	18020120	Butte (CA), Tehama (CA).	
Honcut Headwaters	18020124	Butte (CA), Yuba (CA).	
Upper Yuba	18020125	Yuba (CA), Nevada (CA)	Englebright Dam.
Upper Coon-Upper Auburn	18020127	Placer (CA).	
Middle San Joaquin-Lower Merced-Lower Stanislaus.	18040002	Calaveras (CA), Merced (CA), San Joaquin (CA), Stanislaus (CA)	Crocker Diversion Dam, La Grange Dam.
San Joaquin Delta	18040003	Alameda (CA), Contra Costa (CA), Sacramento (CA), San Joaquin (CA).	
Lower Calaveras-Mormon Slough.	18040004	Calaveras (CA), San Joaquin (CA), Stanislaus (CA).	
Lower Consumnes-Lower Mokelumne.	18040005	Amador (CA), Sacramento (CA), San Joaquin (CA)	Comanche Dam.
Upper Stanislaus	18040010	Calaveras (CA), San Joaquin (CA), Tuolumne (CA)	Goodwin Dam.

TABLE 23 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR CENTRAL VALLEY STEELHEAD, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT—Continued

Hydrologic unit name	Hydrologic unit No.	Counties contained in hydrologic unit and within range of ESU [1]	Dams
Upper Calaveras	18040011	Calaveras (CA)	New Hogan Dam.
Panoche-San Luis Reservoir	18040014	San Joaquin (CA), Stanislaus (CA).	
Suisun Bay	18050001	Contra Costa (CA), Solano (CA).	
San Pablo Bay	18050002	Contra Costa (CA), Marin (CA), San Francisco (CA), Solano (CA), Sonoma (CA).	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Reserved.

TABLE 24 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR MIDDLE COLUMBIA RIVER STEELHEAD, TRIBAL LANDS WITHIN THE RANGE OF THE ESU, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties and tribal lands contained in hydrologic unit and within range of ESU [1 2]	Dams
Upper Columbia-Priest Rapids	17020016	Benton (WA), Franklin (WA).	
Upper Yakima	17030001	Kittitas (WA), Yakima (WA).	
Naches	17030002	Kittitas (WA), Yakima (WA).	
Lower Yakima	17030003	Benton (WA), Klickitat (WA), Yakima (WA), Yakima Indian Reservation.	
Middle Columbia-Lake Wallula	17070101	Gilliam (OR), Morrow (OR), Umatilla (OR), Benton (WA), Klickitat (WA), Walla Walla (WA), Yakima (WA).	
Walla Walla	17070102	Umatilla (OR), Wallowa (OR), Columbia (WA), Walla Walla (WA).	
Umatilla	17070103	Morrow (OR), Umatilla (OR), Union (OR), Umatilla Indian Reservation.	
Willow	17070104	Morrow (OR), Gilliam (OR).	
Middle Columbia-Hood	17070105	Hood River (OR), Sherman (OR), Wasco (OR), Klickitat (WA), Skamania (WA).	Condit Dam.
Klickitat	17070106	Klickitat (WA), Yakima (WA), Yakama Indian Reservation.	
Upper John Day	17070201	Crook (OR), Grant (OR), Harney (OR), Wheeler (OR).	
North Fork John Day	17070202	Grant (OR), Morrow (OR), Umatilla (OR), Union (OR), Wheeler (OR).	
Middle Fork John Day	17070203	Grant (OR).	
Lower John Day	17070204	Crook (OR), Gilliam (OR), Grant (OR), Jefferson (OR), Morrow (OR), Sherman (OR), Wasco (OR), Wheeler (OR).	
Lower Deschutes	17070306	Jefferson (OR), Sherman (OR), Wasco (OR), Warm Springs Indian Reservation.	Pelton Dam.
Trout	17070307	Crook (OR), Jefferson (OR), Wasco (OR).	
Lower Columbia-Sandy	17080001	Multnomah (OR), Clark (WA), Skamania (WA).	
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (WA), Cowlitz (WA), Wahkiakum (WA).	
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Lower Willamette	17090012	Columbia (OR), Multnomah (OR).	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Tribal lands are specifically excluded from critical habitat for this ESU.

TABLE 25 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR UPPER COLUMBIA RIVER STEELHEAD, TRIBAL LANDS WITHIN THE RANGE OF THE ESU, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties and tribal lands contained in hydrologic unit and within range of ESU [1, 2]	Dams
Chief Joseph	17020005	Chelan (WA), Douglas (WA), Okanogan (WA), Colville Indian Reservation.	Chief Joseph Dam.
Okanogan	17020006	Okanogan (WA), Colville Indian Reservation.	
Similkameen	17020007	Okanogan (WA).	
Methow	17020008	Okanogan (WA).	
Upper Columbia-Entiat	17020010	Chelan (WA), Douglas (WA), Grant (WA), Kittitas (WA).	
Wenatchee	17020011	Chelan (WA).	
Moses Coulee	17020012	Douglas (WA), Grant (WA).	
Upper Columbia-Priest Rapids	17020016	Benton (WA), Franklin (WA), Grant (WA), Kittitas (WA), Yakima (WA).	
Middle Columbia-Lake Wallula	17070101	Gilliam (OR), Morrow (OR), Sherman (OR), Umatilla (OR), Benton (WA), Klickitat (WA), Walla Walla (WA).	
Middle Columbia-Hood	17070105	Hood River (OR), Sherman (OR), Wasco (OR), Klickitat (WA), Skamania (WA).	
Lower Columbia-Sandy	17080001	Multnomah (OR), Clark (WA), Skamania (WA).	
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (WA), Cowlitz (WA), Wahkiakum (WA).	

TABLE 25 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR UPPER COLUMBIA RIVER STEELHEAD, TRIBAL LANDS WITHIN THE RANGE OF THE ESU, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT—Continued

Hydrologic unit name	Hydrologic unit No.	Counties and tribal lands contained in hydrologic unit and within range of ESU [1, 2]	Dams
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Lower Willamette	17090012	Columbia (OR), Multnomah (OR).	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Tribal lands are specifically excluded from critical habitat for this ESU.

TABLE 26 TO PART 226.—HYDROLOGIC UNITS AND COUNTIES CONTAINING CRITICAL HABITAT FOR SNAKE RIVER BASIN STEELHEAD, TRIBAL LANDS WITHIN THE RANGE OF THE ESU, AND DAMS REPRESENTING THE UPSTREAM EXTENT OF CRITICAL HABITAT

Hydrologic unit name	Hydrologic unit No.	Counties and tribal lands contained in hydrologic unit and within range of ESU [1, 2]	Dams
Hells Canyon	17060101	Adams (ID), Idaho (ID), Wallowa (OR)	Hells Canyon Dam.
Imnaha	17060102	Baker (OR), Union (OR), Wallowa (OR).	
Lower Snake-Asotin	17060103	Nez Perce (ID), Wallowa (OR), Asotin (WA), Garfield (WA).	
Upper Grande Ronde	17060104	Grant (OR), Umatilla (OR), Union (OR).	
Wallowa	17060105	Union (OR), Wallowa (OR).	
Lower Grande Ronde	17060106	Union (OR), Wallowa (OR), Asotin (WA), Columbia (WA), Garfield (WA).	
Lower Snake-Tucannon	17060107	Asotin (WA), Columbia (WA), Garfield (WA), Whitman (WA).	
Palouse	17060108	Benewah (ID), Latah (ID), Nez Perce (ID), Franklin (WA), Lincoln (WA), Spokane (WA), Whitman (WA) Nez Perce Indian Reservation.	
Lower Snake	17060110	Columbia (WA), Franklin (WA), Walla Walla (WA).	
Upper Salmon	17060201	Blaine (ID), Custer (ID), Lemhi (ID).	
Pahsimeroi	17060202	Custer (ID), Lemhi (ID).	
Middle Salmon-Panther	17060203	Custer (ID), Lemhi (ID).	
Lemhi	17060204	Lemhi (ID).	
Upper Middle Fork Salmon	17060205	Boise (ID), Custer (ID), Lemhi (ID), Valley (ID).	
Lower Middle Fork Salmon	17060206	Idaho (ID), Lemhi (ID), Valley (ID).	
Middle Salmon-Chamberlain	17060207	Idaho (ID), Lemhi (ID), Valley (ID).	
South Fork Salmon	17060208	Idaho (ID), Valley (ID).	
Lower Salmon	17060209	Idaho (ID), Lewis (ID), Nez Perce (ID).	
Little Salmon	17060210	Adams (ID), Idaho (ID).	
Upper Selway	17060301	Idaho (ID).	
Lower Selway	17060302	Idaho (ID).	
Lochsa	17060303	Clearwater (ID), Idaho (ID).	
Middle Fork Clearwater	17060304	Idaho (ID), Nez Perce Indian Reservation.	
South Fork Clearwater	17060305	Idaho (ID), Nez Perce Indian Reservation.	
Clearwater	17060306	Clearwater (ID), Idaho (ID), Latah (ID), Lewis (ID), Nez Perce (ID), Nez Perce Indian Reservation.	
Lower North Fork Clearwater	17060308	Clearwater (ID), Latah (ID), Shoshone (ID), Nez Perce Indian Reservation.	Dworshak Dam.
Middle Columbia-Lake Wallula	17070101	Gilliam (OR), Morrow (OR), Sherman (OR), Umatilla (OR), Benton (WA), Klickitat (WA), Walla Walla (WA).	
Middle Columbia-Hood	17070105	Hood River (OR), Sherman (OR), Wasco (OR), Klickitat (WA), Skamania (WA).	
Lower Columbia-Sandy	17080001	Multnomah (OR), Clark (WA), Skamania (WA).	
Lower Columbia-Clatskanie	17080003	Clatsop (OR), Columbia (WA), Cowlitz (WA), Wahkiakum (WA).	
Lower Columbia	17080006	Clatsop (OR), Pacific (WA), Wahkiakum (WA).	
Lower Willamette	17090012	Columbia (OR), Multnomah (OR).	

[1] Some counties have very limited overlap with estuarine, riverine, or riparian habitats identified as critical habitat for this ESU. Consult USGS hydrologic unit maps (available from USGS) to determine specific county and basin boundaries.
[2] Tribal lands are specifically excluded from critical habitat for this ESU.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990119022–9022–01; I.D. 111998B]

RIN 0648–AM13

Fisheries of the Northeastern United States; Amendment 1 to the Atlantic Salmon Fishery Management Plan

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 1 to the Atlantic Salmon Fishery Management Plan (FMP). Specifically, this proposed rule would establish a framework process to add or adjust Atlantic salmon aquaculture management measures, if necessary, to meet the goals and objectives of the Atlantic Salmon FMP. Amendment 1 to the FMP also proposes to add an Atlantic salmon overfishing definition.

DATES: Comments must be received on or before March 22, 1999.

ADDRESSES: Comments on this proposed rule should be sent to Jon C. Rittgers, Acting Regional Administrator, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Proposed Rule for Amendment 1 to the Atlantic Salmon FMP.''

Copies of the Amendment, its regulatory impact review (RIR), environmental assessment (EA), and supporting documents are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036.

FOR FURTHER INFORMATION CONTACT: Bonnie L. Van Pelt, Fishery Management Specialist, 978–281–9244.

SUPPLEMENTARY INFORMATION: The Sustainable Fisheries Act of 1996 (SFA) requires the Regional Fishery Management Councils to identify and describe essential fish habitat (EFH) for the species managed. NMFS issued a notice of availability that invited public comments on Amendment 11 to the Northeast Multispecies FMP, Amendment 9 to the Atlantic Sea Scallop FMP, and Amendment 1 to the Atlantic Salmon FMP in the **Federal Register** on December 1, 1998 (63 FR 66110), with a comment period ending date for these amendments of February 1, 1999. These amendments are part of a larger document (omnibus amendment) submitted by the New England Fishery Management Council (NEFMC) for Secretarial review that includes Amendment 1 to the Monkfish FMP prepared jointly by NEFMC and the Mid-Atlantic Fishery Management Council (MAFMC). Because the MAFMC had not yet adopted Monkfish Amendment 1 at the time of the NEFMC's submission of the omnibus amendment to NMFS, the notice of availability published on December 1, 1998 did not invite public comments on Amendment 1 to the Monkfish FMP. Also, the omnibus amendment also includes the EFH components of the Atlantic Herring FMP that is being developed by the NEFMC. The EFH information for Atlantic Herring will be incorporated by reference into the Atlantic Herring FMP when that FMP is submitted for Secretarial approval; therefore, public comments were not invited on the EFH components for Atlantic herring in the aforementioned notice of availability published on December 1, 1998. On December 7, 1998, NMFS issued an amendment to the notice of availability (NOA) published on December 1, 1998, in the **Federal Register** (63 FR 67450), notifying the public that in addition to EFH components, Amendment 1 to the Atlantic Salmon FMP also contains a discussion of an overfishing definition and an aquaculture framework adjustment process for Atlantic salmon. The comment period ending date for those components for Amendment 1 to the Atlantic Salmon FMP is also February 1, 1999. Finally, NMFS issued another amendment to the notice of availability published on December 1, 1998, advising the public that a proposed rule would be published in the **Federal Register** soon, inviting public comments on the proposed framework adjustment process for possible aquaculture operations for Atlantic salmon. The only proposed implementing regulations contained in this omnibus amendment are those related to the Atlantic Salmon FMP.

Proposed Management Measures

Amendment 1 to the Atlantic Salmon FMP proposes to add a definition for Atlantic salmon overfishing and to add a mechanism to allow Atlantic salmon aquaculture management measures to be added or adjusted through a framework adjustment process.

Although salmon is overfished, no additional management measures are proposed by this amendment. Management measures currently in place prohibit harvesting of salmon from Federal waters. As a result, NMFS sent a letter to the NEFMC informing it that since everything within the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) has been done to rebuild this overfished stock, no further action was required to comply with the rebuilding provision of the Magnuson-Stevens Act (Section 304(c)).

This amendment includes a definition of overfishing which was certified with reservation by the Northeast Fisheries Science Center as follows:

> The overfishing definition is based on the assumption that the number of spawning salmon corresponding to MSY is 54,000 (a proxy for B_{MSY}), and that fishing mortality on the current stock of 200 fish should be zero. The stock size is currently well below ½ B_{msy} and B_{limit} (the biomass [or number of spawners] from which the stock could be rebuilt to B_{msy} in 10 years). The amendment does not specify a fishing mortality limit or threshold appropriate for a rebuilt stock, or the stock size above which the fishing mortality rate could be greater than zero. However, given the current status of the stock and protracted rebuilding period, we are unlikely to achieve these thresholds in the near future.
>
> We will continue to monitor stock conditions for Atlantic salmon and study life history. We will recommend adjustments if and when necessary.

In order to allow Atlantic salmon aquaculture projects to be conducted in the EEZ consistent with the goals and objectives of the Atlantic Salmon FMP, it may be necessary to add or adjust Atlantic salmon aquaculture management measures. For the sake of efficiency, this proposed rule would establish a framework process for adding or adjusting Atlantic salmon management measures which is consistent with the processes proposed under Amendment 9 to the Northeast Multispecies FMP and Amendment 7 for the Atlantic Sea Scallop FMP both of which were developed by the NEFMC to bring the applicable FMPs into compliance with the SFA requirements. Amendments 9 and 7, respectively, are currently under Secretarial review.

This action would allow the Council and NMFS to adjust or add one or more of the Atlantic salmon aquaculture management measures identified in Amendment 1, including, but not limited to: minimum fish sizes, gear restrictions, minimum mesh sizes, possession limits, tagging requirements, monitoring requirements, reporting requirements, permit restrictions, area