

comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: August 31, 2005.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### RIN 1018-AU23

#### Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Distinct Population Segment of the California Tiger Salamander in Sonoma County

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period and notice of availability of draft economic analysis.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the reopening of the comment period on the proposed designation of critical habitat for the distinct population segment (DPS) of the California tiger salamander in Sonoma County and the availability of the draft economic analysis of the proposed designation of critical habitat. The draft economic analysis identifies potential costs of approximately \$336 million over a 20-year period or approximately \$17 million per year as a result of the proposed designation of critical habitat, including those costs coextensive with listing. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this comment period, and will be fully

considered in preparation of the final rule.

**DATES:** We will accept public comments until November 14, 2005.

**ADDRESSES:** Written comments and materials may be submitted to us by any one of the following methods:

1. You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W-2605, Sacramento, CA 95825;

2. You may hand-deliver written comments and information to our Sacramento Fish and Wildlife Office, at the above address, or fax your comments to 916/414-6713; or

3. You may send comments by electronic mail (e-mail) to: [fw1sonoma\\_tiger\\_salamander@fws.gov](mailto:fw1sonoma_tiger_salamander@fws.gov). For directions on how to file comments electronically, see the "Public Comments Solicited" section. In the event that our Internet connection is not functional, please submit your comments by the alternate methods mentioned above.

Copies of the draft economic analysis and the proposed rule for critical habitat designation are available on the Internet at <http://www.fws.gov/pacific/sacramento> or from the Sacramento Fish and Wildlife Office at the address and contact numbers above.

**FOR FURTHER INFORMATION CONTACT:** Arnold Roessler, Sacramento Fish and Wildlife Office, at the address above (telephone 916/414-6600; facsimile 916/414-6713).

#### SUPPLEMENTARY INFORMATION:

##### Public Comments Solicited

We will accept written comments and information during this reopened comment period. We solicit comments on the original proposed critical habitat designation (70 FR 44301; August 2, 2005) and on our draft economic analysis of the proposed designation. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat, as provided by section 4 of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), including whether the benefits of exclusion outweigh the benefits of including such area as part of critical habitat;

(2) Specific information on the amount and distribution of California tiger salamander (CTS) habitat in Sonoma County, and what habitat is essential to the conservation of this species and why;

(3) Land use designations and current or planned activities in the subject area and their possible impacts on proposed habitat;

(4) Information on whether, and if so, how many of the State and local environmental protection measures referenced in the draft economic analysis were adopted largely as a result of the listing of the Sonoma County population of the CTS, and how many were either already in place or enacted for other reasons;

(5) Whether the draft economic analysis identifies all State and local costs attributable to the proposed critical habitat designation, and information on any costs that have been inadvertently overlooked;

(6) Whether the draft economic analysis makes appropriate assumptions regarding current practices and likely regulatory changes imposed as a result of the designation of critical habitat;

(7) Whether the draft economic analysis correctly assesses the effect on regional costs associated with any land use controls that may derive from the designation of critical habitat;

(8) The draft economic analysis indicates potentially disproportionate impacts to areas within Sonoma County. Based on this information, we are considering excluding portions of these areas from the final designation per our discretion under section 4(b)(2) of the Act. We are specifically seeking comment and additional information on areas within Sonoma County that could be potentially be disproportionately impacted by a CTS critical habitat designation;

(9) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, and in particular, any impacts on small entities or families; does our conclusion that the proposed designation of critical habitat will not result in a disproportionate effect to small businesses warrant further consideration, and other information that would indicate that the designation of critical habitat would or would not have any impacts on small entities or families;

(10) Whether the draft economic analysis appropriately identifies all costs that could result from the designation; and

(11) Whether our approach to critical habitat designation could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concern and comments.

An area may be excluded from critical habitat if it is determined that the benefits of such exclusion outweigh the

benefits of including a particular area as critical habitat, unless the failure to designate such area as critical habitat will result in the extinction of the species. We may exclude an area from designated critical habitat based on economic impacts, national security, or any other relevant impact.

All previous comments and information submitted during the initial comment period on the August 2, 2005, proposed rule (70 FR 44301) need not be resubmitted. If you wish to comment, you may submit your comments and materials concerning the draft economic analysis and the proposed rule by any one of several methods (see **ADDRESSES** section). Our final designation of critical habitat will take into consideration all comments and any additional information we received during both comment periods. On the basis of public comment on this analysis and on the critical habitat proposal, and the final economic analysis, we may during the development of our final determination find that areas proposed are not essential, are appropriate for exclusion under section 4(b)(2) of the Act, or not appropriate for exclusion.

Please submit electronic comments in an ASCII file format and avoid the use of special characters and encryption. Please also include "Attn: RIN 1018-AU23" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business

hours, at the Sacramento Fish and Wildlife Office at the address listed under **ADDRESSES**.

Copies of the proposed rule and draft economic analysis are available on the Internet at: <http://www.fws.gov/pacific/sacramento/>. You may also obtain copies of the proposed rule and economic analysis from the Sacramento Fish and Wildlife Office (see **ADDRESSES**), or by calling 916/414-6600.

### Background

We published a proposed rule to designate critical habitat for a distinct population segment of the CTS in Sonoma County on August 2, 2005 (70 FR 44301). The proposed critical habitat totaled approximately 74,223 acres (ac) (30,037 hectares (ha)) in Sonoma County. This proposed critical habitat does not include areas within Santa Barbara County or the Central Valley or Central Coast of California. A final critical habitat designation for the distinct population segment of the CTS in Santa Barbara County was published on November 24, 2004 (69 FR 68568), and a final critical habitat designation for the Central population of the CTS was published on August 23, 2005 (70 FR 49380). Per settlement agreement, we will submit for publication in the **Federal Register** a final critical habitat designation for the CTS in Sonoma County on or before December 1, 2005.

Critical habitat is defined in section 3 of the Act as the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting areas designated as critical habitat must consult with us on the effects of their proposed actions, pursuant to section 7(a)(2) of the Act.

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific and commercial data available, after taking into consideration the economic or any other relevant impact of specifying any particular area as critical habitat. Based on the August 2, 2005, proposed rule to

designate critical habitat for the CTS in Sonoma County, we have prepared a draft economic analysis of the proposed critical habitat designation.

The current draft economic analysis estimates the foreseeable economic impacts of the proposed critical habitat designation on government agencies and private businesses and individuals. The economic analysis identifies potential costs of approximately \$336 million over a 20-year period or approximately \$17 million per year as a result of the proposed critical habitat designation, including those costs coextensive with listing. The analysis measures lost economic efficiency associated with residential and commercial development, and public projects and activities, such as economic impacts on transportation projects, the energy industry, and Federal lands. However, no Federal lands are within the proposed critical habitat boundary.

The draft economic analysis considers the potential economic effects of actions relating to the conservation of the CTS in Sonoma County, including costs associated with sections 4, 7, and 10 of the Act, and including those attributable to designating critical habitat. It further considers the economic effects of protective measures taken as a result of other Federal, State, and local laws that aid habitat conservation for the CTS in essential habitat areas. The draft analysis considers both economic efficiency and distributional effects. In the case of habitat conservation, efficiency effects generally reflect the "opportunity costs" associated with the commitment of resources to comply with habitat protection measures (e.g., lost economic opportunities associated with restrictions on land use). This analysis also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on small entities and the energy industry. This information can be used by decision-makers to assess whether the effects of the designation might unduly burden a particular group or economic sector. Finally, this draft analysis looks retrospectively at costs that have been incurred since the date the species was listed as a threatened species and considers those costs that may occur in the 20 years following a designation of critical habitat.

As stated earlier, we solicit data and comments from the public on this draft economic analysis, as well as on all aspects of the proposal. We may revise the proposal, or its supporting documents, to incorporate or address

new information received during the comment period. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

Costs related to conservation activities for the proposed CTS critical habitat pursuant to sections 4, 7, and 10 of the Act are estimated to be approximately \$336 million from 2005 to 2025.

Overall, the residential and commercial industry is calculated to experience the highest estimated costs. The draft analysis was conducted at the census tract level. Of the 57 census tracts that are part of this current proposal, six are identified as census tracts responsible for over 80% of the most impacted areas. Annualized impacts of costs attributable to the proposed critical habitat designation are projected to be approximately \$17 million.

#### **Required Determinations—Amended**

##### *Regulatory Planning and Review*

In accordance with Executive Order 12866, this document is a significant rule because it may raise novel legal and policy issues. However, it is not anticipated to have an annual effect on the economy of \$100 million or more or affect the economy in a material way. Due to the timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) did not formally review the proposed rule.

Further, Executive Order 12866 directs Federal Agencies promulgating regulations to evaluate regulatory alternatives (Office of Management and Budget, Circular A–4, September 17, 2003). Pursuant to Circular A–4, once it has been determined that the Federal regulatory action is appropriate, then the agency will need to consider alternative regulatory approaches. Since the determination of critical habitat is a statutory requirement pursuant to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), we must then evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

In developing our designations of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts pursuant to section 4(b)(2) of the Act. Based on the discretion allowable under this provision, we may exclude any particular area from the designation of critical habitat providing that the benefits of such exclusion outweighs the benefits of specifying the area as critical

habitat and that such exclusion would not result in the extinction of the species. As such, we believe that the evaluation of the inclusion or exclusion of particular areas, or combination thereof, in a designation constitutes our regulatory alternative analysis.

##### *Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)*

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. In our proposed rule, we withheld our determination of whether this designation would result in a significant effect as defined under SBREFA until we completed our draft economic analysis of the proposed designation so that we would have the factual basis for our determination.

According to the Small Business Administration (SBA), small entities include small organizations, such as independent nonprofit organizations, and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than \$5 million in annual sales, general and heavy construction businesses with less than \$27.5 million in annual business, special trade contractors doing less than \$11.5 million in annual business, and agricultural businesses with annual sales less than \$750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

To determine if the proposed designation of critical habitat for the CTS would affect a substantial number

of small entities, we considered the number of small entities affected within particular types of economic activities (e.g., residential and commercial development). We considered each industry or category individually to determine if certification is appropriate. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by the designation of critical habitat. Designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies; non-Federal activities are not affected by the designation.

If this proposed critical habitat designation is made final, Federal agencies must consult with us if their activities may affect designated critical habitat. Consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

In our draft economic analysis of the proposed critical habitat designation, we evaluated the potential economic effects on small business entities resulting from conservation actions related to the listing of the CTS and proposed designation of its critical habitat. We determined from our analysis that the small business entities that may be affected are firms in the new home construction sector. We estimated the number of affected small businesses and calculated the number of houses built per small firm. It appears that the annual number of affected small firms is far less than one in Sonoma County. Note that if one firm closed in the first year, then this same firm would be affected in subsequent years. The number of small firms will not decrease every year. These firms may be affected by activities associated with the conservation of the CTS, inclusive of activities associated with listing, recovery, and critical habitat. Critical habitat is not expected to result in significant small business impacts. In the development of our final designation, we will explore potential alternatives to minimize impacts to any affected small business entities. These alternatives may include the exclusion of all or portions of the critical habitat units in these counties. As such, we expect that any final designation of critical habitat for the distinct population segment of the CTS in Sonoma County.

We do not believe that the designation of critical habitat for the CTS in Sonoma County will result in a disproportionate effect to small business entities.

However, we are seeking comment on potentially excluding areas from the final critical habitat designation if it is determined that there will be a substantial and significant impact to small real estate development businesses in the county.

Critical habitat designation for the CTS is expected to have the largest impacts on the market for developable land. The proposed critical habitat designation for CTS occurs in a number of rapidly growing areas. Regulatory requirements to avoid onsite impacts and mitigate offsite affect the welfare of both producers and consumers. In the scenario presented here, mitigation requirements increase the cost of development, and avoidance requirements are assumed to reduce the construction of new housing. In this scenario, the proposed critical habitat designation is expected to impose losses of over \$336 million over the 20-year study period.

The economic impacts of the proposed critical habitat designation vary widely even with the county. That is, the impacts of designation are frequently localized. This finding is sensible from an economic point of view and is consistent with the teachings of urban economics. Housing prices vary over urban areas, typically declining as the location of the house becomes more remote. Critical habitat is not evenly distributed across the landscape, and large impacts may result if a particular area has a large fraction of developable land in critical habitat. Some areas have few alternate sites for development, or have highly rationed housing resulting in high prices. Any of these factors may cause the cost of critical habitat designation to increase.

The precise spatial scale of the analysis permits identification of specific locations, or parts of individual critical habitat units, that result in the largest economic impacts. The maps contained at the end of the draft economic analysis are instructive in this regard. The maps identify the census tracts within the counties where the impacts are predicted to occur.

Please refer to our draft economic analysis of the proposed critical habitat designation for a more detailed discussion of potential economic impacts.

#### Executive Order 13211

On May 18, 2001, the President issued Executive Order (E.O.) 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This

proposed rule is considered a significant regulatory action under E.O. 12866 because it raises novel legal and policy issues, but it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant action, and no Statement of Energy Effects is required.

#### *Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), the Service makes the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both "Federal intergovernmental mandates" and "Federal private sector mandates." These terms are defined in 2 U.S.C. 658(5)–(7). "Federal intergovernmental mandate" includes a regulation that "would impose an enforceable duty upon State, local, or tribal governments," with two exceptions. It excludes "a condition of federal assistance." It also excludes "a duty arising from participation in a voluntary Federal program," unless the regulation "relates to a then-existing Federal program under which \$500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority," if the provision would "increase the stringency of conditions of assistance" or "place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding" and the State, local, or tribal governments "lack authority" to adjust accordingly. (At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement.) "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program."

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical

habitat under section 7. Non-Federal entities that receive Federal funding, assistance, permits, or otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat. However, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(b) As discussed in the draft economic analysis of the proposed designation of critical habitat for the CTS in Sonoma County, the impacts on nonprofits and small governments are expected to be negligible. There is no record of consultations between the Service and any of these governments since the distinct population segment of the CTS in Sonoma County was emergency listed in 2002. It is likely that small governments involved with developments and infrastructure projects will be interested parties or involved with projects involving section 7 consultations for the distinct population segment of the CTS in Sonoma County within their jurisdictional areas. Any costs associated with this activity are likely to represent a small portion of a local government's budget. Consequently, we do not believe that the designation of critical habitat for the distinct population segment of the CTS in Sonoma County will significantly or uniquely affect these small governmental entities. As such, a Small Government Agency Plan is not required.

#### *Takings*

In accordance with Executive Order 12630 ("Government Actions and Interference with Constitutionally Protected Private Property Rights"), we have analyzed the potential takings implications of proposing critical habitat for the Sonoma County population of CTS. Critical habitat designation does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. In conclusion, the designation of critical habitat for the Sonoma

County population of CTS does not pose significant takings implications.

#### Author

The primary author of this notice is the staff of the Sacramento Fish and Wildlife Service.

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: October 14, 2005.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 05–21205 Filed 10–24–05; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[I.D. 101905C]

#### **Fisheries off the West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Notice of Intent to Prepare an Environmental Impact Statement or Environmental Assessment for Fishing Conducted Under the Pacific Coast Groundfish Fishery Management Plan**

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

**ACTION:** Notice of intent to prepare an environmental impact statement (EIS) or environmental assessment (EA); announcement of public scoping period; request for written comments.

**SUMMARY:** NMFS, in cooperation with the Pacific Fishery Management Council (Council), announces its intention to prepare an EIS or an EA in accordance with the National Environmental Policy Act (NEPA) to assess the impacts of the 2007–2008 Pacific Coast groundfish fishery specifications and management measures on the human, biological, and physical environment.

**DATES:** Public scoping opportunities for the 2007–2008 Pacific Coast groundfish fishery specifications and management measures EIS (or EA) will occur during meetings of the Council and its advisory bodies starting with the October 31–November 4, 2005, Council meeting and continuing through the June 11–16, 2006, when the Council is scheduled to determine their final preferred alternative (see **SUPPLEMENTARY INFORMATION**). However, only written comments provided to the Council

office through November 25, 2005, will be considered in a scoping document summarizing the public's issues and alternatives raised by the public, which may be evaluated in the EIS (or EA).

**ADDRESSES:** You may submit comments on suggested alternatives and potential impacts identified by I.D. 101905 by any of the following methods:

- E-mail: ([pjmc.comments@noaa.gov](mailto:pjmc.comments@noaa.gov)) and write “2007–2008 groundfish specifications EIS” in subject line).
- Federal eRulemaking Portal: <http://www.regulations.gov>.
- Fax: 503–820–2299.
- Mail: Dr. Donald McIsaac,

Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

The scoping document will be available on the Council's website ([www.pcouncil.org](http://www.pcouncil.org)) or by written request from the Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

**FOR FURTHER INFORMATION CONTACT:** Mr. John DeVore, Groundfish Fishery Management Coordinator; phone: 503–820–2280 and e-mail:

[John.DeVore@noaa.gov](mailto:John.DeVore@noaa.gov) or Kathe Hawe, NMFS Northwest Region NEPA Coordinator; phone: 206–526–6161 and email: [Kathe.Hawe@noaa.gov](mailto:Kathe.Hawe@noaa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background and Need for Agency Action**

There are more than 80 species managed under the Pacific Coast Groundfish Fishery Management Plan (groundfish FMP), eight of which have been declared overfished. The groundfish stocks support an array of commercial, recreational, and Indian tribal fishing interests in state and Federal waters off the coasts of Washington, Oregon, and California. In addition, groundfish are also harvested incidentally in non-groundfish fisheries, most notably, the trawl fisheries for pink shrimp, ridgeback prawns, California halibut, and sea cucumber.

The proposed action is needed to establish commercial and recreational harvests levels in 2007–2008 that will ensure groundfish stocks are maintained at, or restored to, sizes and structures that will produce the highest net benefit to the nation, while balancing environmental and social values.

##### **The Proposed Action**

The proposed action is to implement management measures consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens

Act) that constrain total fishing mortality during 2007–2008 within limits that maintain fish stocks at, or rebuild them to, a level capable of producing maximum sustained yield, or to a stock size less than this if such stock size results in long-term net benefit to the nation.

These fishing mortality limits are harvest specifications that include acceptable biological catches (ABCs) and optimum yields (OYs) for groundfish species or species groups in need of particular protection; OYs may be represented by harvest guidelines or quotas for species that need individual management. Separate sets of ABCs and OYs will be specified for 2007 and 2008 as part of the multi-year management cycle for groundfish. The allocation of commercial OYs between the open access and limited entry segments of the fishery is also part of the proposed action.

The FMP, as amended by Amendment 17, requires that the groundfish specifications be evaluated and revised as necessary every two years, with separate ABCs and OYs established for each of the two years in the biennial period. Management measures designed to achieve the OYs will be established for each year and, as in the past, may vary from period to period within any one year. These specifications and management measures will be published in the **Federal Register** of the first fishing year in the biennium (2007). The Magnuson-Stevens Act and the groundfish FMP also require that NMFS implement actions to prevent overfishing and to rebuild overfished stocks. These specifications include fish caught in state ocean waters (zero to three nautical miles (nm) offshore) as well as fish caught in the U.S. exclusive economic zone (3 to 200 nm offshore).

##### **Alternatives**

NEPA requires that agencies evaluate reasonable alternatives to the proposed action in an EIS. The purpose and need for agency action determines the range of reasonable alternatives. A preliminary set of alternatives will be developed during the October 31–November 4, 2005, Council meeting. Alternatives will be structured around a range of ABCs/OYs for assessed groundfish species. This range of ABCs/OYs is based on stock assessments, including new assessments for 23 of the groundfish species managed under the FMP.

For some species, ABC/OY ranges that would be used to develop alternatives may be based on consultations by the Council with state and federal agencies, Indian tribes, and the affected public on