

Federalism implications as that term is defined in Executive Order 13132.

#### **Administrative Procedure Act/ Regulatory Flexibility Act**

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for notices concerning grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: April 9, 2004.

**Mary Pleffner,**

*Acting Assistant Secretary for Economic Development.*

[FR Doc. 04-8547 Filed 4-14-04; 8:45 am]

**BILLING CODE 3510-24-P**

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

[I.D. 032604B]

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

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

**ACTION:** Notice of availability and request for comment.

**SUMMARY:** The Puget Sound Treaty Tribes and the Washington Department of Fish and Wildlife submitted to NMFS, pursuant to the protective regulations promulgated for Puget Sound chinook salmon under the Endangered Species Act (ESA), a jointly developed Resource Management Plan (RMP). The RMP specifies the future management of commercial, recreational and tribal salmon fisheries potentially affecting listed Puget Sound chinook salmon from May 1, 2004, through April 30, 2010. This document serves to notify the public of the availability for comment of the proposed evaluation of the Secretary of Commerce (Secretary) as to how the RMP addresses the criteria in the ESA.

**DATES:** Written comments on the Secretary's proposed evaluation must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific Daylight Time on May 17, 2004.

**ADDRESSES:** Comments and requests for copies of the proposed evaluation

should be addressed to Keith Schultz, Sustainable Fisheries Division, National Marine Fisheries Service, 7600 Sand Point Way NE, Seattle, Washington 98115-0070, or faxed to (206) 526-6736. Comments on this proposed evaluation may be submitted by e-mail. The mailbox address for providing e-mail comments is *PSHARVEST.nwr@noaa.gov*. Include in the subject line the following document identifier: "PSHARVEST proposed evaluation". The document is also available on the internet at *www.nwr.noaa.gov/1sustfsh/limit6/lmt6sbmt.htm*.

**FOR FURTHER INFORMATION CONTACT:** Susan Bishop, Puget Sound Team Leader, at phone number: (206) 526-4587, or e-mail: *susan.bishop@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** This notice is relevant to the Puget Sound chinook salmon (*Oncorhynchus tshawytscha*) Evolutionarily Significant Unit (ESU).

#### **Background**

The Puget Sound Treaty Tribes and the Washington Department of Fish and Wildlife have provided to NMFS a jointly developed Resource Management Plan for Puget Sound chinook salmon. The RMP encompasses fisheries within the area defined by the Puget Sound Chinook Salmon ESU, as well as the western Strait of Juan de Fuca, which is not within the ESU. Harvest objectives specified in the RMP account for fisheries-related mortality throughout the migratory range of Puget Sound chinook salmon from Oregon and Washington to Southeast Alaska. The RMP also includes implementation, monitoring and evaluation procedures designed to ensure fisheries are consistent with these objectives.

As required by Sec. 223.203(b)(6) of the ESA 4(d) rule (50 CFR 223.203), the Secretary must determine pursuant to 50 CFR 223.209, and pursuant to the government-to-government processes therein, whether the RMP for Puget Sound chinook salmon would appreciably reduce the likelihood of survival and recovery of the Puget Sound chinook salmon and other affected threatened ESUs. The Secretary must consider how the RMP addresses the criteria in Sec. 223.203(b)(4) in making that determination.

#### **Authority**

Under section 4(d) of the ESA, 16 U.S.C. 1533(d), the Secretary is required to adopt such regulations as he deems necessary and advisable for the conservation of the species listed as threatened. The ESA salmon and

steelhead 4(d) rule (65 FR 42422, July 10, 2000) specifies categories of activities that contribute to the conservation of listed salmonids or are governed by a program that adequately limits impacts on 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 resource management plan developed jointly within the continuing jurisdiction of United States v. Washington by the Puget Sound Treaty Tribes and the State of Washington (joint plan) and determined by the Secretary to be in accordance with the provisions of 50 CFR sec. 223.203(b)(6).

Dated: March 30, 2004.

**Susan Pultz,**

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

[FR Doc. 04-8115 Filed 4-14-04; 8:45 am]

**BILLING CODE 3510-22-S**

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

[I.D. 020304D]

#### **Endangered and Threatened Species; Establishment of Species of Concern List, Addition of Species to Species of Concern List, Description of Factors for Identifying Species of Concern, and Revision of Candidate Species List Under the Endangered Species Act**

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

**ACTION:** Notice of establishment of species of concern list, addition of species to species of concern list, description of factors for identifying species of concern, and revision of candidate species list.

**SUMMARY:** NMFS establishes a species of concern list, places 45 species on this list, describes the factors it will consider when identifying species of concern, and revises the candidate species list. NMFS also solicits information and comments concerning the status of, research and stewardship opportunities for, and the factors for identifying species of concern.

**DATES:** These actions are effective on April 15, 2004.

**ADDRESSES:** Send comments and documentation regarding the status of any species of concern to the Chief of

Endangered Species, NMFS, Office of Protected Resources, 1315 East-West Highway, F/PR3, Silver Spring, MD 20910. Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is [soc.list@noaa.gov](mailto:soc.list@noaa.gov). Include in the subject line of the e-mail comment the following document identifier: Species of Concern List.

**FOR FURTHER INFORMATION CONTACT:** Marta Nammack at (301)713-1401, ext. 180, [marta.nammack@noaa.gov](mailto:marta.nammack@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The regulations implementing section 4 of the ESA (5 U.S.C. 1533) define "candidate" as "any species being considered by the Secretary [of Commerce or Interior] for listing as an endangered or a threatened species, but not yet the subject of a proposed rule" (50 CFR 424.02). Such a designation does not confer any procedural or substantive protections of the ESA on the candidate species.

In the past, NMFS also has placed species on its candidate species list for other reasons. In particular, NMFS has used this list to: (1) identify species potentially at risk; (2) increase public awareness about those species; (3) identify data deficiencies and uncertainties in species' status and threats; (4) stimulate cooperative research efforts to obtain the information necessary to evaluate species status and threats; and (5) foster voluntary efforts to provide stewardship for the species before an ESA listing as threatened or endangered becomes warranted. Other NMFS candidate species are those for which an ESA biological status review has determined that listing under the ESA is "not warranted" under section 4(b)(3)(B)(i) but for which significant concerns or uncertainties remain regarding their biological status and/or threats. In fact, the majority of NMFS' candidate species are not being considered actively for listing under the ESA. Rather, they have been identified as candidates because of concerns or great uncertainties regarding biological status and threats. The last version of the candidate species list was published in 1999 (64 FR 33466; June 23, 1999).

NMFS recognizes that using the candidate species list for these broader purposes may give the inaccurate impression that all these species are being considered for listing under the ESA. At the same time, there is value in publicly identifying species that, although they are not being considered for listing, are nevertheless of concern for reasons identified above. To restore the candidate species list to its original

meaning while still maintaining a publicly available list of other species of concern, NMFS is establishing a Species of Concern list, transferring 25 species from the candidate species list to this list, placing 20 additional species on this list, and removing 12 other species from the candidate species list. This will clarify that NMFS has concerns or insufficient information about species of concern, but is not actively considering listing them under the ESA.

NMFS will hereafter limit use of the term "candidate species" to refer to (1) species that are the subject of a petition to list and for which NMFS has determined that listing may be warranted, pursuant to section 4(b)(3)(A), and (2) species for which NMFS has determined, following a status review, that listing is warranted (whether or not they are the subject of a petition). This limited use of the term is consistent with NMFS' regulatory definition of "candidate species." NMFS will use the term "species of concern" to identify species about which NMFS has some concerns regarding status and threats, but for which insufficient information is available to indicate a need to list the species under the ESA. This may include species for which NMFS has determined, following a biological status review, that listing under the ESA is "not warranted," pursuant to ESA section 4(b)(3)(B)(i), but for which significant concerns or uncertainties remain regarding their status and/or threats. Species can qualify as both species of concern and candidate species. This discussion is limited to species under NMFS jurisdiction and does not apply to the regulatory practices of the U.S. Fish and Wildlife Service.

#### Factors for Identifying Species of Concern

In previous revisions of its candidate species list, NMFS identified candidate species by considering their biological status, determined by both demography and genetic composition of the species. Demographic concerns would occur when there is a significant decline in abundance or range from historical levels, and genetic concerns included outbreeding and inbreeding depression resulting from poor hatchery practices or substantially reduced numbers of natural individuals. NMFS will consider these demographic and genetic diversity concerns, as further elaborated by the following factors, in identifying species of concern: abundance and productivity; distribution; and life-history characteristics. These factors will be considered with regard to existing threats. More details on these factors

can be viewed on our web site: <http://www.nmfs.noaa.gov/pr/species/concern>.

The factors discussed above were considered in previous revisions of NMFS' candidate species list, though they were not published until 1997 (62 FR 37560; July 14, 1997). They were also considered in identifying the species of concern. NMFS will hereafter consider these factors for future revisions of the species of concern list. The weight given to certain factors may differ among species. When data are incomplete for any factor, as is often the case, it may still be appropriate to add a species to the species of concern list when there are existing threats. NMFS will review the best available information for the relevant factors and threats on a case by case basis and use its best professional judgment in deciding whether a species or population should be considered a species of concern. NMFS may conduct ESA status reviews on each species of concern as agency resources permit.

#### Species of Concern

Applying the factors described above, NMFS has transferred 25 candidate species to the species of concern list and identified 20 additional species as species of concern. Twelve additional species are removed from the candidate species list. Rationale for identifying the following species of concern is available at <http://www.nmfs.noaa.gov/pr/species/concern>. Table 1 at the end of this Notice lists the species of concern. Two species of concern are also considered to be candidate species because they are undergoing status reviews in response to an ESA petition to list them.

In some cases, vertebrate populations may be "species of concern" even though a determination on whether they qualify as "species" under the ESA has not yet been made. The ESA defines species as including "any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." Two policies describe the criteria for identifying distinct population segments (DPS): NMFS' Policy on Applying the Definition of Species Under the [ESA] to Pacific Salmon (criteria for evolutionarily significant units (ESUs) of Pacific salmon) (56 FR 58612, November 20, 1991); and NMFS' and U.S. Fish and Wildlife Service's (FWS) joint Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the ESA (61 FR 4722, February 7, 1996). In general, NMFS will determine whether a population

satisfies the criteria for a DPS after conducting an ESA status review.

NMFS may conduct status reviews on species that are not the subject of a petition. As with a petitioned species, initiation of a status review does not mean that an ESA listing is imminent. Even after a status review has been conducted, it is possible that the available information will be insufficient to make a determination on the status of the species. In such cases, NMFS will continue gathering new information as it becomes available, and the species may become or remain a species of concern.

### Identifying 45 Species of Concern

#### *Transferring 25 Candidate Species to the Species of Concern List*

NMFS transfers 25 species from the most recently published candidate species list (64 FR 33466; June 23, 1999) to the Species of Concern list. See the cited **Federal Register** notices for details.

Four of these species underwent status reviews that resulted in "not warranted" findings under ESA section 4(b)(3)(B)(i) and were identified as candidate species because of remaining concerns and uncertainties. These species now meet the definition of species of concern instead: Cook Inlet beluga whale (*Delphinapterus leucas*) (65 FR 38778; June 22, 2000), barndoor skate (*Raja laevis*) (67 FR 61055; September 27, 2002), Georgia Basin Pacific hake (*Merluccius productus*) DPS (65 FR 70514; November 24, 2000), and bocaccio (*Sebastes paucispinis*) (67 FR 69704; November 19, 2002).

In addition, NMFS denied a petition to list the largemouth sawfish (*Pristis pristis*) without conducting a status review because the petition did not present sufficient information indicating that listing may be warranted; however, because NMFS was concerned about the status of this species, it was added to the candidate species list (65 FR 12959; March 10, 2000). It no longer considered a candidate species, but it meets the definition of a species of concern, as those concerns still remain.

Fourteen other species of concern that were on NMFS' 1999 candidate species list are currently undergoing status reviews. Thirteen of these status reviews were initiated by NMFS and not in response to a petition and therefore do not qualify as candidate species: dusky shark (*Carcharhinus obscurus*), sand tiger shark (*Odontaspis taurus*), night shark (*Carcharinus signatus*), Alabama shad (*Alosa alabamae*), Atlantic salmon (*Salmo salar*) populations in the Gulf of Maine that were not included in the

endangered Gulf of Maine DPS listing (65 FR 69459; November 17, 2000), mangrove rivulus (*Rivulus marmoratus*), saltmarsh topminnow (*Fundulus jenkinsi*), opossum pipefish (*Microphis brachyurus lineatus*), goliath grouper (*Epinephelus itajara*, formerly the jewfish, officially changed by the American Fisheries Society on January 24, 2001), Nassau grouper (*Epinephelus striatus*), black abalone (*Haliotis cracherodii*), elkhorn coral (*Acropora palmata*), and staghorn coral (*Acropora cervicornis*). The Lower Columbia River coho salmon (*Oncorhynchus kisutch*) ESU (was the Southwest Washington/Lower Columbia River coho salmon ESU until results of an earlier status review indicated that the Lower Columbia River coho salmon population was an ESU) is undergoing a status review in response to a petition (65 FR 66221, November 3, 2000) and, therefore, qualifies as both a species of concern and a candidate species.

Six other species from the 1999 candidate species list not yet undergoing status reviews will now be considered species of concern instead: Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*), Puget Sound/Strait of Georgia coho salmon (*Oncorhynchus kisutch*) ESU, Oregon Coast steelhead (*Oncorhynchus mykiss*) ESU, key silverside (*Menidia conchorum*), speckled hind (*Epinephelus drummondhayi*), and warsaw grouper (*Epinephelus nigritus*).

#### *Adding 20 Other Species of Concern*

NMFS has identified 20 other species of concern. Four of these species (northern and southern DPSs of green sturgeon (*Acipenser medirostris*), 68 FR 4,433, January 29, 2003; white marlin (*Tetrapturus albidus*), 67 FR 57204, September 9, 2002, and Central Valley fall and late fall-run chinook salmon ESU (*Oncorhynchus tshawytscha*), 64 FR 50394, September 16, 1999) underwent status reviews after NMFS received petitions to list them. NMFS found that none of these species warranted listing as threatened or endangered under the ESA, but sufficient concerns remained to justify adding them to the candidate species list. The last revision of the candidate species list was published before these determinations were made, so these species never appeared in a published list of candidate species. Now these species qualify as species of concern, but not candidate species. One additional species (Oregon Coast coho salmon ESU (*Oncorhynchus kisutch*)) is currently undergoing a status review as a result of a new petition (67 FR 48601, July 25, 2002) and is therefore both a

species of concern and a candidate species.

The 15 new species of concern for which status reviews have not yet been initiated are: thorny skate (*Raja radiata*), rainbow smelt (east coast) (*Osmerus mordax*), cusk (Brosme brosmo), striped croaker (*Bairdiella sanctaeluciae*), humphead wrasse (Cheilinus undulatus), bumphead parrotfish (*Bolbometopon muricatum*), Atlantic wolffish (*Anarhichas lupus*), cowcod (*Sebastes levis*), Atlantic halibut (*Hippoglossus hippoglossus*), inarticulate brachiopod (*Lingula reevii*), pink abalone (*Haliotis corrugata*), green abalone (*Haliotis fulgens*), pinto abalone (*Haliotis kamtschatkana*), Hawaiian coral (*Montipora dilitata*), and ivory bush coral (*Oculina varicosa*).

#### *Removing 12 Species From the Candidate Species List*

In addition to the 25 species transferred from the candidate species list to the species of concern list, NMFS has removed 12 species from the candidate species list. NMFS reviewed the status of the following eight species/populations pursuant to petitions to list, made "not warranted" determinations, and removed them from the candidate species list: Gulf of Maine harbor porpoise (*Phocoena phocoena*) (64 FR 480; January 5, 1999), Puget Sound Pacific herring (*Clupea pallasii*) (66 FR 17659; April 13, 2001), Klamath Mountains Province ESU of steelhead (*Oncorhynchus mykiss*) (66 FR 17845; April 4, 2001), Puget Sound Pacific cod (*Gadus macrocephalus*) (65 FR 70514; November 24, 2000), Puget Sound walleye pollock (*Theragra chalcogramma*) (65 FR 70514; November 24, 2000), and Puget Sound brown (*Sebastes auriculatus*), copper (*S. caurinus*), and quillback rockfish (*S. maliger*) (66 FR 17659; April 13, 2001). Three species were listed as threatened or endangered after status reviews were conducted: smalltooth sawfish (*Pristis pectinata*) (68 FR 15674; April 1, 2003), Northern California steelhead (*Oncorhynchus mykiss*) ESU (65 FR 36074; June 7, 2000) and white abalone (*Haliotis sorenseni*) (66 FR 29046; May 29, 2001). Finally, NMFS turned jurisdiction of searun cutthroat trout (*Oncorhynchus clarki*) over to FWS; therefore, the Oregon Coastal ESU of searun cutthroat trout is no longer a NMFS candidate species (65 FR 21376; April 21, 2000).

Two species remain on NMFS' candidate species list: the Lower Columbia River coho salmon ESU and the Oregon Coast coho salmon ESU.

**Species of Concern Table**

Table 1 below contains a complete list of NMFS' species of concern. Any species of concern identified after this revision will be listed on our web page (<http://www.nmfs.noaa.gov/pr/species/concern>) and not published in the **Federal Register**. If the species is undergoing a status review, this will also be noted. Information on candidate species will be available on the same web site.

In Table 1, the common name appears as the first entry followed by the

scientific name, the family name, and the area of concern. This area denotes the general geographic boundaries of the species or the vertebrate population for which concern has been expressed. Results of status reviews may narrow the geographic areas or populations of concern in the future. It is important to note that the species of concern list is limited by the information available.

**Comments Solicited**

NMFS solicits information on the biology of and threats to, relevant research and stewardship opportunities

for, and the factors NMFS considers in identifying species of concern (see ADDRESSES). This information will help guide NMFS in: future revisions of the species of concern list, allocation of resources for species of concern, and further refinement of the factors considered in identifying species of concern. There is no deadline for submitting such information.

Dated: April 7, 2004.

**Wanda L. Cain,**

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

TABLE 1 - SPECIES OF CONCERN LIST

Common Name	Scientific Name	Family	Area of Concern <sup>1</sup>
<i>Marine Mammals</i> beluga whale <sup>2,3</sup>	<i>Delphinapterus leucas</i>	Monodontidae	Pacific-AK (Cook Inlet population).
<i>Fishes</i> dusky shark <sup>2</sup>	<i>Carcharhinus obscurus</i>	Carcharhinidae	Atlantic, Gulf of Mexico-Western North Atlantic DPS.
sand tiger shark <sup>2</sup>	<i>Odontaspis taurus</i>	Odontaspidae	Atlantic, Gulf of Mexico.
night shark <sup>2</sup>	<i>Carcharinus signatus</i>	Carcharhinidae	Atlantic, Gulf of Mexico.
largetooth sawfish <sup>2</sup>	<i>Pristis pristis</i>	Pristidae	Atlantic-TX, FL.
barndoor skate <sup>2,3</sup>	<i>Raja laevis</i>	Rajidae	Atlantic-Newfoundland, Canada to Cape Hatteras, NC.
thorny skate	<i>Raja radiata</i>	Rajidae	Atlantic-West Greenland to NY
Atlantic sturgeon <sup>2</sup>	<i>Acipenser oxyrinchus oxyrinchus</i>	Acipenseridae	Atlantic-Labrador to St. Johns R., FL; anadromous.
green sturgeon <sup>3</sup>	<i>Acipenser medirostris</i>	Acipenseridae	Pacific-northern DPS (including coastal spawning populations from the Eel River north, to the Klamath and Rogue rivers) and southern DPS (includes Sacramento River spawning population); anadromous.
Alabama shad <sup>2</sup>	<i>Alosa alabamae</i>	Clupeidae	Gulf of Mexico-AL, FL, anadromous.
coho salmon <sup>2</sup>	<i>Oncorhynchus kisutch</i>	Salmonidae	Pacific-Puget Sound/Strait of Georgia, <sup>2</sup> Lower Columbia River, <sup>2, 4</sup> and Oregon Coast <sup>4</sup> coho ESUs; anadromous.
steelhead trout <sup>2</sup>	<i>Oncorhynchus mykiss</i>	Salmonidae	Pacific-OR Coast ESU; <sup>2</sup> anadromous.
chinook salmon <sup>3</sup>	<i>Oncorhynchus tshawytscha</i>	Salmonidae	Pacific-Central Valley fall and late fall-run ESU
Atlantic salmon <sup>2</sup>	<i>Salmo salar</i>	Salmonidae	Atlantic-Gulf of Maine (other populations in streams and rivers within the range of the listed Gulf of Maine Atlantic salmon DPS); anadromous.
rainbow smelt	<i>Osmerus mordax</i>	Osmeridae	Atlantic-Labrador to NJ; anadromous.
cusck	<i>Brosme brosme</i>	Gadidae	Atlantic-Gulf of Maine.
Pacific hake <sup>2,3</sup>	<i>Merluccius productus</i>	Gadidae	Pacific-Georgia Basin DPS.
mangrove rivulus <sup>2</sup>	<i>Rivulus marmoratus</i>	Aplocheilidae	Atlantic-FL, estuarine.
saltmarsh topminnow <sup>2</sup>	<i>Fundulus jenkinsi</i>	Cyprinodontidae	Atlantic-TX, LA, MS, AL, FL.
key silverside <sup>2</sup>	<i>Menidia conchorum</i>	Atherinidae	Atlantic-Florida Keys.
opossum pipefish <sup>2</sup>	<i>Microphis brachyurus lineatus</i>	Syngnathidae	Atlantic-Florida (Indian River Lagoon).
striped croaker	<i>Bairdiella sanctaeluiciae</i>	Sciaenidae	Atlantic-FL, Antilles and Caribbean from Costa Rica to Guyana.
humphead wrasse	<i>Cheilinus undulatus</i>	Labridae	Indo-Pacific-Red Sea to the Tuamotus, north to the Ryukyus, east to Wake Islands, south to New Caledonia, throughout Micronesia; includes U.S. territories of Guam and American Samoa.
bumphead parrotfish	<i>Bolbometopon muricatum</i>	Scaridae	Indo-Pacific-Red Sea and East Africa to the Line Islands and Samoa; north to Yaeyama, south to the Great Barrier Reef and New Caledonia; Paulau, Caroline, Mariana in Micronesia; in U.S. it occurs in Guam, American Samoa, CNMI and the Pacific Remote Island Areas (Wake Islands).
Atlantic wolffish	<i>Anarhichas lupus</i>	Anarhichadidae	Atlantic-Georges Bank and western Gulf of Maine.
white marlin <sup>3</sup>	<i>Tetrapturus albidus</i>	Istiophoridae	Atlantic.
cowcod	<i>Sebastes levis</i>	Scorpaenidae	Pacific-Central OR to central Baja California and Guadalupe Island, Mexico.
bocaccio <sup>2,3</sup>	<i>Sebastes paucispinis</i>	Scorpaenidae	Pacific-Southern DPS (Northern CA to Mexico).

TABLE 1 - SPECIES OF CONCERN LIST—Continued

Common Name	Scientific Name	Family	Area of Concern <sup>1</sup>
Atlantic halibut	<i>Hippoglossus hippoglossus</i>	Pleuronectidae	Atlantic-Labrador to southern New England.
speckled hind <sup>2</sup>	<i>Epinephelus drummondhayi</i>	Serranidae	Atlantic-NC to Gulf of Mexico.
goliath grouper <sup>2</sup>	<i>Epinephelus itijara</i>	Serranidae	Atlantic-NC southward to Gulf of Mexico.
warsaw grouper <sup>2</sup>	<i>Epinephelus nigritus</i>	Serranidae	Atlantic-MA southward to Gulf of Mexico.
Nassau grouper <sup>2</sup>	<i>Epinephelus striatus</i>	Serranidae	Atlantic-NC southward to Gulf of Mexico.
<i>Brachiopoda</i>			
inarticulate brachiopod	<i>Lingula reevii</i>	Lingulidae	Pacific-Hawaii, only Kaneohe Bay.
<i>Mollusks</i>			
pink abalone	<i>Haliotis corrugata</i>	Haliotidae	Pacific-Point Conception, CA, to Bahia de Tortuga, Baja California.
black abalone <sup>2</sup>	<i>Haliotis cracherodii</i>	Haliotidae	Pacific-OR, CA, Baja California.
green abalone	<i>Haliotis fulgens</i>	Haliotidae	Pacific-Point Conception, CA, to Bahia Magdalena, Baja California.
pinto abalone	<i>Haliotis kamschatkana</i>	Haliotidae	Pacific-Sitka, AK, to Point Conception, CA.
<i>Anthozoans (Corals)</i>			
elkhorn coral <sup>2</sup>	<i>Acropora palmata</i>	Acroporidae	western Atlantic-Caribbean.
staghorn coral <sup>2</sup>	<i>Acropora cervicornis</i>	Acroporidae	western Atlantic- Caribbean.
Hawaiian reef coral	<i>Montipora dilatata</i>	Acroporidae	Pacific-Hawaii (Kaneohe Bay, Midway atoll, and Maro Reef).
ivory bush coral	<i>Oculina varicosa</i>	Oculinidae	Atlantic-West Indies, Bermuda, NC, FL, Gulf of Mexico, Caribbean.

<sup>1</sup> Defines the general geographic area or populations of concern for the species.

<sup>2</sup> Formerly on 1999 candidate species list

<sup>3</sup> Status review has been conducted, "not warranted" finding resulted, but concerns still remain.

<sup>4</sup> Also considered a candidate species because it is undergoing a status review in response to a petition to list.

DPS = distinct population segment, which is a species for purposes of the ESA.

ESU = evolutionarily significant unit, which is a DPS or species for purposes of the ESA

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 030304C]

#### Vessel Monitoring Systems (VMS); Approved Mobile Transmitting Units for Use in all of the Atlantic Highly Migratory Species (HMS) Fisheries Requiring VMS

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

**ACTION:** Notification of NOAA-approved VMS.

**SUMMARY:** This document provides notice of VMS approved by NOAA for use by vessels participating in all of the Atlantic HMS fisheries requiring VMS and sets forth relevant features of each monitoring system. A VMS is required to be installed and operating on all vessels that have been issued an HMS permit pursuant to 50 CFR 635.4 and that have pelagic longline gear on board. In the near future, VMS will also be required on vessels that have a directed shark limited access permit pursuant to 635.4 and either gillnet or bottom longline gear on board. This notice is necessary to provide approval of certain

VMS units and providers for use in these Atlantic HMS fisheries, and supercedes all previous type approval notices for the Atlantic HMS Fisheries.

**ADDRESSES:** To obtain copies of the list of NOAA-approved VMS mobile transmitting units and VMS communications service providers, or to obtain information regarding the status of VMS systems being evaluated by NOAA for approval, write to NOAA Fisheries, Office for Law Enforcement (OLE), 8484 Georgia Avenue, Suite 415, Silver Spring, MD 20910.

Completed activation forms must be sent to NOAA Enforcement, Koger Building, Room 130, 9721 Executive Center Drive North, St. Petersburg, FL 33702, or faxed to 727-570-5355.

For service provider contact information see the **SUPPLEMENTARY INFORMATION** section of this notice under the heading "VMS Provider Addresses."

**FOR FURTHER INFORMATION CONTACT:** For current listing information contact Mark Oswell, Outreach Specialist, phone: 301-427-2300, fax: 301-427-2055. For questions regarding VMS installation, activation forms, and status of evaluations contact Jonathan Pinkerton, National VMS Program Manager, phone: 301-427-2300, fax: 301-427-2055. For questions regarding VMS unit activation, contact Beverly Lambert, Southeast Division VMS Program Manager at 727-570-5344.

The public may acquire this notice, activation procedures, and relevant

updates by contacting the Southeast Enforcement Division VMS staff, phone 727-570-5344, fax 727-570-5355.

**SUPPLEMENTARY INFORMATION:** The list of satellite transceivers and communications service providers approved for use in the Atlantic HMS fisheries is provided below. Activation guidelines are also provided for each unit or service listed in this notice.

#### I. VMS Mobile Transceiver Units

##### A. Inmarsat-C Transceivers

The Inmarsat-C satellite communications VMS transmitting units that meet the minimum technical requirements for the Atlantic HMS Fisheries are the Thrane & Thrane Fishery "Capsat" (part number TT-3022D-NMFS) and the Thrane & Thrane Fishery "Mini-C" (part number TT-3026-NMFS); Trimble Galaxy TNL7005 (part number 17760-45) with software v5.1; and Trimble Galaxy Courier TNL8005 (part number 30090-45) with software v5.1. Both Trimble units use antenna part number 25132-01 and must run software version 5.1, or later. Those vessels using earlier versions of Trimble software (5.0, and earlier) must contact their Trimble-Authorized Support Dealer to upgrade to firmware version 5.10 or 5.10a, and set the parameters equivalent to software version 5.1, or later. Addresses for the Thrane & Thrane distributor (LandSea Systems) and the Trimble dealer contact are provided in this notice under the