

## II. Method of Collection

Paper forms are used.

## III. Data

OMB Number: 0648-0082.

Form Number: NOAA Forms 88-164, 88-166.

Type of Review: Regular submission.

Affected Public: Individuals or households, and Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time Per Response: 10 hours for an application, and 5 minutes for a 15-day report.

Estimated Total Annual Burden Hours: 1,008.

Estimated Total Annual Cost to Public: \$500.

## IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 10, 2004.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 04-13804 Filed 6-17-04; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 061004D]

### Endangered and Threatened Species; Take of Anadromous Fish

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

**ACTION:** Notice of availability and request for comment.

**SUMMARY:** This notice advises the public that the Nez Perce Indian Tribe has submitted a Tribal resource management plan (Tribal Plan) to NMFS pursuant to the limitation on take prohibitions for actions conducted under Tribal Plans promulgated under the Endangered Species Act (ESA). The Tribal Plan specifies the management of recreational, ceremonial, and subsistence fisheries in 2004 in the Imnaha River subbasin in the State of Oregon that potentially affect Snake River spring/summer chinook salmon listed as threatened under the ESA. This document serves to notify the public of the availability for comment of the proposed evaluation of the Secretary of Commerce (Secretary) as to whether implementation of the Tribal Plan will appreciably reduce the likelihood of survival and recovery of Snake River salmon and steelhead, and the availability for public comment of a draft environmental assessment on the proposed action.

**DATES:** Written comments on the Secretary's pending determination and the draft assessment must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific daylight time on July 6, 2004.

**ADDRESSES:** Written comments and requests for copies of the Proposed Evaluation and Pending Determination document and the draft Environmental Assessment should be addressed to Herb Pollard, Sustainable Fisheries Division, 10215 W. Emerald St. Suite 180, Boise, ID 83704. Comments may also be sent via fax to (208) 378-5699. The documents are also available on the Internet at [www.nwr.noaa.gov](http://www.nwr.noaa.gov). Comments on this draft EA may be submitted by e-mail. The mailbox address for providing e-mail comments is [Imnaha04.nwr@noaa.gov](mailto:Imnaha04.nwr@noaa.gov). Include in the subject line the following document identifier: "Imnaha 2004 chinook". Comments may also be submitted electronically through the Federal e-Rulemaking portal:

[www.regulations.gov](http://www.regulations.gov). Comments received will also be available for public inspection, by appointment, during normal business hours by calling (208) 378-5614.

#### FOR FURTHER INFORMATION CONTACT:

Herb Pollard at phone number: (208) 378-5614, or e-mail: [herbert.pollard@noaa.gov](mailto:herbert.pollard@noaa.gov).

**SUPPLEMENTARY INFORMATION:** This notice is relevant to the Imnaha River subbasin population of the Snake River Spring/Summer Chinook salmon (*Oncorhynchus tshawytscha*) and Snake River steelhead (*Oncorhynchus mykiss*) Evolutionarily Significant Units (ESU).

## Background

The Nez Perce Tribe has submitted to NMFS a Tribal Plan for recreational, ceremonial, and subsistence fisheries in 2004 potentially affecting threatened Snake River spring/summer chinook salmon in the Imnaha River basin. The Tribal Plan includes recreational fisheries specified by the Oregon Department of Fish and Wildlife that take place in the same waters and in the same time frame as the tribal ceremonial and subsistence fisheries. The Nez Perce Tribe and the State of Oregon have co-manager responsibilities for spring chinook salmon within the Imnaha River sub-basin and manage this salmon population under cooperative agreements. The objective of the Tribal Plan is to harvest spring chinook salmon in a manner that does not appreciably reduce the likelihood of survival and recovery of the ESU. Impact levels on the listed spring chinook populations in the ESU are specified in the Tribal Plan. Analysis of the predicted return of naturally and hatchery-produced spring chinook salmon to the Imnaha River basin in 2004 and the proposed harvest levels indicate that all hatchery brood stock and supplemental spawning and natural spawning escapement needs will be met after the proposed fisheries. A variety of monitoring and evaluation tasks to be conducted by the co-managers is specified in the Tribal Plan to assess the abundance of spring chinook and to determine fishery effort and catch of spring chinook. A comprehensive review of the Tribal Plan to evaluate whether the fisheries and listed spring chinook populations are performing as expected will be done within and at the end of the proposed 2004 season.

As required by the ESA 4(d) rule for Tribal Plans (65 FR 42481, July 10, 2000 [50 CFR 223.209]), the Secretary is seeking public comment on his pending determination as to whether the Tribal Plan for Imnaha River chinook salmon would appreciably reduce the likelihood of survival and recovery of the threatened Snake River spring/summer chinook salmon ESU.

## Authority

Under section 4 of the ESA, the Secretary is required to adopt such regulations as he deems necessary and advisable for the conservation of the species listed as threatened. The ESA Tribal 4(d) Rule (65 FR 42481, July 10, 2000 [50 CFR 223.209]) states that the ESA section 9 take prohibitions will not apply to Tribal Plans that will not appreciably reduce the likelihood of

survival and recovery for the listed species.

Dated: June 14, 2004.

**Phil Williams,**

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04-13801 Filed 6-17-04; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 060904A]

#### Endangered and Threatened Wildlife and Plants: Updated Status Review of the North American Green Sturgeon

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

**ACTION:** Status review update; request for information.

**SUMMARY:** Following receipt of a petition to list the North American green sturgeon (*Acipenser medirostris*; hereafter "green sturgeon") as threatened or endangered under the Endangered Species Act (ESA), NMFS conducted a status review and determined that the petitioned species is comprised of two distinct population segments (DPSs) that qualify as species under the ESA, but that neither DPS warranted listing as a threatened or endangered species. Because of uncertainties regarding their population structure and status, however, NMFS determined that both DPSs should be identified as candidate species. NMFS also committed to re-evaluating the status of both DPSs in 5 years, provided sufficient new information was available indicating that a status review was warranted. However, on March 2, 2004, a U.S. District Court set aside NMFS' finding and remanded the matter back to the agency for re-consideration of whether the green sturgeon is endangered or threatened in a significant portion of its range. NMFS intends to reconvene its Biological Review Team (BRT) to consider the most recent scientific and commercial information available regarding the biological status of green sturgeon. NMFS is requesting that interested parties submit pertinent information to assist the agency in updating its status review and making a new listing determination.

**DATES:** Information must be received by August 17, 2004.

**ADDRESSES:** Information on this action should be submitted to the Assistant Regional Administrator, Protected Resources Division, Southwest Region, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. In response to NMFS's solicitation for new information, comments may be sent via email to [GreenSturgeon.Comments@noaa.gov](mailto:GreenSturgeon.Comments@noaa.gov) or to the Federal eRulemaking website: <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Craig Wingert, NMFS, Southwest Region (562) 980-4021; Melissa Neuman, NMFS, Southwest Region (562) 980-4115; Scott Rumsey, NMFS, Northwest Region (503) 872-2791; or Lisa Manning, NMFS, Office of Protected Resources (301) 713-1401.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

The 2003 green sturgeon biological status review is available on the Internet at: [http://www.nwr.noaa.gov/1salmon/salmesa/pubs/GSstatus\\_\\_review.pdf](http://www.nwr.noaa.gov/1salmon/salmesa/pubs/GSstatus__review.pdf)

##### Background

On June 12, 2001, NMFS received a petition from the Environmental Protection Information Center, Center for Biological Diversity, and Waterkeepers Northern California requesting that NMFS list the green sturgeon as threatened or endangered under the ESA and that critical habitat be designated for the species concurrently with any listing determination. On December 14, 2001, NMFS provided notice of its determination that the petition presented substantial information that a listing may be warranted and requested information to assist with a status review to determine if green sturgeon warranted listing under the ESA (66 FR 64793). To assist in the status review, NMFS formed a Biological Review Team (BRT) comprised of scientists from the Agency's Northwest and Southwest Fisheries Science Centers and from the United States Geological Survey. NMFS also requested technical information and comments from State and Tribal co-managers in California, Oregon, and Washington, as well as from scientists and individuals having research or management expertise pertaining to green sturgeon from California and the Pacific Northwest. The BRT considered information presented in the petition and the best available scientific and commercial information provided in response to NMFS' information request to prepare a final review of the biological status of green sturgeon (NMFS, 2002).

Under the ESA, a listing determination may address a species, subspecies, or a DPS of any vertebrate species which interbreeds when mature (16 U.S.C. 1532(15)). On February 7, 1996, the U.S. Fish and Wildlife Service and NMFS adopted a policy describing what constitutes a DPS of a taxonomic species (51 FR 4722). The joint DPS policy identified two elements that must be considered when making DPS determinations: (1) The discreteness of the population segment in relation to the remainder of the species (or subspecies) to which it belongs; and (2) the significance of the population segment to the remainder of the species (or subspecies) to which it belongs. After conducting the status review, NMFS determined that green sturgeon is comprised of two DPSs that qualify as species under the ESA: (1) a northern coastal DPS consisting of populations in coastal watersheds northward of and including the Eel River; and (2) a southern DPS consisting of coastal or central valley populations south of the Eel River, with the only known population in the Sacramento River.

The BRT considered the following information in order to assess risk factors for each green sturgeon DPS: (1) Abundance trends by examining fisheries data; (2) the effects of harvest bycatch; (3) the possible loss of spawning habitat in, for example, the Eel, South Fork Trinity, and San Joaquin Rivers; (4) concentration of spawning in the Klamath (northern DPS) and Sacramento (southern DPS) River systems; (5) lack of adequate population abundance data; (6) potentially lethal water temperatures and adverse effects by contaminants (southern DPS); (7) entrainment by water projects (southern DPS); and (8) adverse effects by exotic species (southern DPS). Based on this risk assessment, NMFS determined that neither DPS warranted listing as threatened or endangered (68 FR 4433; January 23, 2003). Uncertainties in the structure and status of both DPSs led NMFS to add them to its species of concern list (formerly the candidate species list; 69 FR 19975; April 15, 2004). The biological status review is available online (see Electronic Access), and bound copies of the biological status review and other documents supporting the finding are available upon request from NMFS (see ADDRESSES). Along with the finding, NMFS announced that it would reevaluate the status of green sturgeon in 5 years provided that sufficient new information warrants an update of the status review.

On April 7, 2003, the Environmental Protection Information Center (and