



**Billing Code: 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XG310**

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

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

**ACTION:** Notice of final determination and discussion of underlying biological and environmental analyses; notice of availability of Finding of No Significant Impact.

**SUMMARY:** NMFS has evaluated the joint resource management plan (RMP) submitted to NMFS by the Sauk-Suiattle Indian Tribe, Swinomish Indian Tribal Community, Upper Skagit Indian Tribe, the Skagit River System Cooperative, and the Washington Department of Fish and Wildlife, 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 RMP specifies harvest of ESA-listed, Skagit River steelhead in Treaty Indian fisheries and non-treaty recreational fisheries in the Skagit River terminal area of Washington State. This document serves to notify the public that NMFS, by delegated authority from the Secretary of Commerce, had determined pursuant to Limit 6 of the 4(d) rule for salmon and steelhead that implementing and enforcing the RMP will not appreciably reduce the likelihood of survival and recovery of Puget Sound steelhead. In compliance with the National Environmental Policy Act (NEPA), NMFS also announces the availability of its Finding of No Significant Impact for

the Skagit River steelhead fisheries determination.

**DATES:** The final determination of take prohibition limitation under the ESA was made on April 12, 2018. The Finding of No Significant Impact was signed on April 12, 2018.

**ADDRESSES:** Requests for copies of the decision documents or any of the other associated documents should be directed to NOAA's National Marine Fisheries Service, West Coast Region, Sustainable Fisheries Division, 510 Desmond Drive, Suite 103, Lacey, WA 98503. The documents are also available online at [www.westcoast.fisheries.noaa.gov](http://www.westcoast.fisheries.noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** James Dixon at (360) 534-9329 or by e-mail at [james.dixon@noaa.gov](mailto:james.dixon@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

*ESA-Listed Species Covered in This Notice*

Steelhead (*Oncorhynchus mykiss*): threatened, naturally produced and artificially propagated Puget Sound.

Chinook salmon (*O. tshawytscha*): threatened, naturally produced and artificially propagated Puget Sound.

*Background*

The Sauk-Suiattle Indian Tribe, Swinomish Indian Tribal Community, Upper Skagit Indian Tribe, and the Skagit River System Cooperative and the Washington Department of Fish and Wildlife have jointly submitted a steelhead fishery RMP 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 plan was submitted in November of 2016, pursuant to limit 6 of the 4(d) Rule for ESA-listed salmon and steelhead. The RMP would manage the harvest of Skagit River natural-origin steelhead in the Skagit River and in the terminal marine area of the Skagit River. As required, NMFS took public comments on its recommended determination for how the plans address the criteria in §223.203(b)(5) prior to making its final determination.

### **Discussion of the Biological Analysis Underlying the Determination**

The goal of the Skagit RMP is to provide steelhead fishing opportunities for the Skagit River Treaty Tribes and for recreational fishers, in a manner that is conservative at higher run sizes and increasingly so at lower run sizes. For a period of five years, the Skagit RMP will implement annual steelhead fisheries in the Skagit terminal management area consistent with the impact limits, management framework, enforcement, and monitoring requirements, as described in the RMP. The Skagit RMP utilizes an abundance-based, stepped harvest regime to determine annual harvest rates, based on the annual forecasted run size. These stepped harvest rates range from a 4 percent total allowable harvest rate at low run sizes (<4,001 adults) to 25 percent for runs greater than 8,001 adults.

NMFS has analyzed the Skagit RMP's proposed abundance-based, stepped harvest regime, along with the conservation measures proposed in the plan. We have concluded that the Skagit RMP would provide effective protection to the Skagit River steelhead populations based on parameters defining a viable salmonid population; in terms of overall abundance and productivity, as well as the diversity and spatial structure of the individual populations within the Skagit River basin. The Skagit RMP will provide for the proposed

harvest opportunities while not appreciably slowing the population's achievement of viable function.

NMFS' determination on the Skagit RMP depends upon implementation of all of the monitoring, evaluation, reporting tasks or assignments, and enforcement activities included in the RMP. Reporting and inclusion of new information derived from research, monitoring, and evaluation activities described in the plan provide assurance that performance standards will be achieved in future seasons.

### **Summary of Comments Received in the Response to the Proposed Evaluation and Pending Determination**

NMFS published notice of its Proposed Evaluation and Pending Determination (PEPD) on the plan for public review and comment on December 7, 2017 (82 FR 57729). The PEPD was available for public review and comment for 30 days.

During the public comment period, 121 comments were received, all by email. These came in the form of: individual, unique comments; individuals who submitted form-letter communications, some with added comments; and letters from fish conservation organizations. NMFS thoroughly reviewed and considered all of the substantive comments received from the public and the additional literature and studies submitted. This review of new information and data informed NMFS' subsequent analysis, in its biological opinion, but did not lead to any changes to the Skagit RMP, as submitted, or to NMFS' determination that the plan adequately addresses the 4(d), Limit 6 criteria. A section summarizing and responding to the substantive comments received during the public comment period on the PEPD is included as part of the final evaluation

document, available on the West Coast Region web site. Based on its evaluation and recommended determination and taking into account the public comments, NMFS issued its final determination on the joint state-tribal plan.

**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 (50 CFR 223.203(b)) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the rule do not apply to actions undertaken in compliance with a plan developed jointly by a state and a tribe and determined by NMFS to be in accordance with the salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000).

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