



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XD424

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice; availability of joint state/tribal hatchery plan and request for comment.

SUMMARY: Notice is hereby given that the Lower Elwha Klallam Tribe and the Washington Department of Fish and Wildlife (WDFW) have submitted five Hatchery and Genetic Management Plans, to be considered jointly, to NMFS pursuant to the limitation on take prohibitions for actions conducted under Limit 6 of the 4(d) Rule for salmon and steelhead promulgated under the Endangered Species Act (ESA). The plans specify the propagation of five species of salmon and steelhead in the Elwha River of Washington state. This document serves to notify the public of the availability for comment of the proposed evaluation of the Secretary of Commerce (Secretary) as to whether implementation of the joint plans will appreciably reduce the likelihood of survival and recovery of Puget Sound Chinook salmon and Puget Sound steelhead.

DATES: Comments must be received at the appropriate address or fax number (see ADDRESSES) no later than 5 p.m. Pacific time on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Written comments on the proposed evaluation and pending determination

should be addressed to the NMFS Sustainable Fisheries Division, 510 Desmond Dr., Suite 103, Lacey, WA 98503. Comments may be submitted by e-mail. The mailbox address for providing e-mail comments is: ElwhaHatcheries.nwr@noaa.gov. Include in the subject line of the e-mail comment the following identifier: Comments on Elwha River hatchery programs.

FOR FURTHER INFORMATION CONTACT: Tim Tynan at (360) 753-9579 or e-mail: tim.tynan@noaa.gov.

SUPPLEMENTARY INFORMATION:

ESA-Listed Species Covered in This Notice

- Chinook salmon (*Oncorhynchus tshawytscha*): threatened, naturally produced and artificially propagated Puget Sound.
- Steelhead (*O. mykiss*): threatened, naturally produced and artificially propagated Puget Sound.
- Bull trout (*Salvelinus confluentus*): threatened Puget Sound/Washington Coast.
- Pacific eulachon (*Thaleichthys pacificus*): threatened southern DPS.

The Lower Elwha Klallam Tribe and the WDFW have submitted to NMFS five jointly operated hatchery programs in the Elwha River basin. The plans were submitted in August 2012, pursuant to limit 6 of the 4(d) Rule for the listed Puget Sound Chinook salmon evolutionarily significant unit (ESU) and listed Puget Sound steelhead distinct population segment (DPS). Two of the hatchery programs release ESA-listed Chinook salmon and steelhead, and three hatchery programs release non-ESA listed coho, fall

chum, and pink salmon into the Elwha River watershed. All of the programs are currently operating, and all five hatchery programs raise fish native to the Elwha River basin. The current proposed evaluation was prepared to reevaluate the existing HGMPs in light of NMFS' decision to revise its Environmental Assessment as part of ongoing litigation.

As required by the ESA 4(d) rule (65 FR 42422, July 10, 2000, as updated in 70 FR 37160, June 28, 2005), the Secretary is seeking public comment on his pending determination as to whether the joint plans for hatchery programs in the Elwha River, reflecting the existing HGMPs, clarifications to a component of steelhead and coho salmon smolt release practices, and some updated information including the role of weirs, would appreciably reduce the likelihood of survival and recovery of the ESA-listed Puget Sound salmon and steelhead.

Under section 4(d) of the ESA, the Secretary is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. NMFS has issued a final ESA 4(d) Rule for salmon and steelhead, adopting in Limit 6 regulations necessary and advisable to harmonize statutory conservation requirements with tribal rights and the Federal trust responsibility to tribes (50 CFR 223.209).

This 4(d) Rule applies the prohibitions enumerated in section 9(a)(1) of the ESA. NMFS did not find it necessary and advisable to apply the take prohibitions described in section 9(a)(1)(B) and 9(a)(1)(C) to artificial propagation activities if those activities are managed in accordance with a joint plan whose implementation has been determined by the Secretary to not appreciably reduce the likelihood of survival and recovery of the listed salmonids. As specified in limit 6 of the 4(d) Rule, before the Secretary makes a decision

on the joint plan, the public must have an opportunity to review and comment on the pending determination.

Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000, as updated in 70 FR 37160, June 28, 2005) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. Limit 6 of the updated 4(d) rule (50 CFR 223.203(b)(6)) further provides that the prohibitions of paragraph (a) of the updated 4(d) rule (50 CFR 223.203(a)) do not apply to activities associated with a joint state/tribal artificial propagation plan provided that the joint plan has been determined by NMFS to be in accordance with the salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000, as updated in 70 FR 37160, June 28, 2005).

Dated: July 31, 2014.

Angela Somma,

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

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