

Ambassador Place, Suite 101, Portland, OR 97220-1384.

**FOR FURTHER INFORMATION CONTACT:** Robin Ehlke, Pacific Council; telephone: (503) 820-2410.

**SUPPLEMENTARY INFORMATION:** The purpose of the methodology review meeting is to discuss and review proposed changes to analytical methods used in salmon management. Three topics were approved for consideration of review at the September 2019 Pacific Council meeting: (1) Conduct the technical analysis needed to inform a change of the salmon management boundary line from latitude 40°05' (Horse Mountain, California) five miles north to latitude 40°10', (2) Examine the data and models used to forecast impacts on Columbia River summer Chinook to determine whether a change in methodology is warranted, and (3) Provide documentation of the abundance forecast approach used for Willapa Bay natural coho.

Results and recommendations from this methodology review meeting will be presented at the November 2019 Pacific Council meeting where the Pacific Council is scheduled to take final action on the proposals. A draft of the updated Fishery Regulation Assessment Model user manual provided by the Pacific Council's Model Evaluation Workgroup may also be discussed. If time and interest allows, additional topics may be discussed, including, but not limited to, future Pacific Council agenda items.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

### Special Accommodations

The public listening station is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt ([kris.kleinschmidt@noaa.gov](mailto:kris.kleinschmidt@noaa.gov); (503) 820-2411) at least 10 days prior to the meeting date.

Dated: October 1, 2019.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XW008]

#### Endangered and Threatened Species; Initiation of 5-Year Reviews for 28 Listed Species of Pacific Salmon and Steelhead

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

**ACTION:** Notice of initiation of 5-year reviews; request for information.

**SUMMARY:** We, NMFS, are announcing 5-year reviews of 28 species listed under the Endangered Species Act of 1973, as amended (ESA). The listed species comprise 17 evolutionarily significant units (ESUs) of Pacific salmon (*Oncorhynchus spp.*) and 11 distinct population segments (DPSs) of steelhead (*Oncorhynchus mykiss*). The purpose of these reviews is to ensure the accuracy of their listing classifications. The 5-year reviews will be based on the best scientific and commercial data available at the time of the reviews; therefore, we are requesting that interested parties submit new relevant information on these ESUs and DPSs that has become available since the last species status reviews in 2016. Based on the results of these 5-year reviews, we will make the requisite determinations under the ESA.

**DATES:** To allow us adequate time to conduct these reviews, we must receive the new relevant information by close of business on March 27, 2020.

**ADDRESSES:** You may submit information on this document, identified by NOAA-NMFS-2019-0097, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal [www.regulations.gov](http://www.regulations.gov). To submit comments via the e-Rulemaking Portal, first click the "submit a comment" icon, then enter NOAA-NMFS-2019-0097 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the "Submit a Comment" icon to the right of that line.

- *Mail or Hand-delivery:* Address comments to Robert Markle, NMFS,

West Coast Region, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232.

**Instructions:** Comments must be submitted by one of the above methods to ensure that we can receive, document, and consider them. Comments sent by any other method, sent 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 and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. 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. We request that all information be accompanied by: (1) Supporting documentation such as maps, bibliographic references, or reprints of pertinent publications; and (2) the submitter's name, address, and any association, institution, or business that the person represents. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Please note that submissions without supporting information—those merely stating support for or opposition to the action under consideration—will be noted but not used in making any listing determinations, as such comments do not represent actual scientific or commercial data.

**FOR FURTHER INFORMATION CONTACT:** Robert Markle at the above address, by phone at (503) 230-5419, or by email at [robert.markle@noaa.gov](mailto:robert.markle@noaa.gov).

**SUPPLEMENTARY INFORMATION:** Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every five years. On the basis of such reviews, we determine under section 4(c)(2)(B) whether a species should be delisted, or reclassified from endangered to threatened or from threatened to endangered.

We will undertake reviews for the following 17 Pacific salmon ESUs: (1) Sacramento River winter-run Chinook salmon; (2) Upper Columbia River spring-run Chinook salmon; (3) Snake River spring/summer-run Chinook salmon; (4) Central Valley spring-run Chinook salmon; (5) California Coastal Chinook salmon; (6) Puget Sound Chinook salmon; (7) Lower Columbia River Chinook salmon; (8) Upper Willamette River Chinook salmon; (9) Snake River fall-run Chinook salmon; (10) Hood Canal summer-run chum salmon; (11) Columbia River chum salmon; (12) Central California Coast

coho salmon; (13) Southern Oregon/Northern California Coast coho salmon; (14) Lower Columbia River coho salmon; (15) Oregon Coast coho salmon; (16) Snake River sockeye salmon; and (17) Ozette Lake sockeye salmon. We will also undertake reviews for the following 11 steelhead DPSs: (1) Southern California steelhead; (2) Upper Columbia River steelhead; (3) Middle Columbia River steelhead; (4) Snake River Basin steelhead; (5) Lower Columbia River steelhead; (6) Upper Willamette steelhead; (7) South-Central California Coast steelhead; (8) Central California Coast steelhead; (9) Northern California steelhead; (10) California Central Valley steelhead; and (11) Puget Sound steelhead. Information about these 17 ESUs and 11 DPSs can be found on our West Coast regional website: <http://www.westcoast.fisheries.noaa.gov>.

Our regulations for periodic reviews (50 CFR 424.21) require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active reviews of the ESUs and DPSs listed above. Any change in listing classification would require a separate rulemaking process.

#### **Determining if a Species is Threatened or Endangered**

Section 4(a)(1) of the ESA requires that we determine whether a species is endangered or threatened based on one or more of the five following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Section 4(b) also requires that our determination be made on the basis of the best scientific and commercial data available after taking into account those efforts, if any, being made to protect such species.

#### **Application of the ESU and DPS Policies**

NMFS is responsible for determining whether species, subspecies, or DPSs of marine and anadromous species are threatened or endangered under the ESA. For Pacific salmon, we use our Policy on Applying the Definition of Species under the ESA to Pacific Salmon (ESU Policy) (November 20, 1991; 56 FR 58612) in determining the appropriate taxonomic unit for listing considerations. Under this policy, populations of salmon that are substantially reproductively isolated

from other conspecific populations and that represent an important component in the evolutionary legacy of the biological species are considered to be an ESU. In our listing determinations for Pacific salmon under the ESA, we have determined that an ESU constitutes a DPS and may therefore be considered a “species,” under the ESA.

For non-salmon species, including steelhead, NMFS applies the joint U.S. Fish and Wildlife Service-NMFS DPS policy (February 7, 1996; 61 FR 4722) in identifying the appropriate taxonomic unit for listing consideration. Under this policy, a DPS must be discrete from other conspecific populations, and it must be significant to its taxon. A group of organisms is discrete if it is “markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, and behavioral factors.” Under the DPS Policy, if a population group is determined to be discrete, the agency must then consider whether it is significant to the taxon to which it belongs.

Considerations in evaluating the significance of a discrete population include: (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.

On June 28, 2005, we announced a final policy addressing the role of artificially propagated (hatchery-produced) Pacific salmon and steelhead in listing determinations under the ESA (70 FR 37204). Specifically, this policy (1) establishes criteria for including hatchery stocks in ESUs and DPSs; (2) provides direction for considering hatchery fish in extinction risk assessments of ESUs and DPSs; (3) requires that hatchery fish determined to be part of an ESU or DPS will be included in any listing decision; (4) affirms NMFS’ commitment to conserving natural salmon and steelhead populations and the ecosystems upon which they depend; and (5) affirms NMFS’ commitment to fulfilling trust and treaty obligations with regard to the harvest of some Pacific salmon and steelhead populations, consistent with the conservation and recovery of listed salmon and steelhead ESUs and DPSs.

#### **Public Solicitation of New Relevant Information**

The 5-year reviews will consider the best scientific and commercial data available, particularly new information that has become available since the species’ previous status reviews. Our Northwest and Southwest Fisheries Science Centers will assist the West Coast Region in gathering and analyzing this information. To ensure that the 5-year reviews are complete and based on the best available information, we are soliciting new information from the public, concerned governmental agencies, Native American tribes, the scientific community, industry, environmental entities, and any other parties interested in the status of the ESUs and DPSs listed above.

Specifically, we are seeking new information (generated since 2015) on: (1) Population abundance; (2) population productivity; (3) changes in species distribution or spatial structure; (4) genetics or other indicators of diversity; (5) changes in habitat conditions and associated limiting factors and threats; (6) conservation measures that have been implemented that benefit the species—including data that demonstrate the effectiveness of such measures in addressing identified limiting factors or threats; (7) data concerning the status and trends of identified limiting factors or threats; (8) information that may affect determinations regarding the composition of an ESU or DPS; (9) information on hatchery program changes that may affect determinations regarding a program’s ESU or DPS membership; (10) information on targeted harvest (commercial, tribal, and recreational) and bycatch of the species; and (11) any other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes, identification of any erroneous information in the previous listing determinations, and improved analytical methods for evaluating extinction risk. Previous status reviews and supporting information are available on the internet at: [https://www.westcoast.fisheries.noaa.gov/publications/status\\_reviews/salmon\\_steelhead/2016\\_status\\_review.html](https://www.westcoast.fisheries.noaa.gov/publications/status_reviews/salmon_steelhead/2016_status_review.html).

If you wish to provide information for these 5-year reviews, see **ADDRESSES** for instructions.

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: October 1, 2019.

**Donna S. Wieting,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XR036

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Oil and Gas Activities in Cook Inlet, Alaska

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

**ACTION:** Notice; issuance of modified Letter of Authorization.

**SUMMARY:** Pursuant to the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, NMFS issued a modified Letter of Authorization to Hilcorp Alaska LLC (Hilcorp) to take marine mammals incidental to oil and gas activities in Cook Inlet, Alaska.

**DATES:** Effective until July 31, 2020.

**FOR FURTHER INFORMATION CONTACT:** Sara Young, Office of Protected Resources, NMFS, (301) 427-8401.

#### SUPPLEMENTARY INFORMATION:

##### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact

resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term “take” means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: Any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

#### Summary of Request

NMFS issued regulations governing the take of eleven species of marine mammal, by Level A and Level B harassment, incidental to Hilcorp’s oil and gas activities on July 31, 2019 (84 FR 37442). These regulations include mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during the specified activities. As further detailed in the regulations (50 CFR 217.167), adaptive management measures allow NMFS to modify or renew Letters of Authorization as necessary if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring set forth in those regulations.

Here, NMFS proposes to modify a mitigation measure pertaining to 3D seismic surveying during Year 1 of Hilcorp’s activity. NMFS’ final regulations contain a mitigation measure that mistakenly states that the entire exclusion zone (EZ) must be visually cleared by protected species observers (PSOs) before ramp up of seismic airguns during the 3D seismic survey may occur. This measure is correct for operations beginning in daylight hours, however, requiring visual clearance of the entirety of the EZ to ramp up airgun activity at night was not NMFS’ intent. The intent was that PSOs should monitor the EZ to the greatest extent possible for 30 minutes prior to ramp-up of nighttime operations, but with the understanding that it is not possible to observe the entirety of the EZ at night and that Hilcorp would still be allowed to initiate ramp-up as long as no marine mammals were seen during this time. If any marine mammal is observed in the

EZ, during daylight hours or at night, ramp up would not commence until either the animal has voluntarily left and been visually confirmed outside the EZ or the required amount of time (15 minutes for porpoises and pinnipeds, 30 minutes for cetaceans) has passed without re-detection of the animal. The analysis and findings contained in the final rule were made under the premise that nighttime ramp up of airguns is allowable.

Ramping up airgun activity at night is essential to Hilcorp’s survey design and minimizes the amount of days that active acoustic sources are emitting sound into the marine environment. As described in Hilcorp’s application, acquisition of one line of 3D seismic takes approximately five hours. At the end of a line while the vessel turns to prepare for the next line acquisition, NMFS requires that airguns are turned off, to reduce the amount of unnecessary noise emitted into the marine environment. Turning the source vessel takes approximately one and a half hours, during which no noise is emitted from airguns. By allowing ramp up of airguns at night, the total number of 3D seismic survey days is notably reduced, which reduces both the total duration of impacts on the acoustic habitat of marine mammals, as well as the impacts on (and potentially take of) marine mammals themselves.

Specifically, while there is a somewhat higher probability that a marine mammal might go unseen within the clearance zone when the airguns are initiated at night, the likelihood of injury is still low because of the ramp-up requirement, which ensures that any initial injury zone is small and allows animals time to move away from the source. In addition, PSOs are on duty monitoring the exclusion zone to the degree possible at that time. Further, any potential slight increase in the probability of injury (in the form of a small degree of permanent threshold shift (PTS), and not considered at all likely, or authorized, for beluga whales or other mid-frequency specialists) is offset by the reduced behavioral harassment and reduced potential for more serious energetic effects expected to result from the significant reduction in the overall number of days across which the area will be ensonified by the airgun operation.

Ramp up of airguns at night is also the most practicable survey design, which allows the survey to be completed as quickly as possible before weather conditions deteriorate and daylight decreases in Cook Inlet, and at less cost.

Of important note, this change in mitigation does not change either the