

(59 FR 8686). The panel review in this matter was requested and terminated pursuant to these Rules.

Dated: May 23, 2007.

**Caratina L. Alston,**

*United States Secretary, NAFTA Secretariat.*

[FR Doc. E7-10284 Filed 5-29-07; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Consent Motion To Terminate Panel Review

**AGENCY:** NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Consent Motion to Terminate Panel Review of the Final Antidumping Determination Under Section 129 of the Uruguay Round Agreements Act made by the International Trade Administration, respecting Certain Softwood Lumber from Canada (Secretariat File No. USA-CDA-2005-1904-04).

**SUMMARY:** Pursuant to the Notice of Consent Motion to Terminate the Panel Review by the case participants, the panel review is terminated as of May 22, 2007. Pursuant to Rule 71(2) of the *Rules of Procedure for Article 1904 Binational Panel Review*, this panel review is terminated.

**FOR FURTHER INFORMATION CONTACT:** Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482-5438.

**SUPPLEMENTARY INFORMATION:** Chapter 19 of the North American Free Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules").

These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter was requested and terminated pursuant to these Rules.

Dated: May 23, 2007.

**Caratina L. Alston,**

*United States Secretary, NAFTA Secretariat.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[Docket No. 070516104-7104-01; I.D. 042607C]

#### Endangered and Threatened Species; 90-Day Finding for a Petition To List the Global Populations of Right Whales as a Single Species

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

**ACTION:** Notice of 90-day petition finding.

**SUMMARY:** We, NMFS, announce a 90-day finding regarding a petition to list the global populations of right whales with the common name Black Whale as a single species under the Endangered Species Act of 1973, as amended (ESA). This action is required by section 4(b)(3)(A) of the ESA. After review, we find the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted.

**DATES:** This finding is effective immediately.

**ADDRESSES:** Copies of the petition are available upon request from the Division Chief, NMFS, Office of Protected Resources, Endangered Species Division, 1315 East-West Highway, Silver Spring, MD 20910-3226.

**FOR FURTHER INFORMATION CONTACT:** Marta Nammack, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3226, telephone (301)713-1401.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 8, 2007, we received a petition from GreenWorld to list the global populations of right whales as a single species with the common name Black Whale under the ESA. Copies of this petition are available from NMFS (see **ADDRESSES**, above). GreenWorld filed the petition following two

proposed rules published by NMFS on December 27, 2006, to list the North Pacific Right Whale (71 FR 77694; December 27, 2006) and the North Atlantic Right Whale (71 FR 77704; December 27, 2006) as separate endangered species.

#### ESA Statutory Provisions

Pursuant to section 4(b)(3)(A) of the ESA, we are required to make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, this finding must be made within 90 days of receipt of the petition. Our ESA implementing regulations define "substantial information" as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. In determining whether a petition contains substantial information indicating that the petitioned action may be warranted, we consider only information that is submitted with or referenced in the petition or readily available in our files. We do not conduct additional research. In making a finding, we consider whether the petition: (i) clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (ii) contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species; (iii) provides information regarding the status of the species throughout all or a significant portion of its range; and (iv) is accompanied by the appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps (50 CFR 424.14(b)(2)).

#### Analysis of Petition

For the reasons set forth below, the petition fails to present substantial scientific and commercial information indicating that the petitioned action may be warranted.

First, the petitioner fails to identify the scientific name of the species and provides no documentation or bibliographic references supporting the assertion that the global populations of right whales should be listed as a single species. The petitioner claims there is no scientific basis for listing the northern right whale as two species and that NMFS has offered no analysis of

this listing in the **Federal Register**. However, information readily available in our files indicates that the best available science supports distinguishing the North Atlantic right whale (*Eubalaena glacialis*), North Pacific right whale (*Eubalaena japonica*), and southern right whale (*Eubalaena australis*) as three separate species (Rosenbaum *et al.*, 2000; Malik *et al.*, 2000; Schaeff *et al.*, 1997; Gaines *et al.*, 2005). Further, in 2000 the International Whaling Commission's Scientific Committee recommended the North Atlantic, North Pacific, and southern populations be considered separate species based on the prevailing right whale taxonomy. Lastly, in 2006 we completed a comprehensive status review of the northern right whale and concluded the northern right whale exists as two separate species, the North Atlantic right whale (*E. glacialis*) and the North Pacific right whale (*E. japonica*) (NMFS, 2006). We cited this report in the **Federal Register** in our proposed rules to list the North Pacific right whale (71 FR 77694; December 27, 2006) and North Atlantic right whale (71 FR 77704; December 27, 2006) as endangered under the ESA. A copy of the status review is also available at [http://www.nmfs.noaa.gov/pr/species/mammals/cetaceans/rightwhale\\_northern.htm](http://www.nmfs.noaa.gov/pr/species/mammals/cetaceans/rightwhale_northern.htm).

Second, the petitioner provides no information regarding the past and present abundance, distribution, and threats faced by the species in support of the assertion that the global populations of right whales should be listed as a single species. Information readily available in our files regarding the past and present abundance, distribution, and threats faced by the right whales supports the listing of three separate species. Our comprehensive review of the information regarding the past and present abundance, distribution, and threats in the 2006 northern right whale review (NMFS, 2006) also supports the listing of three separate species.

Third, the petitioner provides no information regarding the status of the species throughout all or a significant portion of its range to indicate the global populations of right whales should be listed as a single species. Information readily available in our files regarding the status of right whales supports the listing of three separate species as endangered. Our comprehensive review of the information regarding the status of right whales in the 2006 northern right whale review (NMFS, 2006) also supports the listing of three separate species.

### Petition Finding

Based on our review, we find the petition does not present substantial scientific or commercial information indicating the listing of the global populations of right whales as a single species may be warranted. As a result, we will not initiate a status review to determine whether the petitioned action is warranted. We will continue to fulfill our statutory obligations with regard to the conservation of all listed species of right whales, and we encourage the public to submit new information that will assist with these conservation efforts.

### References Cited

A complete list of all references is available upon request from the Office of Protected Resources (see **ADDRESSES**).

**Authority:** The authority for this action is the ESA, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 22, 2007.

#### Samuel D. Rauch III,

Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 021607A]

#### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Conducting Air-to-Surface Gunnery Missions in the Gulf of Mexico

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

**ACTION:** Notice of proposed issuance of an incidental take authorization; request for comments and information.

**SUMMARY:** NMFS has received a request from Eglin Air Force Base (Eglin AFB), for renewal of an authorization to harass marine mammals, incidental to conducting air-to-surface (A-S) gunnery missions in the Gulf of Mexico (GOM). As a result of this request, NMFS is proposing to reissue a 1-year authorization to take marine mammals by Level B harassment incidental to this activity. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an authorization to Eglin AFB to incidentally take, by harassment, several

species of cetaceans for a period of 1 year.

**DATES:** Comments and information must be postmarked no later than June 29, 2007.

**ADDRESSES:** Comments should be addressed to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3226. The mailbox address for providing email comments on this action is [PR1.021607A@noaa.gov](mailto:PR1.021607A@noaa.gov). Comments sent via email, including all attachments, must not exceed a 10-megabyte file size. A copy of Eglin's original 2003 application and its December, 2006 letter updating its request may be obtained by writing to this address, by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) and is also available at: [http://www.nmfs.noaa.gov/prot\\_res/PR2/Small\\_Take/smalltake\\_info.htm#applications](http://www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake_info.htm#applications). A copy of the Final Programmatic Environmental Assessment (Final PEA) is available by writing to the Department of the Air Force, AAC/EMSN, Natural Resources Branch, 501 DeLeon St., Suite 101, Eglin AFB, FL 32542-5133.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Hollingshead, NMFS, 301-713-2289, ext 128.

#### SUPPLEMENTARY INFORMATION:

##### Background

Sections 101(a)(5)(A) and 101(a)(5)(D) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*) (MMPA) direct the Secretary of Commerce (Secretary) 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 regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not (where relevant) have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, 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