

17, 2008 (73 FR 14222), listed the application deadline as April 16, 2008. The correct application deadline is 5 p.m. EST, April 18, 2008.

Intergovernmental Review

Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

Limitation of Liability

In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if these programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not obligate NOAA to award any specific project or to obligate any available funds.

National Environmental Policy Act (NEPA)

NOAA must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals which are seeking NOAA Federal funding opportunities. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA Web site: <http://www.nepa.noaa.gov/>, including our NOAA Administrative Order 216-6 for NEPA, http://www.nepa.noaa.gov/NAO216_6_TOC.pdf, and the Council on Environmental Quality implementation regulations, http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm. Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (e.g., the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be requested to assist NOAA in drafting of an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for not selecting an application. In some cases if additional information is required after

an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

Department of Commerce Pre-Award Notification

Requirements for Grants and Cooperative Agreements

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of February 11, 2008 (73 FR 7696), are applicable to this solicitation.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, and SF-LLL and CD-346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348-0043, 0348-0044, 0348-0040, 0348-0046, and 0605-0001. Notwithstanding any other provision of law, no person is required to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866

This notice has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, 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 for the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory

flexibility analysis has not been prepared.

Helen Hurcombe,

Director, Acquisition and Grants Office.

[FR Doc. E8-7708 Filed 4-10-08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XH15

Notice of Availability of a Draft Environmental Impact Statement and Habitat Conservation Plan

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

ACTION: Notice; availability of documents for public comment and public hearings.

SUMMARY: This notice announces the availability of the Draft Environmental Impact Statement (DEIS) and draft habitat conservation plan (HCP) for public review and comment. The City of Portland (City) has submitted an application to the National Marine Fisheries Service (NMFS) for an incidental take permit under section 10 of the Endangered Species Act (ESA) of 1973 as amended. The HCP also serves as the basis of an application to NMFS that they take steps under the ESA to limit the application of the prohibition against take of listed salmon and steelhead so that it does not apply to the continued operation and maintenance of the Bull Run water supply system.

DATES: Written comments on the draft HCP, Implementation Agreement and DEIS will be accepted for a period of 60 days, ending at 5 p.m. Pacific Time on May 27, 2008. Written comments may be sent by mail, facsimile, or e-mail to the addresses listed below.

ADDRESSES: Please address written comments to Nancy Munn, National Marine Fisheries Service, 1201 NE Lloyd Blvd, Suite 1100, Portland, Oregon 97232, facsimile (503) 231-6893. Please send e-mail comments to: BullRunHCP.nwr@noaa.gov.

FOR FURTHER INFORMATION CONTACT: For further information, or to receive the documents on CD ROM, please contact Nancy Munn, Project Manager, National Marine Fisheries Service, (503) 231-6269.

SUPPLEMENTARY INFORMATION: The documents being made available include: (1) the proposed habitat

conservation plan; (2) the proposed Implementing Agreement; and (3) the draft environmental impact statement (DEIS). This notice is provided pursuant to the ESA and the National Environmental Policy Act (NEPA) of 1969, as amended. The NMFS is furnishing this notice to allow other agencies and the public an opportunity to review and comment on these documents. All comments received will become part of the public record for this action. Hard bound copies of the conservation plan, Implementation Agreement, and DEIS are available for viewing, or partial or complete duplication, at all Oregon State libraries and the main Multnomah County Library in Portland, Oregon.

Background

Section 9 of the ESA and Federal regulations prohibit the unauthorized "taking" of a species listed as endangered or threatened. The term take is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Harm is defined to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3, 50 CFR 222.102). NMFS further defines harm to include significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, spawning, migrating, rearing, and sheltering (64 FR 60727). The NMFS may issue incidental take permits, under section 10(a)(1)(B) of the ESA, to take listed species incidental to, and not the purpose of, otherwise lawful activities. NMFS regulations governing permits for federally endangered and threatened species are promulgated under 50 CFR 222.307. NMFS also may issue a rule under section 4(d) of the ESA, providing for the conservation of threatened species while authorizing incidental take under certain conditions. The Bull Run watershed has been used by the City for water supply since 1895. The City's water system provides water to residents and businesses within the City as well as to a number of surrounding communities. As a result of the listing of several salmon and steelhead species in Oregon State in the mid to late 1990s, the City was concerned about compliance with the ESA and other Federal regulations, and water supply reliability and affordability. The presence and operation of the water

system infrastructure creates impacts on habitat for several species of listed fish because of changes in river flow, river temperature, and aquatic and riparian habitat. The City's conservation plan includes 49 habitat conservation measures to protect and improve water quality and habitat for aquatic species within the boundaries of the Sandy River Basin.

The City has applied to: (1) obtain an incidental take permit, pursuant to section 10(a)(1)(B) of the ESA for endangered, threatened and covered species; and, (2) request from the NMFS a limitation on the application of the prohibition against take, pursuant to section 4(d) of the ESA for identified threatened species only, for activities associated with the continued operation and maintenance of the Bull Run water supply system. The activities associated with the continued operation and maintenance of the Bull Run water supply system are described in the draft HCP and Implementing Agreement and serve as documentation that the conservation plan meets the requirements of section 4(d) as well as section 10. Each of these activities is represented as an alternative in the DEIS. Activities proposed for coverage under the incidental take permits or for a limitation on the application of the prohibition against take include the following: (1) operation, maintenance, and repair of the water system; (2) implementation of habitat conservation, research, and monitoring measures; and (3) incidental land management activities. The proposed incidental take permits would authorize the take of the following federally threatened species incidental to otherwise lawful activities: Lower Columbia River chinook salmon (*Oncorhynchusshawytscha*), Lower Columbia River steelhead (*O. mykiss*), Lower Columbia River coho salmon (*O. keta*), and Columbia River chum salmon (*O. keta*).

The draft HCP also includes conservation measures and effects analyses for 18 fish and wildlife species under the jurisdiction of the U.S. Fish and Wildlife Service. The species included are those most likely to be affected by water system operations and/or benefited by measures designed for the anadromous fish.

The proposed duration of the incidental take permit and conservation plan would be 50 years, though many aspects of the plan's conservation strategy are intended to benefit aquatic species and their habitat long into the future. The NMFS formally initiated an environmental review of the project through publication of a Notice of Intent to prepare an Environmental Impact

Statement in the **Federal Register** on March 27, 2006 (71 FR 15168). That document also announced a public scoping period during which interested parties were invited to provide written comments expressing their issues or concerns relating to the proposal and to attend one of two public scoping meetings held in Portland, Oregon. Based on public scoping comments, NMFS has prepared a DEIS to analyze the effects of alternatives on the human environment. Implementation of the City's conservation plan, including issuance of the associated incidental take permits from NMFS for threatened species is Alternative 2 in the DEIS. Three other alternatives are analyzed in the DEIS including: Alternative 1, no action, in that the incidental take permit would not be issued to the City; and Alternative 3, providing fish passage facilities at the two dams on the Bull Run River.

This document is provided pursuant to the ESA and NEPA regulations. NMFS will evaluate the application, associated documents, and comments submitted thereon to determine whether the applications meet the requirements of the ESA and NEPA. The NMFS will revise the DEIS in a Final Environmental Impact Statement. The NMFS' decisions whether to issue an incidental take permit or limits on the application of the prohibition against take will be made upon completion of the Endangered Species Act determinations and Final Environmental Impact Statement and associated Record of Decision.

Public Meetings

The NMFS has scheduled two public meetings to receive comments from the public concerning the DEIS and draft HCP. (1) Monday April 28, 2008, 5:30 p.m. to 8:30 p.m., East Portland Community Center, Multipurpose Room 1, 740 SE 106th Ave, Portland, Oregon (2) Tuesday, April 29, 2008, 5:30 p.m. to 8:30 p.m., Lovejoy Room, Portland City Hall, 1221 SW 4th Ave., Portland, Oregon.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Nancy Munn, (503) 231-6893 at least 5 working days prior to the meeting date.

Dated: April 7, 2008.

Angela Somma,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 070727423-8495-02]

RIN 0648-XB75

Endangered and Threatened Species; Notice of Finding on a Petition to List the Lynn Canal Population of Pacific Herring as a Threatened or Endangered Species

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

ACTION: Notice of finding; initiation of status review.

SUMMARY: We, NMFS, announce a 12-month finding on a petition to list Lynn Canal Pacific Herring (*Clupea pallasii*) as a threatened or endangered Species under the Endangered Species Act (ESA). After a formal review of the best available scientific and commercial information, we find that listing Lynn Canal Pacific herring as threatened or endangered under the ESA is not warranted because this population does not constitute a species, subspecies, or distinct population segment (DPS) under the ESA. However, the Lynn Canal population is part of a larger DPS of Pacific herring that may warrant listing under the ESA, and, therefore, we initiate a status review to evaluate its status.

DATES: The finding announced in this notice is effective immediately.

ADDRESSES: The complete file for this finding is available for public inspection by appointment during normal business hours at the office of NMFS Alaska Region, Protected Resources Division, 709 West Ninth Street, Room 461, Juneau, AK 99801. This file includes the status review report, information provided by the public, and scientific and commercial information gathered for the status review.

FOR FURTHER INFORMATION CONTACT: Erika Phillips, NMFS Alaska Region, (907) 586-7312, Kaja Brix, NMFS Alaska Region, (907) 586-7235 or Marta Nammack, NMFS Office of Protected Resources, (301) 713-1401.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (ESA) requires that when a petition to revise the List of Endangered and Threatened Wildlife and Plants is found to present substantial scientific and commercial information, we make a finding on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. This finding is to be made within 1 year of the date the petition was received, and the finding is to be published promptly in the **Federal Register**.

On April 2, 2007, we received a petition to designate the Lynn Canal stock of Pacific herring (*Clupea pallasii*) as a threatened or endangered DPS under the ESA. The petition was submitted by the Juneau Group of the Sierra Club, Juneau, Alaska. The Petitioner also requested that we designate critical habitat for Lynn Canal Pacific herring concurrent with listing under the ESA.

After reviewing the petition, the literature cited in the petition, and other literature and information available in our files, we found that the petition met the requirements of the regulations under 50 CFR 424.14(b)(2) and determined that the petition presented substantial information indicating that the petitioned action may be warranted. This finding was published on September 10, 2007 (72 FR 51619). At that time, we commenced a status review of Lynn Canal herring and solicited information pertaining to the stock structure and status of Pacific herring in southeast Alaska, including Lynn Canal.

Status Review

In order to determine whether the Lynn Canal Pacific herring population constitutes a species that warrants protection under the ESA, we convened a Biological Review Team of Federal scientists with expertise in Pacific herring biology, fish genetics and stock delineations, population ecology of forage fishes, nearshore marine ecology, fisheries stock assessment, and herring population status reviews. This expert panel reviewed Pacific herring life history, genetics data, stock structure research, information on larval distribution and transport, spawning distributions, tagging studies, metapopulation research, and other published and unpublished literature and data on herring stocks throughout the eastern North Pacific.

For the purposes of the ESA, Congress has defined a species as “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” (16 U.S.C. 1532(16)). Guidance on what constitutes a distinct population segment (DPS) is provided by the joint NMFS-USFWS interagency DPS policy (61 FR 4722; February 7, 1996). In order to be classified as a DPS, a vertebrate population must meet two criteria - discreteness and significance. A population, or group of populations, must first be “discrete” from other populations and then “significant” to the taxon (species or subspecies) to which it belongs.

According to the joint DPS policy, a population segment may be considered discrete if it satisfies either one of the following conditions: (1) it is markedly separated from other populations of the same biological taxon as a consequence of physical, physiological, ecological, or behavioral factors (quantitative measures of genetic or morphological discontinuity may provide evidence of this separation); or (2) it is delimited by international governmental boundaries across which there is a significant difference in exploitation control, habitat management or conservation status. If a population is determined to be discrete, the agency must then consider whether it is significant to the taxon to which it belongs. When evaluating the significance of a discrete population, we consider the following: (1) persistence of the discrete population in an unusual or unique ecological setting for the taxon; (2) evidence that the loss of the discrete population segment would cause a significant gap in the taxon's range; (3) evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere outside its historical geographic range; or (4) evidence that the discrete population has marked genetic differences from other populations of the species.

We considered several types of data and information when evaluating the DPS structure and discreteness of populations of Pacific herring in Lynn Canal and the eastern North Pacific. This information included: geographic variability in life-history characteristics, physiology, and morphology; ecosystem and oceanographic conditions; spawn timing and locations; tagging and recapture studies that would indicate the extent of migration and intermingling among stocks; and studies of genetic differentiation among stocks