

as a result of the proposed fisheries. A variety of monitoring and evaluation tasks are specified in the FMEPs to assess the abundance of coho salmon, determine fishery effort and catch of coho salmon and other species, and monitor angler compliance. A review of compliance with the provisions of the FMEPs will be conducted by the state fisheries agencies annually and a comprehensive review to evaluate the effectiveness of the FMEPs will occur at a minimum every 5 years.

As specified in the July 10, 2000, the Endangered Species Act (ESA) 4(d) rule for salmon and steelhead (65 FR 42422) and updated rule (June 28, 2005, 70 FR 37160), NMFS may approve an FMEP if it meets criteria set forth in 50 CFR 223.203(b)(4)(i)(A) through (I). Prior to final approval of an FMEP, NMFS must publish notification announcing its availability for public review and comment.

Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000, as updated in 70 FR 37160, July 28, 2005) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the rule do not apply to activities associated with fishery harvest provided that an FMEP has been approved by NMFS to be in accordance with the salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000, as updated in 70 FR 37160, July 28, 2005).

Dated: October 12, 2005.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101105C]

Notice of Intent to Prepare an Environmental Impact Statement on Issuance of Permits for Research on Northern Right Whales in the Atlantic and Pacific Oceans

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Intent to prepare environmental impact statement.

SUMMARY: The National Marine Fisheries Service (NMFS) announces its intent to prepare an Environmental Impact Statement (EIS) to analyze the environmental impacts of issuing permits facilitating research on endangered northern right whales.

Publication of this notice begins the official scoping process that will help identify alternatives and determine the scope of environmental issues to be addressed in the EIS. This notice requests public participation in the scoping process and provides information on how to participate.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for specific dates, times, and locations of public scoping meetings for this issue.

FOR FURTHER INFORMATION CONTACT:

Written statements and questions regarding the scoping process must be postmarked by January 31, 2006, and should be mailed to: Steve Leathery, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910-3226, Fax: 301-427-2582 or e-mail at rweis.comments@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS proposes to continue to issue permits to various individuals and institutions for conduct of research on northern right whales, *Eubalaena glacialis*, in the Atlantic and Pacific Oceans. Note that the International Whaling Commission recognizes two species of northern right whale: *E. glacialis* in the North Atlantic and *E. japonica* in the North Pacific. NMFS is currently conducting a status review to determine whether to list the population of northern right whales in the Pacific as a separate species (*E. japonica*) from the population in the Atlantic (*E. glacialis*). Permits would be issued pursuant to the provisions of section 104 of the Marine Mammal

Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*) and section 10(a)(1)(A) of the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*), and NMFS regulations implementing these statutes.

NMFS is the Federal agency responsible under the MMPA and ESA for management of right whales. NMFS issues permits to qualified individuals and institutions so they can conduct research activities likely to result in collection of information needed by NMFS to conserve and recover northern right whales. NMFS has issued permits for research on right whales for several decades.

The purpose of issuing permits is to allow an exemption to the prohibition on "takes" established under the ESA and MMPA. The ESA and the MMPA prohibit "takes" of threatened and endangered species, and of marine mammals, respectively. The ESA defines "take" as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Under the MMPA, "take" is defined as to "harass, hunt, capture, collect or kill, or attempt to harass, hunt, capture, collect or kill any marine mammal." The MMPA further defines harassment as "any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing a disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering but which does not have the potential to injure a marine mammal or marine mammal stock in the wild [Level B harassment]."

In addition to the general prohibitions of the MMPA and ESA, federal regulations (50 CFR 224.103) prohibit both boats and aircraft from approaching any right whale in the North Atlantic closer than 500 yards, except by permit. Many research activities, including aerial and vessel-based surveys, photo-identification, attachment of scientific instruments, and collection of tissue samples (remote biopsy sampling), require approaching right whales closer than this and may result in harassment or other acts otherwise prohibited under the MMPA and ESA.

While the status of the right whale population has remained critical, the interest in research that will identify or resolve conservation problems for the species has grown. The level of research effort relative to the population size has increased and researchers are

developing ever more innovative techniques to study right whales. In addition, Congress continues to appropriate funds to facilitate research on right whales, which in turn drives requests for research permits. Thus, NMFS has decided to prepare an EIS to evaluate the cumulative impacts of research on right whales and to assess the likely environmental effects of issuing permits under a range of alternatives characterized by different research methods, mitigation measures, and level of effort, including a range of sample sizes and temporal and geographic scopes of research.

The Proposed Action Alternative would result in issuance of permits to qualified individuals and institutions to conduct those research activities determined critical or essential to NMFS' conservation and recovery of right whales. To minimize the cumulative impacts of research on right whales, no permits would be issued for lower priority research activities until the highest priority tasks were completed or unless there was sufficient information to determine that the cumulative impacts of allowing additional takes for research would not disadvantage or jeopardize the continued existence of the species. The Proposed Action could thus be viewed as a minimum take alternative, allowing the least amount of research practicable to meet NMFS' needs for recovery of the species.

In addition to the Proposed Action, NMFS will consider other alternatives for issuing permits for research on right whales. One alternative to the Proposed Action is to issue all permits requested regardless of their relative potential contribution to recovery of the species, provided they meet all permit issuance criteria and would not jeopardize the continued existence of the species. In contrast to the Proposed Action, this could be viewed as the maximum allowable take alternative.

Another alternative to the Proposed Action is the No Action Alternative, which CEQ regulations require be included for consideration. The No Action Alternative would only allow conduct of that research on right whales already allowed under existing permits, which are valid through 2010. No new permits would be issued to replace the expiring permits, nor would existing permits be amended to allow modifications in research activities, sample sizes, or objectives.

A fourth alternative considered is the Status Quo. As with the No Action Alternative, the Status Quo Alternative would allow conduct of research on right whales already identified under

existing permits, and no permits would be amended to change research activities, sample sizes, or objectives. However, under the Status Quo Alternative, new permits would be issued to replace existing permits as they expire such that the current level of research and types of research activities would continue. Since the Status Quo would not allow issuance of permits for any research activities, objectives, or sample sizes not currently permitted, it would preclude adaptive changes in the research program that may be responsive to changes in the population status or threats to the recovery of the population.

The Status Quo and two other alternatives considered by NMFS may be eliminated from detailed study because they would not allow conduct of research identified by NMFS as necessary for conservation of the species. The other two alternatives that may be eliminated from further study are: (1) imposing a research permit moratorium (i.e., suspending or revoking existing permits and not issuing new ones) and (2) suspending all intrusive research activities (i.e., stopping biopsy sampling, instrument attachment, and other activities that could result in physical injury). In addition to preventing collection of information about right whales needed for NMFS conservation and recovery efforts for the species, a research permit moratorium would seriously hinder conduct of the aerial surveys vital to operation of networks established to minimize shipstrikes with right whales. Suspending permits for intrusive research would impede collection of information on right whale habitat use and population structure which is needed for NMFS conservation and recovery efforts for the species.

Major environmental issues that will be addressed in the EIS include: NMFS' information needs for conservation of the species; the types of research activities to be permitted, including temporal and geographic extent of activities, level of effort (sample sizes and frequency of sampling), and standardized protocols; mitigation measures; and the cumulative impacts of research activities on right whales and the environment. To be consistent with the purposes and policies of the MMPA and ESA and with NMFS' implementing regulations, research permitted under any alternative should contribute to fulfilling a research need or objective identified in the Right Whale Recovery Plan; understanding the basic biology or ecology of marine mammals; or identifying, evaluating, or resolving conservation problems for the

species. NMFS is therefore seeking public comments especially in the following five areas related to permits for research on right whales:

(1) *Types of research.* For example, are there critical research needs for this species other than those identified in the Recovery Plan? If so, what are they and how are they likely to benefit the species? Of the research, information, and monitoring needs identified in the Recovery Plan, what are the most appropriate methods to conduct the study or obtain the information?

(2) *Level of research effort.* For example, how much of a specific research activity (e.g., aerial survey, tagging, biopsy sampling, etc.) is enough for management and conservation needs? Can there be too much? If so, how should NMFS set limits? Should there be different standards or more restrictions placed on research conducted on certain age, sex, or reproductive classes or life-history stages? If so, what are those classes/stages and what should those limitations be?

(3) *Coordination of research.* For example, assuming permits are issued to multiple individuals, what are the most appropriate mechanisms for ensuring research is coordinated to maximize information and reduce adverse impacts? Alternatively, should NMFS consider limiting the number of permits to increase coordination and cooperation? If so, how should this be accomplished? Should researchers operating under different permits (but studying the same or related questions - such as aerial survey for population census or biopsy for population genetics) be required to use the same or similar methods to ensure the information collected is comparable and useful in NMFS conservation of the species? If so, what methods are most appropriate (for aerial surveys; vessel surveys; photo-identification; biopsy for genetic analyses, contaminants analyses; etc.)? If not, how should NMFS compare or use the data from various permit holders in its management decisions?

(4) *Qualifications of researchers.* For example, to ensure the study is conducted successfully and with the minimum of adverse impacts, how much prior experience should a permit applicant, principal investigator, or anyone else operating under a permit, have with the specific methods for which they seek a permit?

(5) *Effects of research.* NMFS will be assessing possible effects of the various research methods using all appropriate available information. Anyone having relevant information they believe NMFS should consider in its analysis should

provide a complete citation or reference for retrieving the information. In addition, NMFS is seeking recommendations for study designs that could detect or predict the effects of research on right whales.

For additional information about right whales, the permit process, and related information, please visit our website at <http://www.nmfs.noaa.gov/pr/rightwhale/>.

Scoping Meetings Agenda

Public scoping meetings will be held at the following dates, times, and locations:

1. Thursday, November 3, 2005, 3 – 6 p.m., New Bedford Whaling Museum, Auditorium, 18 Johnny Cake Hill, New Bedford, MA;
2. Saturday, December 10, 2005, 6:30 – 9:30 p.m., Manchester Grand Hyatt, Elizabeth A Room, One Market Place, San Diego, CA; and
3. Thursday, January 19, 2006, 1 – 4 p.m., Silver Spring Metro Center, Building 4, Science Center, 1301 East-West Highway, Silver Spring, MD.

Comments will be accepted at these meetings as well as during the scoping period, and can be mailed to NMFS by January 31, 2006 (see **FOR FURTHER INFORMATION CONTACT**).

We will consider all comments received during the comment period. All hardcopy submissions must be unbound, on paper no larger than 8½ by 11 inches (216 by 279 mm), and suitable for copying and electronic scanning. We request that you include in your comments:

- (1) Your name and address;
- (2) Whether or not you would like to receive a copy of the Draft EIS; and
- (3) Any background documents to support your comments as you feel necessary.

Special Accommodations

These meetings are accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Carrie Hubbard or Tammy Adams, 301-713-2289 (voice) or 301-427-2582 (fax), at least 5 days before the scheduled meeting date.

Dated: October 12, 2005.

Patrick Opaty,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.
[FR Doc. 05-20715 Filed 10-14-05; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080905A]

Small Takes of Marine Mammals Incidental to Specified Activities; Low-Energy Seismic Survey on the Louisville Ridge, Southwest Pacific Ocean

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of application and proposed incidental take authorization; request for comments.

SUMMARY: NMFS has received an application from the Scripps Institution of Oceanography, (Scripps), a part of the University of California, for an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by harassment, incidental to conducting an oceanographic survey in the southwestern Pacific Ocean (SWPO). Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an authorization to Scripps to incidentally take, by harassment, small numbers of several species of cetaceans for a limited period of time during January and February, 2005.

DATES: Comments and information must be received no later than November 16, 2005.

ADDRESSES: Comments on the application should be addressed to Steve Leathery, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning the contact listed here. The mailbox address for providing email comments is PR1.080905A@noaa.gov. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size. A copy of the application (containing a list of the references used in this document) and an Environmental Assessment (EA) may be obtained by writing to this address or by telephoning the contact listed here and are also available at: http://www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake_info.htm#applications.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, Office of Protected Resources, NMFS, (301) 713-2289, ext 128.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as “* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.”

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On June 29, 2005, NMFS received an application from Scripps for the taking, by harassment, of several species of marine mammals incidental to conducting a low-energy marine seismic