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## National Marine Fisheries Service Proposes New Rules to Protect West Coast Salmon, Steelhead

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The National Marine Fisheries Service on December 14 proposed rules for protecting 14 populations of West Coast salmon and steelhead listed as "threatened" under the Endangered Species Act (ESA). The proposed regulations, known as "4(d) Rules" from the applicable section of the act, will prohibit anyone from taking (harming) fish at risk of extinction, according to Mike Fergus of the National Marine Fisheries Service.

The rules were proposed as the result of lawsuit by a coalition environmental and fishing groups that forced the federal agency on October 20, 1999 to issue protective regulations for California's populations of steelhead trout.

The coalition that sued NMFS included the Center for Biological Diversity, Alameda Creek Alliance, Pacific Coast Federation of Fishermen's Associations, Northern California Council of Flyfishers, California Sportfishing Protection Alliance, South Yuba River Citizen's League and the Coastside Habitat Coalition.

"We filed the lawsuit, hoping to address the real issues impacting steelhead and salmon populations - dams, habitat destruction through logging gravel mining and agriculture and water diversions," explained Jeff Miller of the Alameda Creek Alliance. "In the past, fishermen have been the scapegoat for the federal agency's rule. We hope that now the NMFS will focus on the causes of steelhead declines rather than the fishermen from now on."

The threatened steelhead populations range from the central coast and central valley of California to the Snake River basin in the Pacific northwest. The threatened salmon populations occur in Oregon and Washington. Two chinook populations recently listed as listed in California are not included in these proposed rules, according to Fergus.

"The draft rules would allow flexibility for the fisheries service to permit limited incidental take to listed fish, provided that specific guidelines are followed to protect the healthy of listed populations overall," added Fergus. "These guidelines, known as 'limitations on take prohibitions,' are designed to complement efforts underway to within each of the four western states (California, Oregon, Washington and Idaho) to protect salmon and steelhead and their habitats."

"Historically, blanket application of 4(d) Rules constrained other local protective and conservation programs from being considered in place of the rules," said Jim Lecky, NOAA Fisheries Service SW Region Assistant Regional Administrator for Protected Resources. "Today's proposal will allow exceptional depending on how well state and local conservation programs protect the listed 'threatened' species."

Under the proposed rules, restrictions would be placed on activities that could harm or 'take' listed fish or their habitat, such as fishing, development that degrades habitat, lowered water quality or unauthorized water consumption. However, these restrictions could be loosened to allow a limited incidental 'take' if state or local conservation programs are adequate to protect the overall health of the listed populations, according to Lecky.

The fisheries service said it will solicit comments on the proposed rules for 60 days. The agency will also hold public hearings in Idaho, Washington, Oregon and California during January and February to gather comments on the proposals.

The proposed rules regarding steelhead must be made final and issued by June 19, 2000, under the court agreement. The agency said it expects the rules for other salmon populations to be made final at about the same time.

Brendan Cummings, attorney for the plaintiffs, had a mixed reaction to the release of the proposed 4-D Rules by NMFS. "We're happy that the rule has been finally issued and that steelhead will get some of the protection that they so desperately need," said Cummings. "However, we are concerned that the rule exempts too many activities from the prohibitions and protections of the ESA."

The rule is weakest in Oregon and Washington, where NMFS has exempted numerous activities, such as forest practices and certain type of road building and maintenance activities.

"Since this is only the proposed rule, we hope that NMFS will issue a final stronger rule that adequately protects steelhead and all other salmonids in June," said Cummings.

For more information, call Jeff Miller of the Alameda Creek Alliance at (510) 845-4675; Peter Galvin of the Center For Biological Diversity at (510) 841-0812; Brendan Cummings at (510) 845-5486.

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