NATIONAL MARINE FISHERIES SERVICE INSTRUCTION 02-110-01 ***JUNE 15, 1990***
Protected Resources Management ***Endangered Species Act***
NMFS ENDANGERED AND THREATENED SPECIES: LISTING AND RECOVERY PRIORITY GUIDELINES
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National Oceanic and Atmospheric Administration

[Docket No. 71015-0067]

Endangered and Threatened Species; Listing and Recovery Priority Guidelines

AGENCY: National Marine Fisheries Service (NOAA Fisheries), NOAA, Commerce.

ACTION: Notice.

SUMMARY: NOAA Fisheries issues guidelines for assigning priorities to species for listing, delisting, and reclassification as endangered and threatened under the Endangered Species Act of 1973 (Act) and for developing and implementing recovery plans for species that are listed under the Act.

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SUPPLEMENTARY INFORMATION:

Background

For those species under the jurisdiction of the Secretary of Commerce, section 4(a) of the Act requires NOAA Fisheries to determine whether any species of wildlife or plant should be: (1) Listed as an endangered or threatened species (listing); (2) changed in status from threatened to endangered or changed in status from endangered to threatened (reclassification); or (3) removed from the list (delisting). Section 4(h) of the Act requires that NOAA Fisheries establish agency guidelines which include a priority ranking system for listing, reclassification, or delisting.

Section 4(f) of the Act requires NOAA Fisheries to develop and implement recovery plans for the conservation and survival of all endangered or threatened species, unless such a plan will not promote the conservation of the species. In general, listed species which occur entirely outside U.S. jurisdiction are not likely to benefit from recovery plans. Foreign species are more likely to benefit from bilateral or multilateral agreements under section 8 of the Act and other forms of international cooperative efforts. Section 4(f) of the Act also requires NOAA Fisheries to give priority to those endangered or threatened species (without regard to taxonomic classification) most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other developmental projects or other forms of economic activity. Section 4(h) of the Act requires that NOAA Fisheries establish a system for developing and implementing recovery plans on a priority basis.

The assignment of priorities to listing, reclassification, delisting, and recovery actions will allow NOAA Fisheries to use the limited resources available to implement the Act in the most effective way. On May 30, 1989, NOAA Fisheries published proposed guidelines in the **Federal Register** (54 FR 22925) and requested comments. No comments were received from the public. NOAA Fisheries issues these final guidelines with only slight modifications from the proposal based on internal reviews.

These guidelines are based primarily on guidelines published by the U.S. Fish and Wildlife Service (FWS) on September 21, 1983 (48 FR 43098). NOAA Fisheries believes that, to the extent practical, both agencies should follow similar priority guidelines for listing, reclassification, delisting and recovery. To the extent possible, NOAA Fisheries has adopted the priority guidelines in use by FWS. However, due to the smaller number of listed species and the anticipated smaller number of candidate species under NOAA Fisheries jurisdiction, NOAA Fisheries believes that fewer priority categories are necessary and the FWS guidelines have been modified accordingly.

These priority systems are guidelines and should not be interpreted as inflexible frameworks for making final decisions on funding or on performance of tasks. They will be given considerable weight by the agency in making decisions; however, the agency will also evaluate the cost-effectiveness of funding and tasks and take advantage of opportunities. For example, the agency may be able to conduct a relatively low priority item in conjunction with an ongoing activity at little cost.

A. Listing, Reclassification, and Delisting Priorities

1. Listing and Reclassification From Threatened to Endangered

In considering species to be listed or reclassified from threatened to

endangered, two criteria will be evaluated to establish four priority categories as shown in Table 1.

TABLE 1.—PRIORITIES FOR LISTING OR RECLASSIFICATION FROM THREATENED TO ENDANGERED

Magnitude of threat	Immediacy of threat	Priority
High	Imminent	1
	Non-Imminent	2
Low to Moderate	Imminent	3
	Non-Imminent	4

The first criterion, magnitude of threat, gives a higher listing priority to species facing the greatest threats to their continued existence. Species facing threats of low to moderate magnitude will be given a lower priority. The second criterion, immediacy of threat, gives a higher listing priority to species facing actual threats than to those species facing threats to which they are intrinsically vulnerable, but which are not currently active.

2. Delisting and Reclassification From Endangered to Threatened

NOAA Fisheries currently reviews listed species at least every five years in accordance with section 4(c)(2) of the Act to determine whether any listed species qualify for reclassification or removal from the list. When a species warrants reclassification or delisting, priority for developing regulations will be assigned according to the guidelines given in Table 2. Two criteria will be evaluated to establish six priority categories.

TABLE 2.—PRIORITIES FOR DELISTING AND RECLASSIFICATION FROM ENDANGERED TO THREATENED

Management impact	Petition status	Priority
High	Petitioned action	1
	Unpetitioned action.	2
Moderate	Petitioned action	3
	Unpetitioned action.	4
Low	Petitioned action	5
	Unpetitioned action.	6

The priorities established in Table 2 are not intended to direct or mandate decisions regarding a species' reclassification or removal from the list. The priority system is intended only to set priorities for developing rules for species that no longer satisfy the listing criteria for their particular designation under the Act. The decision regarding whether a species will be retained on the list, and in which category, will be based on the factors contained in section 4(a)(1) of the Act and 50 CFR 424.11.

The first consideration of the system outlined in Table 2 accounts for the management impact entailed by a species' inclusion on the list. Management impact is the extent of protective actions, including restrictions on human activities, which must be taken to protect and recover a listed species. If the current listing is no longer accurate, continuing protective management actions could divert resources from species more in need of conservation and recovery efforts, or impose an unnecessary restriction on the public. Because the Act mandates timely response to petitions, the system also considers whether NOAA Fisheries has been petitioned to remove a species from the list or to reclassify a species from endangered to threatened. Higher priority will be given to petitioned actions than to unpetitioned actions that are classified at the same level of management impact.

There is no direct relationship between the systems outlined in Tables 1 and 2. Although the same statutory criteria apply in making listing and delisting determinations, the considerations for setting listing and delisting priorities are quite different. Candidate species facing immediate, critical threats will be given a higher priority for listing than species being considered for delisting. Likewise, a delisting proposal for a recovered species that would eliminate unwarranted utilization of limited resources may, in appropriate instances, take precedence over listing proposals for species not facing immediate, critical threats.

B. Recovery Plan Preparation and Implementation Priorities

The recovery priority system will be used as a guide for recovery plan development, recovery task implementation and resource allocation. It consists of two parts—species recovery priority and recovery task priority. Species recovery priority will be used for recovery plan development. Recovery task priority, together with species recovery priority, will be used to set priorities for funding and performance of individual recovery tasks as explained below.

1. Species Recovery Priority

Species recovery priority is based on three criteria—magnitude of threat, recovery potential and conflict. These criteria are arranged in a matrix yielding twelve species recovery priority numbers (Table 3).

TABLE 3.—SPECIES RECOVERY PRIORITY

Magnitude of threat	Recovery potential	Conflict	Priority
High	High	Conflict	1
		No conflict	2
	Low to moderate.	Conflict	3
		No conflict	4
Moderate	~~Low to moderate~~ High	Conflict	5
		No conflict	6
	Low to moderate.	Conflict	7
		No conflict	8
Low	High	Conflict	9
		No conflict	10
	Low to moderate.	Conflict	11
		No conflict	12

The first criterion, magnitude of threat, is divided into three categories: High, moderate, and low. The high category means extinction is almost certain in the immediate future because of a rapid population decline or habitat destruction. Moderate means the species will not face extinction if recovery is temporarily held off, although there is a continuing population decline or threat to its habitat. Taxa in the low category are rare, or are facing a population decline which may be a short-term, self-correcting fluctuation, or the impacts of threats to the species' habitat are not fully known.

The second criterion, recovery potential, assures that resources are used in the most cost effective manner within each magnitude of threat ranking. Priority for preparing and implementing recovery plans would go to species with the greatest potential for success. Recovery potential is based on how well biological and ecological limiting factors and threats to the species' existence are understood, and the extent of management actions needed. A species has a high recovery potential if the limiting factors and threats to the species are well understood and the needed management actions are known and have a high probability of success. A species has a low to moderate recovery potential if the limiting factors or threats to the species are poorly understood or if the needed management actions are not known, are cost-prohibitive or are experimental with an uncertain probability of success.

The third criterion, conflict, reflects the Act's requirement that recovery priority be given to those species that are, or may be, in conflict with construction or other developmental projects or other forms of economic

activity. Thus, species judged as being in conflict with such activities will be given higher priority for recovery plan development and implementation than non-conflict species within the same magnitude of threat/recovery potential ranking. Species in conflict with construction or other developmental projects or other forms of economic activity would be identified in large part through consultations conducted with Federal agencies under section 7 of the Act.

2. Recovery Task Priority

Recovery plans will identify specific tasks that are needed for the recovery of a listed species. NOAA Fisheries will assign tasks priorities of 1 to 3 based on the criteria set forth in Table 4.

TABLE 4.—RECOVERY TASK PRIORITY.

Priority	Type of task
1	An action that must be taken to prevent extinction or to identify those actions necessary to prevent extinction.
2	An action that must be taken to prevent a significant decline in population numbers, habitat quality, or other significant negative impacts short of extinction.
3	All other actions necessary to provide for full recovery of the species.

It should be noted that even the highest priority tasks within a plan are not given a Priority 1 ranking unless they are actions necessary to prevent a species from becoming extinct or to identify those actions necessary to prevent extinction. Therefore, some plans will not have any Priority 1 tasks. In general, Priority 1 tasks only apply to a species facing a high magnitude of threat (species recovery priority 1–4).

When the task priorities (Table 4) are combined with the species recovery priority (Table 3), the most critical activities for each listed species can be identified and evaluated against other species recovery actions. This system recognizes the need to work toward the recovery of all listed species, not simply those facing the highest magnitude of threat. In general, NOAA Fisheries intends that Priority 1 tasks will be addressed before Priority 2 tasks and Priority 2 tasks before Priority 3 tasks. Within each task priority, species recovery priority will be used to further rank tasks. For example, a Priority 1 task for a species with a recovery priority of 4 would rank higher than a priority 2 task for a species with a recovery priority of 1; and, a Priority 1 task for a species with a recovery priority of 2 would rank higher than a Priority 1 task for a species with a recovery priority of 4. For tasks with the same priority ranking, the Assistant Administrator will determine the appropriate allocation of available resources.

C. Recovery Plans

As recovery plans are developed for each species, specific recovery tasks are identified and prioritized according to the criteria discussed above. As new information warrants, these plans, including tasks and priorities, will be reviewed and revised. In addition, funding and implementation of the tasks identified in recovery plans will be tracked in order to aid in effective management of the recovery program.

NOAA Fisheries believes that periodic review and updating of plans and tracking of recovery efforts are important elements of a successful recovery program. Information from tracking and implementing recovery actions and other sources will be used to review plans and revise them as necessary. These and other elements of NOAA's recovery planning process will be discussed in more detail in Recovery Planning Guidelines that the agency is developing.

Classification

The General Counsel of the Department of Commerce certified to the Small Business Administration that these guidelines would not have a significant economic impact on a substantial number of small entities because they do not direct or mandate decisions on a species' listing, reclassification or delisting. Rather, they set up priorities for later decisions as to agency review of species, recovery plan development and recovery task implementation. As a result, a regulatory flexibility analysis was not prepared.

Dated: June 8, 1990.

William W. Fox, Jr.,

Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

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