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September 6, 2005

## MEMORANDUM

**TO:** Council Members

**FROM:** Lynn Palensky

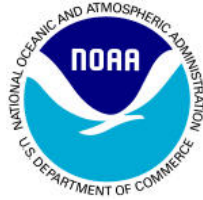
**SUBJECT:** Critical Habitat Designations

Donna Darm from NOAA Fisheries office in Seattle will be at the Council meeting to provide an update and overview of the recently released ESA Critical Habitat Designations for West Coast Salmon and Steelhead. Attached are a fact sheet and a map showing the critical habitat at a course scale in the basin. Donna will have additional materials for the members at the meeting.

For more information on Critical Habitat designations, visit  
<http://www.nwr.noaa.gov/1salmon/salmesa/crithab/CHsite.htm>.

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## **Final Critical Habitat Designations in Washington, Oregon, Idaho and California for Endangered and Threatened Pacific Salmon and Steelhead**

### **Today's Action**

NOAA Fisheries Service filed final rules Aug. 12, 2005, with the *Federal Register* to designate critical habitat areas in Washington, Oregon, Idaho and California for 19 species of salmon and steelhead listed as threatened and endangered under the Endangered Species Act (ESA). The designations include a separate rule for 12 species (also called "evolutionarily significant units" or ESUs) listed in Washington, Oregon and Idaho, and another for seven species listed in California. The final rules include analyses of the economic and other impacts of such designations, and address comments received from the public and peer reviewers on the agency's proposed designations announced last November. The critical habitat designations will become effective following publication of the final rules in the next one to two weeks.

### **Background**

The ESA requires the federal government to designate "critical habitat" for any species listed under the ESA, in this case, salmon and steelhead. "Critical habitat" is defined as specific areas on which are found physical or biological features essential to the conservation of the species, and which may require special management considerations or protection. Critical habitat designations must take into consideration the economic impact, impact on national security, and any other relevant impact of such designation, and areas may be excluded from critical habitat if a determination is made that the benefits of exclusion outweigh the benefits of specifying such area as part of the critical habitat. However, the failure to designate critical habitat in specific areas must not result in the extinction of the species.

Between 1989 and 2000, NOAA Fisheries Service listed 26 ESUs of Pacific salmon and steelhead in the Pacific Northwest and California. During that period the agency enacted final critical habitat designations for six of the 26: Snake River sockeye, Snake River fall Chinook, Snake River spring/summer Chinook, Sacramento winter-run Chinook, central California coast coho, and southern Oregon/northern California Coasts coho.

In February 2000, NOAA Fisheries Service published final critical habitat designations for 19 ESUs listed at that time. The agency stated that there would be no economic impact resulting from the designations, on the belief that very little or no additional requirements would be imposed beyond those already associated with the listing of the species themselves. A legal challenge was filed by the National Association of Homebuilders, and a federal court ruled that NOAA Fisheries Service did not adequately consider the economic impacts of the critical habitat designations.

In April 2002, NOAA Fisheries Service withdrew the February 2000 critical habitat designations. Another lawsuit was filed by the Pacific Coast Federation of Fishermen's Association and other plaintiffs, alleging that NOAA Fisheries Service failed to designate timely critical habitat for the 19 ESUs for which critical habitat had been vacated (as well as an additional listed species, the northern California steelhead). A settlement was entered into in which NOAA Fisheries Service ultimately agreed

to file final critical habitat designations by August 15, 2005, for those of the 20 ESUs that are listed as of that date.

### **Species Covered by the Final Rule.**

One document describes final critical habitat designations for the following 12 ESUs of salmon and steelhead in the Pacific Northwest: (1) Puget Sound Chinook salmon; (2) lower Columbia River Chinook salmon; (3) upper Willamette River Chinook salmon; (4) upper Columbia River spring-run Chinook salmon; (5) Hood Canal summer-run chum salmon; (6) Columbia River chum salmon; (7) Ozette Lake sockeye salmon; (8) upper Columbia River steelhead; (9) Snake River Basin steelhead; (10) middle Columbia River steelhead; (11) lower Columbia River steelhead; and (12) upper Willamette River steelhead.

The other document describes final critical habitat designations for the following seven ESUs of salmon and steelhead in California: (1) Central Valley spring-run Chinook salmon; (2) California coastal Chinook salmon; (3) southern California steelhead; (4) south-central California coast steelhead; (5) central California Coast steelhead; (6) Central Valley California steelhead; and (7) northern California steelhead.

Critical habitat had been proposed for Oregon coast coho salmon; however NOAA Fisheries Service is not issuing a final critical habitat designation for this ESU because it is not now listed under the ESA. We recently extended the deadline for making a final listing decision about this ESU and will make a final decision by December. At that time, if a decision is made to list Oregon coast coho salmon, we'll complete the steps for designating critical habitat.

### **Areas Designated as Critical Habitat**

Unlike the 2000 designations, which relied on the U.S. Geological Survey's (USGS) maps of sub-basins and included "all accessible river reaches within the current range of the listed species," the 2005 designations use a much finer, more specific scale in designating critical habitat for salmon and steelhead. The current designations identify stream and near-shore habitat areas where listed salmon and steelhead have actually been observed, or where biologist with local area expertise presume them to occur. These habitat areas are found within more than 800 watersheds in the Northwest and California.

The final designations use information provided during the recent public comment period on the proposed rule, and information gathered by the more than 400 watershed groups already doing larger-scale salmon recovery planning efforts in Washington, Oregon, Idaho and California, such as the Lower Columbia Fish Recovery Board, Northwest Power and Conservation Council, Oregon Plan for Salmon and Watersheds, Puget Sound Shared Strategy for Salmon, and California Bay-Delta Program (CALFED). The final designations also include updated scientific information to designate new critical habitat in estuarine and near-shore marine areas. Except for a small area in Hood Canal, Washington, unoccupied areas are not designated as critical habitat at this time.

The final designations focus on certain habitat features called "primary constituent elements" (PCEs) that are essential to support one or more of the life stages of salmon and steelhead. The designations analyze areas that will provide the greatest biological benefits for listed salmon and balance the economic and other costs for areas considered for designation.

The final designations cover 19 ESUs, 12 of which are in the Northwest Region (see Map 1). Of those 12, several occupy the same streams and have overlapping habitat (e.g., Lower Columbia River Chinook salmon and steelhead ESUs). The net total number of stream miles designated for all ESUs is 20,630, and the net number of stream miles excluded is 2,817. The designations include approximately 2,182

miles of near-shore habitat in Puget Sound. Nearly all of the designated stream miles were occupied at the time of listing; only eight miles of unoccupied stream reaches in Hood Canal are being designated (for threatened Hood Canal summer-run chum) because they are essential for the conservation of this ESU. We've identified other unoccupied areas that may be "essential for conservation," but at this time we lack sufficient information to determine that the currently occupied habitat is inadequate to conserve the ESUs.

The annual net economic impacts of changes to federal activities as a result of critical habitat designation (regardless of whether those activities would also change as a result of listing) are estimated to be approximately \$201.2 million. Fish and wildlife conservation actions for the Federal Columbia River Power System and other major hydropower projects in the Pacific Northwest are expected to generate another \$500-700 million in annual costs, including forgone power revenues. While these hydropower projects are covered by ESA Section 7, the conservation actions that generate these costs are imposed by a wide variety of laws.

The total number of miles designated for these 12 ESUs in the final rule differ slightly from those identified in the proposed rule (which included 20,705 stream miles proposed for designation and 2,476 stream miles proposed for exclusion). The table below shows the total amount of habitat designated for each ESU, as well as the ownership pattern for watersheds containing designated critical habitat.

ESU	Designated Areas			Ownership (%)			
	Streams (mi)	Lakes (sq mi)	Nearshore Marine (mi)	Federal	Tribal	State	Private
Puget Sound Chinook Salmon	1,683	41	2,182	46.4	1.0	10.0	42.6
Lower Columbia River Chinook Salmon	1,311	33		37.3	0.0	8.0	54.7
Upper Willamette River Chinook Salmon	1,472	18		38.6	0.4	0.9	60.1
Upper Columbia River Spring-run Chinook Salmon	974	4		53.4	0.0	7.3	39.2
Hood Canal Summer-run Chum Salmon	79		377	49.1	0.7	11.9	37.6
Columbia River Chum Salmon	708			15.8	0.0	14.0	69.8
Ozette Lake Sockeye Salmon	42	12		19.0	1.2	7.0	71.5
Upper Columbia River Steelhead	1,262	7		45.3	5.7	8.3	40.7
SNAKE RIVER BASIN Steelhead	8,049	4		65.7	3.9	2.1	28.3
Middle Columbia River Steelhead	5,815			26.0	13.2	3.7	57.1
Lower Columbia River Steelhead	2,324	27		44.5	0.5	5.9	49.2
Upper Willamette River Steelhead	1,276	2		9.7	0.3	1.9	88.1

Of the seven ESUs in California, several occupy the same streams and have overlapping habitat (e.g., Central Valley spring-run Chinook salmon and Central Valley California steelhead ESUs). The net total number of stream miles designated for all ESUs is 8,935, and the net number of stream miles excluded is 847. The designations include approximately 470 square miles of estuarine habitat, primarily in San Francisco-San Pablo-Suisun Bays. All of the designated stream miles were occupied at the time of listing. We identified other unoccupied areas that may be “essential for conservation,” but at this time we lack sufficient information to determine that the currently occupied habitat is inadequate to conserve the ESUs.

The annual net economic impacts of changes to federal activities as a result of the critical habitat designations (regardless of whether those activities would also change as a result of the ESA’s jeopardy requirement) are estimated to be approximately \$81,647,439.

The total number of miles designated for these seven ESUs in the final rule differ slightly from those identified in the proposed rule. The table below shows the total amount of habitat designated for each ESU, as well as the ownership pattern for watersheds containing designated critical habitat.

ESU	Designated Areas		Ownership (%)			
	Streams (mi)	Estuary Habitat (sq mi)	Federal	Tribal	State	Private
California Coastal Chinook Salmon	1,475	25	16.4	0.4	3.4	79.8
Northern California Steelhead	3,028	25	18.8	0.5	3.7	77.1
Central California Coast Steelhead	1,465	386	4.5	0.0	7.2	88.3
South-Central California Coast Steelhead	1,250	3	16.3	0.0	2.2	81.6
Southern California Steelhead	708	-	25.0	1.0	2.4	71.6
Central Valley Spring-run Chinook Salmon	1,158	254	12.1	0.0	3.3	84.5
Central Valley Steelhead	2,308	254	8.6	0.0	3.1	88.3

### **Areas Excluded from Critical Habitat Designation**

The ESA gives the Secretary of Commerce discretion to exclude areas from designation if he determines that the benefits of exclusion outweigh the benefits of designation. In these final designations we’ve excluded areas in the following categories:

Military areas. All military areas are excluded because of the current national priority on military readiness, and in recognition of conservation activities covered by military integrated natural resource management plans. In the Northwest, these exclusions total 29 stream miles and 48 shoreline miles in Puget Sound. In California, these exclusions total 44 stream miles.

Tribal lands. Native American lands are excluded because of the unique trust relationship between tribes and the federal government, the federal emphasis on respect for tribal sovereignty and self-governance, and the importance of tribal participation in numerous activities aimed at conserving salmon. In the Northwest these exclusions total 760 stream miles and 155 near-shore miles in Puget Sound. In California these exclusions total 32 stream miles.

Habitat conservation plans. Some lands covered by habitat conservation plans are excluded because we had evidence that exclusion would benefit our relationship with the landowner, the protections secured through these plans outweigh the protections that are likely through critical habitat designation, and exclusion of these lands may provide an incentive for other landowners to seek similar voluntary conservation plans. In the Northwest these exclusions total 381 stream miles; there were no HCP exclusions in California.

Economic Impacts. We excluded areas where the conservation benefit to the species is relatively low compared to the economic impacts. In the Northwest these exclusions total 1,987 stream miles. In California these exclusions total 771 stream miles. These exclusions reduce the economic impact in the Northwest Region by \$243.6 million and in California by about \$100.5 million.

### **Additional Information**

The final rules will be published in two *Federal Register* notices – one for seven California ESUs and one for 12 Northwest ESUs in Washington, Oregon and Idaho. Signed copies of these notices are available on our websites: <http://www.nwr.noaa.gov/1salmon/salmesa/crithab/CHsite.htm> and <http://swr.nmfs.noaa.gov/salmon.htm>. The *Federal Register* notices contain information describing specific streams and near-shore areas (including latitude and longitude identifiers) and maps of the areas designated. We've posted on the Internet a variety of related maps, documents, and data supporting the final designations. From these sites you can access an interactive map hosted by StreamNet where you can "zoom in" on areas of interest to see whether they're designated.

# NOAA Fisheries Northwest Region Critical Habitat Designations for West Coast Salmon and Steelhead - August 2005

