

some of the "species" that may be listed in the final rule. NMFS has also determined that the Puget Sound/Strait of Georgia ESU and lower Columbia River/southwest Washington coast ESU do not warrant listing at this time, but because there is sufficient concern regarding the health of these ESUs, NMFS is adding them to the Candidate List. NMFS will conduct a thorough reevaluation of the status of both ESUs and will reconsider the present decision that listings are not warranted. In the event that this reevaluation establishes that listing either ESU is warranted, NMFS will issue a proposed rule to list one or both ESUs as threatened or endangered.

A Technical Memorandum will be prepared by NMFS and will provide more detailed information and references concerning the coastwide status review of coho salmon. The availability of new information may cause NMFS to re-assess these proposed listings.

Prohibitions and Proposed Protective Measures

Section 9 of the ESA prohibits certain activities that directly or indirectly affect endangered species. These prohibitions apply to all individuals, organizations, and agencies subject to U.S. jurisdiction. Section 4(d) of the ESA allows the promulgation of regulations that modify or apply any or all of the prohibitions of section 9 to threatened species. Section 9 also prohibits violations of protective regulations for threatened species promulgated under section 4(d). As announced in a recent joint policy with the USFWS (59 FR 34272, July 1, 1994), NMFS will identify, to the extent known at the time of the final rule, specific activities that will not be considered likely to result in violation of section 9, as well as activities that will be considered likely to result in violation. For those activities whose likelihood of violation is uncertain, a contact will be identified in the final listing document to assist the public in determining whether a particular activity would constitute a prohibited act under section 9.

At this time, NMFS proposes to adopt protective measures to prohibit, with respect to the three ESUs of coho salmon proposed as threatened herein, "taking," interstate commerce, and the other ESA prohibitions applicable to endangered species, with the exceptions provided under section 10 of the ESA. Under the ESA, the term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such

conduct. This adoption is the normal course followed by the USFWS with respect to threatened listings (see 50 CFR 17.31(a)). NMFS is extending the provisions of section 9 and section 10 to these species in order to provide immediate protections to them. However, prior to the final listing determination, NMFS will consider adopting specific regulations under section 4(d) that will apply to one or more ESUs of coho salmon identified as threatened (see Public Comments Solicited). These regulations, promulgated pursuant to the Administrative Procedures Act, 5 U.S.C. 551 *et seq.*, with prior notice and opportunity for comment, may be in lieu of the Section 9 taking prohibition and Section 10 permit exception.

Available Conservation Measures

Conservation measures provided to species listed as threatened or endangered under the ESA include prohibitions on taking, recovery actions, and Federal agency consultation requirements. Recognition through listing promotes conservation actions by Federal and state agencies and private groups and individuals.

Section 7(a)(4) of the ESA requires that Federal agencies confer with NMFS on any actions likely to jeopardize the continued existence of a species proposed for listing and on actions likely to result in the destruction or adverse modification of proposed critical habitat. For listed species, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with NMFS.

Examples of Federal actions that may be affected by this proposal include various Federal land management agency activities (e.g., actions associated with timber harvest, recreation, mining, agriculture, and grazing), U.S. Army Corps of Engineers Clean Water Act section 404 permitting activities, Federal Energy Regulatory Commission licenses for nonfederal development and operation of hydropower projects, and Federal salmon hatcheries.

Based on information presented in this proposed rule, general conservation measures that could be implemented to help conserve the species are listed below. This list does not constitute NMFS' interpretation of a recovery plan under section 4(f) of the ESA.

1. Measures could be taken to promote land management practices that protect and restore coho salmon habitat. Land management practices affecting coho salmon habitat include timber harvest, road building, agriculture, livestock grazing, and urban development.

2. Evaluation of existing commercial and recreational harvest regulations for ocean and river fisheries could identify any changes necessary to protect coho salmon populations.

3. Artificial propagation programs could be required to incorporate practices that minimize impacts upon native populations of coho salmon.

4. Efforts could be made to ensure that existing and proposed dam facilities are designed and operated in a manner that will not adversely affect listed populations. For example, NMFS could require that fish passage facilities at dams effectively pass migrating juvenile and adult salmon.

5. All water diversions could have adequate headgate and staff gauge structures installed to control and monitor water usage accurately. Water rights could be enforced to prevent irrigators from exceeding the amount of water to which they are legally entitled.

6. All irrigation diversions affecting downstream migrating coho salmon could be screened. A thorough review of the impact of irrigation diversions on coho salmon could be conducted.

Should the proposed listings be made final, protective regulations under the ESA would be put into effect and a recovery program(s) would be implemented. NMFS recognizes that to be successful, protective regulations and recovery programs for coho salmon will need to be developed in the context of conserving aquatic ecosystem health. NMFS intends that Federal lands and Federal activities bear as much of the burden as possible for conserving listed populations and the ecosystems upon which they depend. However, throughout the range of all three ESUs proposed for listing, coho salmon habitat occurs and can be affected by activities on state, tribal or private (nonfederal) land. Agricultural, urban and timber management activities on nonfederal land could and should be conducted in a manner that avoids adverse effects to coho salmon aquatic habitat.

NMFS encourages nonfederal landowners to assess the impacts of their actions on potentially threatened or endangered salmonids. In particular, NMFS encourages the formulation of watershed partnerships to promote conservation in accordance with ecosystem principles. These