

Integrating Recovery Plan Products and Section 7

Consultations in the NMFS Northwest Region

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Introduction

Now that several Northwest Region salmon and steelhead recovery plans are complete, and the rest are nearing completion, National Marine Fisheries Service (NMFS) staff members need to integrate these plans with consultations conducted under section 7 of the Endangered Species Act (ESA). The primary objective of this document is to improve the efficiency and effectiveness of the integration process. This document does not supersede or preclude the use of existing direction for completion of section 7 consultation, nor does it alter any obligation of NMFS or a consulting agency in carrying out its responsibilities under the ESA. A secondary objective is to help NMFS staff advise action agencies and applicants on recovery plan information that is pertinent to their consultations.

This document has two parts. Part 1 is a narrative that describes recovery planning information relevant to biological opinions. Part 2 is a set of tables with links to the most current recovery plan information for each listed salmon and steelhead evolutionarily significant unit (ESU) and distinct population segment (DPS)(collectively, “species”) in the Northwest Region. Part 2 will be continually updated as recovery plans and related technical and recovery implementation documents are completed.

Part 1

1. General Recovery Plan Overview

ESA section 4(f) requires each recovery plan to include, “to the maximum extent practicable,” the following elements: (i) A description of such site-specific management actions as may be necessary to achieve the plan’s goal for the conservation and survival of the species; (ii) objective, measurable criteria, which, when met, would result in a determination that the species be removed from the list; and (iii) estimates of the time required and the cost to carry out those measures needed to achieve the plan’s goal and to achieve intermediate steps toward that goal.

NMFS Northwest Region recovery plans for salmon and steelhead were developed by diverse stakeholder groups across varied geographic domains. NMFS recovery staff has ensured that all of the recovery plans compile the best available scientific information and that the plans have in common the following general sections:

- Biological background
- Recovery goals and delisting criteria
- Current status assessment
- Limiting factors and threats
- Recovery strategies
- Site-specific management actions
- Estimates of time and costs to implement actions
- All-H integration
- Research, monitoring and evaluation (RM&E)

2. Relationship Between Recovery and Section 7

Recovery plans provide important context for making section 7 determinations. When NMFS conducts a consultation pursuant to section 7(a)(2), we assist Federal agencies in ensuring that their actions are not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. Our ESA regulations, define “jeopardize the continued existence of” as “engag[ing] in an action that would reasonably be expected, directly or indirectly to reduce appreciably the likelihood of both the survival and recovery of listed species in the wild by reducing the reproduction, numbers or distribution of that species.” Recovery plans provide criteria that describe what “recovery” looks like. Recovery plans provide biological criteria for the abundance, productivity, spatial structure and diversity of a recovered species and also criteria for evaluating whether threats to the species have been addressed. The criteria describing the characteristics of recovered species also provide metrics that are useful for evaluating the effects of human actions on listed species.

Our critical habitat analysis determines whether the proposed action will destroy or adversely modify designated or proposed critical habitat for ESA-listed species by examining any expected changes in the conservation value of the essential features of that critical habitat. This analysis focuses on statutory provisions of the ESA, including those in Section 3 that define “critical habitat” and “conservation,” in Section 4 that describe the designation process, and in Section 7 that set forth the substantive protections and procedural aspects of consultation. The critical habitat analysis does not rely on the regulatory definition of

"adverse modification or destruction" of critical habitat that was at issue in *Gifford Pinchot Task Force et al. v. U.S. Fish and Wildlife Service* (9th Circuit Court of Appeals, No. 03-35279, August 6, 2004). If an action we evaluate appears to be inconsistent with achieving recovery, we should give it special scrutiny.

3. Recovery Planning Products That May Be Useful for Section 7 Consultations

The following general sources contain recovery information relevant to consultations.

- Proposed and final recovery plans, including the NMFS "Supplements," where used, that have been noticed in the Federal Register.
- Technical Recovery Team (TRT) reports and memoranda that describe independent populations, viability criteria, limiting factor analyses, and gap analyses.
- The most recent NWFSC and/or co-manager ESU and population status review documents.
- RM&E reports.
- Other documents prepared to support and implement recovery plans.

Part II of this document provides specific current sources, including identification of the primary source (e.g. a final recovery plan is the primary source for recovery [delisting] criteria for each listed species).

4. Pre-Consultation Considerations

Consultation biologists should use recovery plans to help action agencies design their proposed actions in ways that will support recovery. For example, incorporating recovery actions into an action agency's proposed actions could aid the action agency in minimizing adverse effects and avoiding jeopardy or adverse modification of critical habitat. While providing important context, recovery plans do not place any additional legal burden on NMFS or the action agency when determining whether an action would jeopardize the continued existence of a listed species or adversely modify critical habitat. Consultation biologists should, however, seek opportunities to help action agencies use recovery information to fulfill their 7(a)(1) responsibilities to carry out programs for the conservation of listed species.

5. Biological Assessment Development and Consultation Initiation

When initiating a consultation, NMFS staff should request that all action agencies include relevant recovery planning information in their biological assessments or other consultation initiation materials. Relevant information for the affected species, includes:

- The importance of affected populations to listed species viability.
- The importance of the action area to affected populations and species viability.
- The relation of the effects of the action to factors limiting recovery.
- The relation of the action to recovery strategies and management actions.
- The relation of the action to the research, monitoring and evaluation plan for the affected species.

6. Preparing a Biological Opinion

Recovery plans and their supporting products will allow NMFS to streamline biological opinions by focusing the analysis on those factors that are most relevant to the species and actions being considered. General information from recovery plans can be incorporated by reference, while concise summaries of relevant recovery plan information should be incorporated into the following sections of biological opinions:

Rangewide Status of the Species. This section presents the biological and ecological information relevant to forming the biological opinion, and should briefly summarize the overall status of the population(s) and major population groups (MPGs) that constitute the species. Our goal is to provide this information in standard formats, applying the most current available data. It will include the following:

- The species' status in terms of the VSP parameters, its MPGs, and its independent populations, as described in recovery plans or other relevant recovery documents.
- Rangewide limiting factors described in recovery plans—including a description of those factors affecting critical habitat primary constituent elements (PCEs).
- Relevant delisting criteria, as described in Federal Register notices and final recovery plans.¹ The primary sources for biological viability criteria are identified in Part 2 of this document.
- Present and emerging threats to recovery, as described in recovery plans.

Environmental Baseline. This section presents an analysis of the effects of past and ongoing human and natural factors leading to the current status of the species, its habitat and ecosystem, *within the action area*. The environmental baseline is a snapshot of the species' health at a specified point in time within the action area.

- *Status of the species in the action area.* Unless the species' range is wholly contained within the action area, this analysis is a subset of the preceding rangewide status discussion. Accordingly, this section should address the same factors (recovery criteria, species' VSP status, limiting factors, and threats), but narrowed to the scale of the action area. When describing these populations (or MPGs), describe the role they play with regard to the species' viability – abundance, productivity, spatial structure, and diversity.

¹ Recovery (also called delisting) criteria for a species can be viewed as the targets or values by which progress toward recovery can be measured (NMFS Interim Recovery Planning Guidance, October, 2004). Delisting or reclassification determinations will consider a combination of two kinds of criteria, threats criteria and biological (also called viability) criteria. Threats criteria define the conditions under which the listing factors, or threats, can be considered to be addressed or mitigated. Biological viability criteria are quantitative metrics that describe the species' viable salmonid population (VSP) characteristics (abundance, productivity, spatial structure, and diversity) associated with a low risk of extinction for the foreseeable future. NMFS recovery plans base their biological viability criteria on the viability criteria provided by Technical Recovery Teams (TRTs). However, NMFS also applies additional biological and policy considerations to recovery criteria. Thus, the Federal Register notices and final recovery plans are the primary sources for recovery criteria and they each explain how the TRT viability criteria are used. The primary sources for biological viability criteria are identified in Part 2.

- *Status of each species' critical habitat in the action area.* Describe the status of relevant habitat factors in recovery plans—but at the action area scale. Address the factors described in the recovery plan as limiting recovery, insofar as they relate to critical habitat PCEs in the action area.

Effects of the Proposed Action. In addition to other factors already considered in our biological opinion effects analyses, the following factors relevant to recovery should be addressed:

- *Limiting factors.* Evaluate how the proposed action is likely to affect the recovery plan's limiting factors already described in the environmental baseline.
 - Would the effects of the proposed action tend to exacerbate, alleviate, or have no effect on the limiting factors?
 - What is the proposed action's relationship to limiting factors caused by all the "Hs" in the affected area?
 - Would the proposed action create a new limiting factor?
- *Species viability.* Evaluate how the proposed action is likely to affect the species' likelihood of meeting its abundance, productivity, spatial structure, and diversity criteria.
- *Recovery actions.* What is the proposed action's relationship to strategies and actions identified for each of the "Hs" in the recovery plan? Would the proposed action affect opportunities to implement recovery actions identified in the plan for this species?

Cumulative Effects. This section presents an analysis of the effects of any non-Federal actions that are reasonably certain to occur within the action area. Although each recovery plan will describe site-specific management actions that may be necessary for recovery, the consultation biologist may not rely solely on the recovery plan for information about which actions are reasonably certain to occur. Recovery plans might also discuss certain trends, such as local land and water use, which can inform this section.

Integration and Synthesis/Conclusions. The jeopardy and adverse modification analyses should include the best available recovery planning information. That is, consulting biologists should consider the current status of the affected population(s) and critical habitat(s) relative to recovery, the importance of the affected population(s) and critical habitat(s) to achieving species recovery (delisting) criteria, the effects of the proposed action on factors that are limiting the ability of the species to recover, and other significant recovery planning information. For example, Table 1 below illustrates how the importance of a population or habitat, as described in a recovery plan, could influence risk considerations in a biological opinion.

Table 1. Example of risk considerations in relation to recovery plan information.

Importance of Affected Population or Habitat to Recovery	Effect of Proposed Action	
	Does <u>not</u> (substantially) exacerbate a limiting factor identified in a recovery plan.	Exacerbates a limiting factor identified in a recovery plan.
<i>More</i> important to achieving recovery goals	Intermediate risk.	Higher risk, i.e., more likely to conclude that action jeopardizes a species or adversely modifies critical habitat.
<i>Less</i> important to achieving recovery goals.	Lower risk, i.e., less likely to conclude that action jeopardizes a species or adversely modifies critical habitat.	Intermediate risk.

Conservation Recommendations. This section should present *recovery plan strategies and actions* that would help the action agency fulfill its 7(a)(1) responsibilities, along with a concise reason that explains why that management action is appropriate. Do not just add management actions because they exist – tie them to the proposed action being analyzed.

Reasonable and Prudent Alternative (RPA). If the proposed action is found to jeopardize listed species or adversely modify critical habitat, recovery plans may provide actions that, if included in an RPA, would allow the proposed action to proceed without jeopardizing the species or adversely modifying critical habitat. These relevant recovery actions should be included in the RPA, along with any other necessary actions and an analysis and narrative to explain how the RPA would avert jeopardy or adverse modification.

Incidental Take. If the proposed action is found to cause incidental take and recovery plans recommend actions that could contribute to avoiding or minimizing take, this section should include those actions as reasonable and prudent measures and terms and conditions.

If any research, monitoring and evaluation (RM&E) actions are identified as part of a reasonable and prudent measure, reasonable and prudent alternative, or term and condition, they should be informed by and consistent with RM&E sections of recovery plans and with the 2007 NMFS Adaptive Management Guidance (http://www.nwr.noaa.gov/Salmon-Recovery-Planning/ESA-Recovery-Plans/upload/Adaptive_Mngmnt.pdf).

Part 2

Table A – Recovery plan sections and supporting TRT reports delineating independent populations of salmon and steelhead.

Table B – Recovery plan sections on recovery criteria and supporting TRT reports on viability criteria.

Table C – Recovery plan sections on population and MPG recovery scenarios, and TRT recovery scenarios.

Table D – Recovery plan sections that describe factors for decline and threats.

Table E – Recovery plan sections on current status assessments and related TRT documents on status assessments and gap analyses.

Table F – Emerging threats sections from recovery plans.

Table G – Recovery plan sections on limiting factors.

Table H – Recovery plan sections on strategies and actions.

Table I – Recovery plan sections and appendices on All-H integration.

Table J – Recovery plan RM&E guidance and plans.