3.7 Environmental Justice

3.7.1 Background

Executive Order 12898 signed February 11, 1994, requires each Federal agency to:

> . . . make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.
>
> U.S. Environmental Protection Agency (1998a).

The presidential memorandum to all federal agencies accompanying the Executive Order established that the U.S. Environmental Protection Agency (EPA), "when reviewing environmental effects of the proposed action of other Federal agencies under Section 309 of the Clean Air Act, 42 U.S.C. section 7609, shall ensure that the involved agency has fully analyzed environmental effects on minority communities and low-income communities, including human health, social and economic effects." To assist other federal agencies to fully comply with this Executive order, EPA has prepared guidance for conducting Environmental Justice analyses.

The U.S. Environmental Protection Agency, working with the Enforcement Subcommittee of the National Environmental Justice Advisory Council (NEJAC), has developed technical guidance for conducting Environmental Justice assessments, in order to achieve consistency between analyses. That 1998 guidance provides the basis for the assessment presented here.

An Environmental Justice analysis is intended to determine potential human health or environmental effects that could have significant and disproportionate adverse effects on low-income and/or minority populations potentially impacted by proposed federal actions. The Environmental Justice analysis should also determine whether such populations or communities have been sufficiently involved in the decision-making process.

The Environmental Justice discussion in this assessment is presented in three parts: a description of methodology; a discussion of opportunities for minority self-identification and involvement in the decision-making process; and resultant conclusions concerning a baseline for Environmental Justice assessment.

3.7.2 Methodology

The methodology employed here considers the range of analytical procedures identified in the U.S. Environmental Protection Agency's Environmental Justice guidelines, and the particular circumstances

of the present assessment, then selects an appropriate methodology from within the guidance framework provided by the NEJAC.

3.7.2.1 Establish the Target Area

A *target area* is the geographical study area that is potentially affected by the Proposed Action or alternatives analyzed in this Environmental Impact Statement. For this assessment, the *target area* is defined by the counties that border Puget Sound and the Strait of Juan de Fuca, and is synonymous with the Puget Sound Action Area discussed elsewhere in this Environmental Impact Statement. These 12 counties are shown on Figure 3.2-2, and include:

Clallam	Snohomish	Pierce
Jefferson	Island	Thurston
Whatcom	San Juan	Mason
Skagit	King	Kitsap

3.7.2.2 Identify the Population Areal Unit

A *population areal unit* is the geopolitical unit containing populations which in aggregate are used to define the *target area.* For this analysis, the *population areal unit* used is each *county.*

3.7.2.3 Identify the Target Population

In this assessment, a *target population* includes the potentially affected residents of each county within the *target area.* Because this Environmental Impact Statement analyzes alternative plans for management of salmon harvest in Puget Sound and the Strait of Juan de Fuca, the primary target populations for analysis will be non-tribal commercial, sport and tribal fishermen harvesting these stocks. Once salmon are landed, there may also be secondary effects on associated peoples within the target area.

3.7.2.4 Identify the Reference Area

A *reference area* is the area used as a benchmark of comparison when determining whether a *target area* would suffer from disproportionate effect(s) to its identified minority or low-income populations. The *reference area* for the Environmental Justice analysis in this assessment is the State of Washington.

3.7.2.5 Define Disproportionate Effect

A *disproportionate effect* is an incidence (or prevalence) of an effect, a risk of an effect, or likely exposure to environmental hazards that would potentially cause adverse effects on a minority and/or low-income population that *significantly exceeds* that experienced by a comparable *reference*

population. U.S. Environmental Protection Agency guidelines with respect to *measurement of significance* are applied to *identified effects* in Section 4.7 of this assessment.

3.7.2.6 Identify Environmental Justice Area(s) of Concern

An *Environmental Justice Area of Concern* is defined as a *target area* that has been demonstrated to experience *disproportionate effects* and has a *significant* minority or low-income population relative to an appropriate *reference area.*

A *Potential Environmental Justice Area of Concern* is a *target area* that contains a *significant* minority and/or low-income population, but the existence of disproportionate effects has not yet been shown.

3.7.3 Public Outreach to Identify Significant Minority and/or Low-Income Groups

As part of the public scoping process for an Environmental Impact Statement on the ~~2004~~ Resource Management Plan that is proposed for implementation during the 2005-2009 fishing seasons, the National Marine Fisheries Service (NMFS) attempted to directly notify the potential target populations for this assessment: non-tribal commercial, sport and tribal fishermen. NMFS contacted local sport and commercial fishing organizations, magazines and newsletters by email, facsimile (FAX), or telephone to notify them that public comment was being sought. In this way, a diverse population located over a broad geographic area was reached quickly and efficiently.

Representatives of the Puget Sound treaty tribes are actively participating as members of the team tasked with completing the Environmental Impact Statement on the 2003 Resource Management Plan, and the Environmental Impact Statement on the ~~2004~~ fishing plan that is proposed for implementation during the 2005-2009 fishing seasons. Tribal representatives provided information necessary for the Environmental Impact Statement and document review, and sought input from the broader tribal communities.

3.7.4 Low Income Populations

U.S. Environmental Protection Agency guidelines offer a range of measures useful for identification of low-income populations. This analysis identifies potential low-income populations by comparing *percentages of persons below the poverty threshold* in each targeted county against a U.S. Environmental Protection Agency-recommended absolute threshold of 20 percent or more below the poverty level, based on U.S. Bureau of the Census data (U.S. Environmental Protection Agency 1998a). U.S. Environmental Protection Agency guidance notes:

> An advantage of using the poverty thresholds as benchmarks for low-income status is that associated data adhere to Federal statistical standard.
>
> U.S. Environmental Protection Agency (1998a).

Poverty percentages for target counties from the U.S. Bureau of the Census are provided in Table 3.7-1.

Table 3.7-1. Percentage of persons below the poverty level, by county, within the target area.

County	Percent of Persons Below Poverty Level [1]
Clallam	12
Jefferson	11
Island	7
San Juan	9
Whatcom	14
Skagit	11
Snohomish	7
King	8
Pierce	10
Thurston	9
Mason	12
Kitsap	9

[1] Developed from U.S. Census 2000, Summary File 3.

None of the target counties identified in Table 3.7-1 exhibit poverty levels equal to or greater than 20 percent.

3.7.5 Racial Minorities

U.S. Environmental Protection Agency guidance has recommended that ~~a~~ minority populations in the State of Washington be determined *significant* if they~~it~~ represent~~s~~ 15.72 percent or more of the population for any specified *population areal unit* within a target area (E.O. 12898; U.S. Environmental Protection Agency 1998a). Data on racial minorities, by target county, are presented in Table 3.7-2.

Table 3.7-2. Percentage of minority persons by county, by race, within the target area. [1]

County	Black/ African American	American Indian/Alaska Native	Asian	Native Hawaiian Pacific Islander	Other	Total
Clallam	1	5	1	–	1	8
Jefferson	–	2	1	–	–	3
Island	2	1	4	–	2	9
San Juan	–	1	–	–	1	2
Whatcom	1	3	3	–	3	10
Skagit	–	2	1	–	7	10
Snohomish	2	1	6	–	2	11
King	5	1	11	–	3	19
Pierce	7	1	5	1	2	16
Thurston	2	2	5	1	2	12
Mason	1	4	1	1	2	9
Kitsap	3	1	5	1	2	12

[1] Developed from U.S. Census 2000, Summary File 3.

~~None of the counties identified in~~ According to Table 3.7-2, King and Pierce counties exceed the state minority criteria ~~contain racial minorities that qualify for targeted Environmental Justice analysis, based on the criteria identified above.~~ of 15.72 percent of the county population.

~~While this county-by-county assessment did not identify any *significant* minorities, t~~Two further fishing-related inquiries were conducted, to determine whether *significant* minority salmon-fishing groups might be distributed across counties within the target area as a whole and might require targeted Environmental Justice analysis.

First, expert opinion regarding the possible prevalence of *significant* non-tribal racial minorities among salmon fishermen in the target area was sought through literature search and oral inquiry. U.S. Fish and Wildlife Service survey data, collected in 1996, indicate that 91 percent of resident sport anglers in the State of Washington are white, "other races" represent 8 percent, and participation in sport fishing by African-Americans was not significant enough for reliable tabulation (U.S. Fish and Wildlife Service 1998). These findings are generally consistent with national angling characteristics (U.S. Fish and Wildlife Service 2000).

Experts from federal and state agencies responsible for management of commercial non-tribal salmon fisheries in the target area were also contacted. They indicated that they did not collect data on race of fishermen, and knew of no substantial aggregations of minority fishermen in the state, with the exception of Indians (personal communication with Jim Segar, Pacific Marine Fisheries Council, and Lee Hoines, Washington Department of Fisheries and Wildlife, December 2002). (Also Subsection 3.7.3, above.)

Based on these inquiries, NMFS concluded, and EPA concurred (personal communication with Mike Letourneau, EPA, July 1, 2004), that non-tribal minority impacts would not be disproportionate in the counties within the target area.

In the second area of inquiry, Indian tribes were specifically identified as having *significant* status under Environmental Justice proceedings. Their status is discussed below in Subsection 3.7.6.

3.7.6 Indian Tribes

U.S. Environmental Protection Agency guidance regarding Environmental Justice extends beyond statistical threshold analysis to explicitly consider Environmental Justice effects on Indian tribes.

> Federal duties under the Environmental Justice E.O. ("Executive Order"), the Presidential directive on government-to-government relations, and the trust responsibility to Indian tribes may merge when the action proposed by a federal agency or EPA potentially affects the natural or physical environment of a tribe. The natural or physical environment of a tribe may include resources reserved by treaty or lands held in trust; sites of special cultural, religious or archaeological importance, such as sites protected under the National Historic Preservation Act or the Native American Graves Protection and Repatriation Act; other areas reserved for hunting, fishing, and gathering (usual & accustomed), which may include "ceded" lands that are not within reservation boundaries. Potential effects of concern . . . may include ecological, cultural, human health, economic, or social impacts when those impacts are interrelated to impacts on the natural or physical environment.
>
> U.S. Environmental Protection Agency (1998b).

Seventeen treaty tribes have ongoing treaty-based fishing activities within the *target area* that may be potentially affected by the Proposed Action or alternatives considered in this assessment. Two additional tribes are federally-recognized and demonstrate historic linkages with fisheries. Consequently, tribal effects will be a specific focus of the Environmental Justice analysis provided in Section 4.7. The 17 treaty tribes, together with the county in which their reservations are located, are presented in Table 3.7-3. Fishing activities of these tribes often extend more broadly, due to treaty-based *usual and accustomed* fishing areas sometimes located at a distance from reservation lands. The term *usual and accustomed* is contained in the treaties between the United States and the 17 treaty

fishing tribes considered in this assessment (see Subsection 3.4.4 of this Environmental Impact Statement).

> *Usual and accustomed places* (are) Those areas in, on and around the freshwater and saltwater areas within the Western District of Washington, which were understood by the Indian parties to the Stevens treaties to be embraced within the treaty terms "usual and accustomed" "grounds," "stations" and "places."
>
> United States v. Washington (1974).

The two additional federally-recognized tribes are also identified in the table.

General information respecting these tribes and their use of the salmon resource is presented in Subsections 3.4 and 3.5 of this Environmental Impact Statement.

Table 3.7-3. Tribes considered in the environmental justice analysis.

Tribe	County Location of Reservation
Treaty Fishing Tribes:	
Makah	Clallam
Lower Elwha	Clallam
Jamestown	Clallam
Port Gamble	Jefferson
Suquamish	Kitsap
Skokomish	Mason
Squaxin Island	Mason
Nisqually	Thurston
Puyallup	Pierce
Muckleshoot	King
Tulalip	Snohomish
Stillaguamish	Snohomish
Swinomish	Skagit
Upper Skagit	Skagit
Sauk Suiattle	Skagit
Lummi	Whatcom
Nooksack	Whatcom
Additional Federally-Recognized Tribes:	
Samish	Whatcom/ Island
Snoqualmie	King