



Summary



INTRODUCTION

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The State of Washington (the State) has submitted applications to the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS), collectively referred to as the Services, for authorizations that would allow for the incidental take of aquatic species (salmon, steelhead, bull trout, and certain unlisted species, should they become listed) under the Endangered Species Act (ESA) through Section 10(a)(1)(B) and Section 4(d). The applications relate to the potential for take that may result from activities under the Washington Forest Practices Regulatory Program. Take authorizations can be obtained from both Services under Section 10(a)(1)(B) through an Incidental Take Permit (ITP). An ITP can provide take authorization for endangered and threatened species and also can provide take authorization for unlisted species should they become listed at some time in the future. Take authorization under ESA Section 4(d) is available for species listed as threatened (but not endangered), but only if a specific 4(d) rule has been adopted that addresses the threatened species. It can be obtained from NMFS through an existing 4(d) rule, within which is included a limit that pertains to the State of Washington’s Forest Practices Regulatory Program (Limit 13), or through an authorization defined in some future 4(d) rule, not currently contemplated. It can be obtained from USFWS only through a take exemption defined in some future 4(d) rule (because no existing USFWS 4(d) rules apply either to the species addressed by the State’s applications or to the State’s Forest Practices Regulatory Program).

An ITP and/or take limit or exemption (collectively referred to as take authorization) are expected to: (1) provide long-term regulatory stability for forest management activities that are regulated by the Washington Forest Practices Regulatory Program; (2) allow for the protection of covered species to the maximum extent practicable consistent with maintaining commercial forestry as an economically viable industry; and (3) provide a regulatory climate and structure more likely to keep landowners in commercial forestry, rather than converting forestlands to other uses that may be less desirable for salmon recovery.

Providing take authorization as a result of the State’s application would be a major step towards achieving the goals of the Forests and Fish Report (April 1999), on which the current Washington Forest Practices Regulatory Program is based (See subsection 1.3.1, Forest Practices Regulatory Program).

The species that could be covered by issuance of ITPs from each of the Services include all threatened and endangered fish listed at the time of this application, and occurring on the covered lands in Washington, plus other, unlisted native fish and seven stream-associated amphibians. Most anadromous fish species fall within the jurisdiction of NMFS, while non-anadromous fish, some anadromous fish, and the amphibians fall within the jurisdiction of USFWS. The species that would be covered by issuance of a limit under NMFS’ existing 4(d) rule or take exemptions through any future 4(d) rules (NMFS or USFWS) include only threatened species addressed at that time by the specific 4(d)



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1 rules. The geographic area that would be addressed by issuance of ITPs or limits under
2 ESA Section 4(d) includes existing and future non-Federal and non-tribal forestlands in
3 Washington State, excluding those forestlands that are covered by existing ITPs for
4 aquatic species.

5 To obtain ITPs under ESA Section 10(a)(1)(B), the State must prepare a Habitat
6 Conservation Plan (HCP) that meets the issuance criteria established by the Services (See
7 subsection 1.2.3.1, Decisions to be Made, ESA Section 10). For the State to obtain take
8 authorizations under ESA Section 4(d), the State must prepare information similar to that
9 contained in an HCP, with some modifications specific to any requirements that may be
10 contained in the applicable 4(d) rule. Accordingly, the State has prepared a programmatic
11 conservation plan (see Forest Practices Habitat Conservation Plan [FPHCP]) that
12 addresses the requirements of both ESA Section 10(a)(1)(B) and NMFS' existing ESA
13 Section 4(d) rule. This conservation plan covers aspects of the Washington Forest
14 Practices Regulatory Program that may affect aquatic species.

15 The proposed Federal actions of issuing ITPs or take authorizations under ESA Section
16 4(d) have the potential to affect the human environment and, therefore, are actions subject
17 to review under the National Environmental Policy Act (NEPA). The Services are
18 required to prepare NEPA review documents and circulate the environmental review
19 package (NEPA document and Habitat Conservation Plan) for public review. In this case,
20 the Services have determined that there is a need to prepare an Environmental Impact
21 Statement (EIS).

22 **PURPOSE AND NEED FOR ACTION**

23 The purpose for this action is to respond to the State of Washington's applications for
24 ESA take authorizations. These authorizations can be through ITPs, issued by each of the
25 Services under ESA Section 10(a)(1)(B), or through take authorizations under ESA
26 Section 4(d). If ITPs are issued, they would allow for incidental take of the threatened and
27 endangered species and make provision for take authorization of proposed and unlisted
28 species should they become listed under the ESA in the future. If ESA Section 4(d) take
29 authorizations are issued, they would only apply to those threatened species addressed in
30 the relevant 4(d) rules.

31 The need for this action is to provide broader protection and conservation for listed,
32 proposed, and unlisted species under ESA Section 10(a)(1)(B) and Section 4(d) than
33 would occur through individual civil or criminal actions to enforce the ESA's Section 9
34 prohibition against take of listed species, while providing for the long-term management of
35 forest resources on State and private lands under the Washington Forest Practices Rules
36 (See subsection 1.3, Background and Context).

37



ALTERNATIVES

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2 This EIS analyzes a No-Action Alternative and three action alternatives (see Chapter 2,
3 Alternatives). The action alternatives are identified as Alternatives 2, 3, and 4 and the No-
4 Action Alternative is identified as Alternative 1. No Action Alternative 1 has two
5 scenarios. A summary description of each of these No-Action scenarios and the action
6 alternatives is provided below. Refer to Chapter 2 (subsection 2.3, Alternatives Analyzed
7 in Detail) for detailed descriptions.

8 **No-Action Alternative (Alternative 1)**

9 No Action means no ITPs or take authorization under any 4(d) rules would be issued. A
10 range of outcomes could result from this lack of action. Two scenarios which represent
11 the endpoints of the reasonable range of possible outcomes have been defined to represent
12 the No-Action Alternative and are referred to as No Action Alternative 1-Scenario 1 and
13 No Action Alternative 1-Scenario 2. The effects of No Action are displayed for both of
14 these endpoints in the effects analyses in Chapters 4 and 5, but the actual effects of No
15 Action on the individual resources are likely to fall between the effects described for each
16 of the two scenarios.

17 *No Action Alternative 1-Scenario 1:* Under No Action Alternative 1-Scenario 1, no ITPs
18 or take authorization would be issued and the current rules (which are based on the Forests
19 and Fish Report and became effective in July 2001) would remain in effect. However, the
20 amount of collaboration and participation among Forests and Fish stakeholders in adaptive
21 management, associated monitoring, and other program elements that depend on
22 landowner support and participation would be substantially reduced because of the
23 absence of the anticipated regulatory certainty provided by take authorization. As a result,
24 there would be reduced public funding for the non-regulatory elements of the program and
25 the ability to modify the rules over time, largely limited by statute only to modifications
26 based on scientific research, would be substantially reduced.

27 *No Action Alternative 1-Scenario 2:* Under No Action Alternative 1-Scenario 2, no ITPs
28 or take authorization would be issued and the Washington State Legislature would allow
29 the Forest Practices Board to repeal the current State rules, adopting in their place, the
30 less-protective rules that were in effect on January 1, 1999. The amount of collaboration
31 and participation among Forests and Fish stakeholders in the adaptive management
32 program, associated monitoring, and other program elements that depend on landowner
33 support and participation would be substantially reduced because of the lack of the
34 anticipated regulatory certainty provided by take authorization. Furthermore, the “roll-
35 back” of regulations to the less-protective January 1, 1999 rules would result in even-more
36 reductions in stakeholder participation and support for the program from levels anticipated
37 in No Action Alternative 1-Scenario 1. The reduced support would result in reduced
38 public funding. No Action Alternative 1-Scenario 2 would signify the end of the current
39 Washington Forest Practices Rules (i.e., Forests and Fish Rules).

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Summary

1 **Alternative 2**

2 Under Alternative 2, the Services would issue ITPs to the State of Washington, based on
3 implementation of the proposed statewide Forest Practices Habitat Conservation Plan
4 (FPHCP). The FPHCP incorporates the current Washington Forest Practices Rules (which
5 are based on the Forests and Fish Report and became effective in July 2001). The State is
6 seeking an ITP from each of the Services, each for a term of 50 years. Because of greater
7 regulatory certainty with the ITPs, stakeholder support and participation and public
8 funding for adaptive management, associated monitoring, and other program elements that
9 depend on landowner support and voluntary participation and public funding would
10 continue.

11 **Alternative 3**

12 Under Alternative 3, the Services would not issue ITPs, but NMFS would make necessary
13 findings under its existing 4(d) rule to provide authorization for take of threatened salmon
14 and steelhead addressed by the rule when the take was incidental to forest practices
15 described in the conservation plan. USFWS would adopt new 4(d) rules to provide similar
16 incidental take authorization for bull trout. Take authorization under this alternative would
17 not apply to endangered species or to species that may be listed in the future. Take
18 authorization would not have a specific term and could be terminated under procedures
19 provided in the relevant 4(d) rule, or by revocation of the rule itself. Because of these
20 limitations on regulatory certainty, reduced stakeholder participation and support,
21 especially for public funding of adaptive management and other program elements, would
22 not be sufficient to fully implement the non-regulatory elements of the program.

23 **Alternative 4**

24 Under Alternative 4, the Services would issue ITPs to the State of Washington, based on
25 implementation of a statewide FPHCP. The FPHCP would incorporate a set of Forest
26 Practices Rules that are more protective than the current rules (which are based on the
27 Forests and Fish Report and became effective in July 2001). The State is seeking ITPs
28 from both of the Services, each for a term of 50 years. Alternative 4 would require action
29 by the Washington State Legislature or a court order to initiate additional rule-making by
30 the Forest Practices Board to increase protective measures in the rules. Because
31 landowners would likely believe that the rules under Alternative 4 are overly-protective,
32 there would be substantially less stakeholder support and participation and public funding
33 for adaptive management, associated monitoring, and other program elements that depend
34 on landowner support and voluntary participation and public funding. However, because
35 the rules likely would create less biological uncertainty, there is reduced need for an
36 adaptive management program under this alternative.

37 **ANTICIPATED IMPACTS**

38 The anticipated environmental impacts associated with these alternatives are summarized
39 in Table S-1 and are described in detail in Chapters 4 and 5.