Finding of No Significant Impact
For the Programmatic Assessment of the Species Recovery and Species of Concern Grant Programs

National Marine Fisheries Service

The National Marine Fisheries Service, Office of Protected Resources (NMFS PR) proposes to provide financial assistance through three discretionary grant programs: the Species Recovery Grants to States Program, the Species Recovery Grants to Tribes Program, and the Proactive Species Conservation Grant Program. The Species Recovery Grants to States Program is authorized under section 6 of the ESA (16 U.S.C. 1535) and all three programs are authorized under the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*). Federal assistance provided through these programs is used to conserve and improve the status of particular at-risk species that are NOAA trust resources.

The accompanying Programmatic Environmental Assessment (PEA) analyzes the environmental consequences of two Alternatives. Under the No Action Alternative, these programs would no longer conduct activities that recover or monitor at-risk species. The Preferred Alternative is to continue funding projects consistent with the programs ongoing approach for reviewing, approving, and funding projects without any substantial change in approach (e.g. substantial changes in the agencies review and approval process, types of projects eligible for funding, and general impacts on the human environment). The Preferred Alternative would allow the continuation of program activities from these three grant programs.

In accordance with the National Environmental Policy Act (NEPA), as implemented by the regulations published by the Council on Environmental Quality and NAO 216-6, NMFS prepared a Programmatic Environmental Assessment (PEA) analyzing the impacts on the human environment associated with these three grant programs. The analyses in the PEA, hereby incorporated by reference, support the following findings and determination.

The National Oceanic and Atmospheric Administration's Administrative Order 216-6 contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality (CEQ) NEPA implementing regulations at 40 C.F.R. 1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity." Each criterion listed below is relevant to making a finding of no significant impact

and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria. These include:

1. Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat (EFH) as defined under the Magnuson - Stevens Act and identified in Fishery Management Plans?

   Response: The proposed action is not expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat (EFH). While some funded activities may impact these resources, historically those impacts have been limited in spatial and temporal extent, and magnitude of impact. It is not anticipated that future selected projects would change in scope or magnitude so impacts are expected to be minor. Impacts to the seafloor from previously funded activities include boat anchoring and experimental bottom trawls. The recovery time for damage to the seafloor varies based on the type of gear used, the type of seafloor surface (i.e. mud, sand, gravel, mixed substrate), and the level of repeated disturbances. Most physical damage to the seafloor recovers within 1.5 years (except displaced rocks or boulders). However, the removal of structural organisms such as corals may only be reversible over hundreds of years. While the potential impacts to corals may be great, there have been no records of coral damage in any previously funded projects and the Federal Program Officer would evaluate projects based on their potential impacts to corals, in addition to other species, therefore the magnitude of this potential effect is likely minimal and considered negligible to minor.

   For any project proposed through these programs that will potentially impact the ocean, coastal habitats and/or EFH, the Federal Program Officer and experts (Federal and non-Federal) would evaluate the project and mitigate any potentially significant impacts. If EFH may be impacted, the action would undergo a consultation with NMFS to ensure that action would not adversely affect EFH. An evaluation by respective managers of marine protected areas (e.g. to ensure compliance with any NOAA National Marine Sanctuaries regulations) would also occur if appropriate.

2. Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

   Response: The proposed action is not expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area. While some funded activities may impact these resources, historically those impacts have been limited in spatial and temporal extent, and magnitude of impact. It is not anticipated that future selected projects would change in scope or magnitude so impacts are expected to be minor. Direct and indirect effects of program activities include bycatch of non-target organisms and disturbance/behavior changes of target and non-target organisms. For any project proposed through these programs that will potential impact biodiversity and/or ecosystem function within the affected area, the Federal Program Officer and

experts (Federal and non-Federal) would evaluate the project and mitigate any potentially significant impacts.

3. Can the proposed action reasonably be expected to have a substantial adverse impact on public health or safety?

   Response: These programs are not expected to have substantial adverse impacts on public health or safety. Historically these impacts have not occurred. It is not anticipated that future selected projects would change in scope or magnitude so any impacts are expected to be nonexistent or minor. For any project proposed through these programs that may have potential adverse impacts on public health or safety, the Federal Program Officer would consult with experts to evaluate the project and mitigate any potentially significant impacts.

4. Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?

   Response: These programs are not reasonably expected to have substantial adverse affects on endangered or threatened species, their critical habitat, marine mammals, or other non-target species. While these activities have the potential to negatively impact ESA listed species, the impacts are expected to be primarily short term and minor in intensity and magnitude. No prior projects funded by these programs have presented appreciable risks to jeopardizing the continued existence of a listed species. Given the selection criteria and recovery focused priorities of these three programs, activities that would adversely impact the target ESA listed species without providing an overall conservation benefit to the species would not be selected or funded. Likewise, activities funded through all three grant programs require formal ESA section 7 consultations if they may impact ESA listed species. A series of conversations occur with the Federal Program Officer and ESA section 7 and ESA section 10 (permits) staff before projects are funded to ensure minimal impacts to the species and that Best Management Practices (BMPs) are used. If either the USFWS or NMFS issue a Biological Opinion (BiOp), and established any reasonable and prudent measures or terms and conditions for minimizing take and avoiding jeopardy thus protecting the listed species, these programs must ensure that such measures are implemented through the use of Special Award Conditions (SACs). Activities would not be funded through these programs if the BiOp found that they would jeopardize the continued existence of the species unless reasonable or prudent alternatives were incorporated into the project and therefore jeopardy was subsequently avoided. The majority of program activities funded through Species Recovery Grants already require an ESA section 10 permit and are already analyzed under NEPA and have permit conditions that minimize impacts.

   While much of the funded work for the Species Recovery Grants programs would be conducted in ESA designated critical habitat, the funded activities are unlikely to adversely impact the physical features or primary constituent elements (such as prey resources) of critical habitat. If either the USFWS or NMFS issue a BiOp, and recommend any reasonable and prudent

alternatives for protecting specific critical habitat, these programs must ensure that the effects are appropriately avoided, minimized, or mitigated for with the use of SACs. No prior project funded by these programs has resulted in the destruction or adverse modification of critical habitat. Activities that resulted in destruction or adverse modification of critical habitat could not be funded unless reasonable or prudent alternatives were incorporated into the project to avoid the destruction or adverse modification.

The impacts to marine mammals from activities funded through these programs are expected to be primarily short term and minor in intensity and magnitude. No prior projects funded by these programs have resulted in significant impacts (including injury, serious injury or mortality) to marine mammals. Most harassment is covered through permits or authorizations and thus the initial NEPA analysis is conducted through the NMFS Permit Division (see http://www.nmfs.noaa.gov/pr/permits/) or USFWS and is not directly analyzed in the PEA. If program activities were expected to adversely affect marine mammals, the grantee would need to have or obtain an ESA permit (if the marine mammal is ESA listed-see above), incidental harassment authorization (IHA), and/or be covered under a Letter of Authorization (LOA) pursuant to an incidental take regulation (ITR) under Section 101(a)(5)(A) or (D) of the MMPA. Activities authorized under LOAs and IHAs must adopt mitigation and monitoring measures to minimize any adverse impacts to marine mammals; their habitat, and their availability for Alaska Native subsistence use. In addition, all three programs use SACs that include BMPs to avoid undue stress to marine mammals during program activities in areas where those interactions may occur.

No prior projects funded by these programs have seriously affected non-target species. All three programs use SACs that include BMPs to avoid capture, injury, serious injury or mortalities during program activities in areas where interactions may occur.

5. Are significant social or economic impacts interrelated with natural or physical environmental effects?

   Response: There have been generally negligible social and economic effects from projects funded under these grant programs. There are also not expected to be significant social or economic impacts of the proposed action interrelated with significant natural or physical environmental effects. If moderate or major social or economic effects were identified for a particular project a separate or tiered EA or EIS would be prepared.

6. Are the effects on the quality of the human environment likely to be highly controversial?

   Response: The effects on the quality of the human environment are not likely to be controversial. These programs have previously had negligible effects on the human environment that were not controversial. Additional analysis through supplemental or tiered NEPA analysis may be necessary when the funding of a particular project may be the subject of public

controversy based on potential environmental consequences, has uncertain environmental impacts or unknown risks, establishes a precedent with environmental consequences, or may result in a type or intensity of impact not fully evaluated in the PEA. No substantial dispute exists as to the size, nature, or effect of past projects. Future projects are intended to be similar in scope. Moreover, NMFS's review of the environmental impacts of the program, including public comment, did not identify any substantial questions as to whether the program or any future project may cause significant degradation of some human environmental factor.

7. Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas?

   Response: The program activities would not be expected to result in significant impacts to any unique areas mentioned above. No prior projects funded by these programs have seriously impacted unique areas. For EFH, consultations ensure that there will be negligible adverse impacts. If historic or culture resources might be impacted, the Federal Program Officer would consult with the State Historic Preservation Officer (SHPO) and/or Tribal Historic Preservation Officer (THPO) to ensure that impacts were minimized.

8. Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

   Response: Potential risks of proposed program activities are not unique or unknown, nor is there significant uncertainty about impacts. There is considerable information available on the likely impacts for the proposed action. If there were future activities that may have highly uncertain or unique or unknown risks, those activities would be subject to additional NEPA analysis.

9. Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

   Response: The incremental impact of the action on an environmental resource when added to other past, present, and reasonably foreseeable future actions discussed in the PEA would be minimal and not significant. The implementation of these programs would result in minimal incremental impacts to the affected environment and are therefore likely to negligibly contribute to the overall cumulative impact. The programmatic processes described in the PEA would ensure that any additional funded action would not have a cumulatively significant impact.

10. Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

Response: The programmatic action would not adversely affect any district, site, highway, structure, or object listed in or eligible for listing in the National Register of Historic Places. The proposed action would also not cause loss or destruction of significant scientific, cultural or historical resources. Program activities have the potential to effect historic and culture resources though they would be limited to areas near or in bodies of water. The Species Recovery Grants to Tribes program funds a considerable amount of work on tribal lands which may increase the exposure of historic and culture resources to impacts. To the extent that projects might result in adverse effects to properties determined to be historic, including cultural resources important to tribes, Section 106 consultation would occur under the NHPA and additional NEPA analysis could be necessary depending on the type, scope and intensity of impact. If historic or culture resources might be impacted, the Federal Program Officer would consult with the State Historic Preservation Officer (SHPO) and/or Tribal Historic Preservation Officer (THPO) to ensure that impacts were minimized.

11. Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?

    Response: The proposed research activities would not be expected to result in the introduction or spread of non-indigenous species to other watersheds. If there is the potential for introduction or spread of a non-indigenous species, the Federal Program Officer and experts would evaluate and mitigate any potential impacts in order to reduce the risk of the potential spread or transfer of that organism.

12. Is the proposed action likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

    Response: The decision to continue implementing these programs would not be precedent setting and would not affect any future decisions. Issuance of an award to a specific individual or organization for a given activity does not in any way guarantee or imply NMFS would authorize other individuals or organizations to conduct the same activity. Any future request received, including those by the applicant, would be evaluated upon its own merits relative to the criteria established in the MMPA, ESA, and NMFS' implementing regulations.

13. Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

    Response: Program activities are not expected to violate any Federal, State, or local laws for environmental protection. These programs do not relieve the applicants of their responsibilities to comply with other Federal, State, local, or international laws or regulations.

14. Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

Response: The cumulative impact from all threats to target and non-target species is expected to be minor to moderate in magnitude and duration. Cumulative impacts will be reduced or minimized through actions including the implementation of the recovery actions through these and similar USFWS grant programs, increased projected use of Habitat Conservation Plans (HCPs), and various other programs that protect or enhance affected populations. The implementation of these programs would result in minimal incremental impacts to the affected environment and is therefore likely to negligibly contribute to the overall cumulative impact. The programmatic processes described within the PEA would ensure that any additional funded action would not significantly impact these resources.

DETERMINATION

After considering the information presented in this document, the analysis contained in the Programmatic Environmental Assessment (PEA), and public comments received on the PEA, I hereby determine that no significant impacts to the quality of the human environment would result from implementing the proposed action. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an Environment Impact Statement for this action is not necessary.

James H. Lecky
Director, Office of Protected Resources

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Date