



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XD203]

Endangered and Threatened Species; Notice of Intent to Prepare a Programmatic Environmental Impact Statement for NOAA's Expenditure of Funds to Increase Prey Availability for Southern Resident Killer Whales

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

ACTION: Notice of intent to prepare an environmental impact statement, request for comments.

SUMMARY: This notice announces an Environmental Impact Statement (EIS) will be prepared in accordance with the National Environmental Policy Act (NEPA) to analyze the impacts to the environment of alternatives related to a funding program addressing species affected by fisheries managed under the Pacific Salmon Treaty (PST). NMFS intends to make funding decisions related to increasing the availability of prey to Southern Resident Killer Whales (SRKWs). This notice is necessary to inform the public of NMFS's intent to prepare this EIS and to provide the public with an opportunity to provide input for NMFS's consideration.

DATES: The NMFS requests comments concerning the scope of the analysis, and identification of relevant information, studies, and analyses. All comments must be received by 11:59 pm Eastern Time on *[insert 45 days from date of publication in the FEDERAL REGISTER]*.

ADDRESSES: Send written comments to NOAA Fisheries, 2900 NW Stewart Parkway, Roseburg, OR 97471. Comments may also be sent via e-mail to hatcheries.public.comment@noaa.gov. For further information, please see the

following website: <https://www.fisheries.noaa.gov/action/review-prey-increase-program-southern-resident-killer-whales>

Instructions: It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should help NMFS identify potential alternatives, information, and analyses relevant to the proposed action. Comments must be submitted by one of the above methods to ensure they are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record. All personal identifying information (*e.g.*, name, address, *etc.*) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments.

FOR FURTHER INFORMATION CONTACT: Lance Kruzic, NMFS, 541-802-3728, hatcheries.public.comment@noaa.gov .

SUPPLEMENTARY INFORMATION:

Purpose and Need for the Proposed Action

The purpose and need of the proposed action is to provide for additional prey (food) for the benefit of SRKWs, which are listed as endangered under the Endangered Species Act (ESA) consistent with applicable laws and treaties.

Preliminary Proposed Action and Alternatives

The United States and Canada have an agreement for the management of Chinook salmon and the fisheries that affect Chinook stocks that is part of the PST. This agreement was renewed in 2019 and is currently in effect through 2028. In association with the renewed agreement, the U.S. section of the Pacific Salmon Commission, the

international body that implements the PST, agreed to seek Federal funding for activities to conserve certain species listed under the ESA that are affected by fisheries managed under the PST. Congress has appropriated annual funding for these activities in 2020 through 2023. A portion of the funding has been awarded to hatchery operators in the Pacific Northwest to increase production of Chinook salmon for the purpose of increasing prey for SRKWs.

NMFS is proposing to continue implementation of the funding program to increase prey for the benefit of SRKWs. Beginning in 2020, NMFS funded the production of additional hatchery Chinook salmon in existing hatchery programs in Washington, Oregon, and Idaho. Specific criteria were developed to guide these funding decisions to maximize the benefits to SRKWs, while mitigating potential adverse effects to salmon and steelhead listed under the ESA. NMFS conducted site-specific NEPA analyses for each funding decision or otherwise ensured that effects from funding specific hatcheries were evaluated within existing NEPA analyses. However, in a recent court ruling (*Wild Fish Conservancy v. Rumsey*, W.D. Wash., Order Adopting Report and Recommendation, August 8, 2022), the court found that NMFS failed to conduct adequate NEPA analysis for the adoption of the prey increase program. This EIS responds to the court's decision.

We will also be evaluating the effects of a No Action alternative, in which no Federal funding would be used to increase available Chinook prey for the benefit of SRKWs. NMFS is also planning to evaluate other possibilities. For example, instead of funding additional prey for SRKWs in the form of hatchery fish, funding could instead be used to improve the productivity of natural-origin salmon through habitat restoration/enhancement. Another alternative could reduce fishing impacts on select salmon stocks instead of producing additional hatchery fish. Through this notice, we are seeking input on these potential alternatives to help shape the development of our EIS

consistent with our purpose and need for the proposed action.

Summary of Expected Impacts

The EIS will evaluate a range of alternatives, and the effects of these alternatives, on the human environment. Key resources to be considered include, but are not limited to, SRKWs and other wildlife species, salmon and steelhead, socioeconomics, and aquatic habitats. Considering a range of alternatives means there is a range of impacts to the key resources specified above that would be evaluated in the EIS, such as different abundances of hatchery salmon available as prey for SRKWs, reduced fishery impacts and corresponding salmon abundances, and effects of additional hatchery salmon production on ESA-listed salmon and steelhead.

Anticipated Permits and Authorizations

The following consultations, permits, and/or other authorizations may be required as part of NMFS' continued funding to increase the availability of prey (food) for SRKWs: ESA Section 7 consultations, ESA Section 4(d) authorizations or Section 10 permits, Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat consultation; and consultation with Indian Tribes.

Schedule for the Decision-Making Process

The draft environmental impact statement is scheduled to be made available for public review in the fall of 2023, and issuance of the final environmental impact statement is scheduled for spring of 2024, with a Record of Decision issued soon thereafter.

Public Scoping Process

This notice of intent initiates the scoping process, which helps guide the development of the EIS. NMFS is hosting public webinars for informational purposes within the scoping period. Information on the webinar dates and times,

and instructions for connecting or calling into the webinar will be posted at:

<https://www.fisheries.noaa.gov/action/review-prey-increase-program-southern-resident-killer-whales>. Accommodations for persons with disabilities are

available; accommodation requests should be directed to Lance Kruzic (see **FOR FURTHER INFORMATION CONTACT**) at least 10 working days prior to the webinar.

Public comments will not be accepted during the webinars.

Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action

The primary purpose of the scoping process is for the public to assist NMFS in developing the EIS. NMFS requests that the comments be specific. In particular, we request information regarding: any science that would be relevant in this assessment; significant issues; identification of impacts of concern; review and input regarding monitoring; possible alternatives that meet the purpose and need; effects or impacts to the human environment from the proposed action or alternatives.

Decision Maker

Regional Administrator for the West Coast Region, NMFS.

Nature of Decision To Be Made

If after publication of the Record of Decision, we determine that all requirements are met for NMFS' NEPA and ESA responsibilities, we may continue to provide funding for the production of additional prey for SRKWs.

Authority: 42 U.S.C. 4321 *et seq.*; 40 CFR parts 1500–1508; and Companion Manual for NOAA Administrative Order 216–6A, 82 FR 4306

Dated: August 7, 2023.

Angela Somma,

Chief, Endangered Species Division,

Office of Protected Resources, National Marine Fisheries Service.

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