

Charge Statement for Peer Reviewers

Document title: *Draft Economic Impact Analysis for the Proposed Designation of Critical Habitat for the Mexico, Central America, and Western North Pacific Distinct Population Segments (DPSs) of Humpback Whales (Megaptera novaeangliae) under the Endangered Species Act (ESA)*

Background:

On September 8, 2016, the National Marine Fisheries Service (NMFS) published a final rule that revised the listing of humpbacks whales under the ESA by removing the taxonomic species listing, listing list four distinct population segments (DPSs) as endangered, and listing one DPS as threatened (81 FR 62260). This revision triggered the requirement under the ESA to designate critical habitat to the maximum extent prudent and determinable. Three of the five listed DPSs of humpback whales have ranges that extend into U.S. waters – the Mexico, Central America, and Western North Pacific DPSs. Because critical habitat cannot be designated within foreign countries or in areas outside the jurisdiction of the United States (50 CFR 424.12(g)), NMFS is only analyzing information relevant to the three DPSs that occur within U.S. waters.

Section 4(b)(2) of the ESA requires the designation of critical habitat for threatened and endangered species to the maximum extent prudent and determinable, “on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impact, of specifying any particular area as critical habitat.” This section of the ESA also grants the Secretary of Commerce discretion to exclude any area from critical habitat if he determines “the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat.” The draft Economic Analysis addresses the requirement of section 4(b)(2) to consider the economic impacts of a potential critical habitat designation for each of the three DPSs of humpback whales. (Our analysis of potential benefits of designation are addressed in a separate report.)

Critical habitat is defined as (i) the specific areas within the geographical area occupied by the species, at the time it is listed [under Section 4], on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species” (16 U.S.C. section 1532(5)(A)).

General Directives:

1. Please provide comments on the methodology, assumptions, or other means of reaching conclusions within the draft Economic Analysis. If you find that justification is lacking or specific information was applied incorrectly in reaching conclusions, please specify in your comments.
2. Please consider the accuracy, quality, and thoroughness of the information considered. If any additional information exists that was not considered, please specify in your comments.
3. Are uncertainties addressed fairly and clearly, where appropriate? If not, please explain.
4. Please provide your comments no later than **April 26th**.

Peer Review Requirements:

The President’s Office of Management and Budget (OMB) published a Peer Review Bulletin (December 2004) that requires online posting of this peer review as it has been determined to be “influential.” To ensure that we have a transparent process for public disclosure, names, affiliations, and comments of

each peer reviewer must be posted online. The comments, however, will not be attributed to individual peer reviewers. Comments will be compiled and made publicly available without attribution to individual reviewer. Previously submitted Peer Reviews are available at http://www.cio.noaa.gov/services_programs/prplans/PRsummaries.html. However, if NMFS receives a FOIA request, anonymity of peer reviewers or comments cannot be guaranteed.

Logistics:

1. Comments should be submitted electronically to: Lisa.Manning@noaa.gov.
2. Comments may be submitted either as “track-changes” and comment bubbles within the report or as a separate Word file.
3. If you are not a Federal employee, please make sure that you return a signed conflict of interest form with your review and attach a short form CV.

The *Draft Economic Analysis* is considered pre-decisional and should not be distributed. The report and all information associated with the report is to remain strictly confidential until the report is posted to the NMFS website and/or an associated proposed critical habitat rule is published in the *Federal Register* by NMFS.