

units (ESUs) or distinct population segments (DPSs):

Steelhead (*Oncorhynchus mykiss*): endangered, naturally produced and artificially propagated Upper Columbia River (UCR) and threatened Middle Columbia River.

Chinook salmon (*O. tshawytscha*): endangered Upper Columbia River spring-run and threatened Snake River fall-run.

### Background

Section 9 of the ESA and Federal regulations prohibit the "taking" of a species listed as endangered or threatened. The term "take" is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits to non-Federal entities to take ESA-listed species if such taking is incidental to, and not the purpose of, carrying out an otherwise lawful activity, under section 10(a)(1)(B) of the ESA. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

NEPA requires Federal agencies to conduct an environmental analysis of their proposed actions to determine if the actions may affect the human environment. NMFS expects to take action on an ESA section 10(a)(1)(B) submittal received from the WDFW and is seeking public input to extend the WDFW's permit term from five years to ten years.

On September 12, 2005, the WDFW submitted an application to NMFS for an ESA section 10(a)(1)(B) permit for incidental take of ESA-listed anadromous fish species associated with recreational fishery programs in the upper Columbia River and its tributaries for a five-year period (70 FR 71087). On September 12, 2007, the draft NEPA analysis of the action was made available for public comment (72 FR 52085). All comments were subsequently addressed, and no comments were received regarding the permit term. However, a final EA and final ESA determination were not prepared because, since the draft EA public comment period, NMFS has determined that issuing the proposed permit for ten years, rather than five years, is reasonable. NMFS believes that these fisheries pose a low risk of deviating from the assessed impacts over time. Permit 1554 as proposed, and as previously described, would maintain or strengthen monitoring and compliance enforcement activities and, therefore, the level of confidence in the effects analysis and the impacts.

Additionally, permit 1554 would include an annual reporting requirement and identify an annual renewal process. If impacts exceed the authorized take or new information on the impacts of the activities arises, NMFS could re-initiate consultation. The proposed fisheries would target non-listed anadromous salmon and steelhead and resident game fish species. No fisheries that would target listed species are proposed. Implementation of these fisheries would allow fishing for recreational purposes and would provide economic opportunities for local communities through the sale of licenses and equipment, and the conduct of other business and services related to recreational fisheries.

This notice is provided pursuant to section 10(c) of the ESA. NMFS requests comments on the ten-year permit period and will evaluate comments submitted to determine whether the application meets the requirements of section 10(a)(1)(A) of the ESA. If it is determined that the requirements are met, a final EA and Finding of No Significant Impact will be prepared, and a permit will be issued to the WDFW for the purpose of carrying out the fisheries management activities. NMFS will publish a record of its final action in the **Federal Register**.

Dated: May 6, 2008.

**Marta Nammack,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XH76**

### Public Meetings on the Makah Tribe's Request To Hunt Eastern North Pacific Gray Whales

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

**ACTION:** Notice.

**SUMMARY:** We are issuing this notice to advise the public that NMFS has prepared a Draft Environmental Impact Statement (DEIS) in response to the Makah Tribe's request that NMFS waive the take moratorium of the Marine Mammal Protection Act (MMPA) to allow for treaty right hunting of eastern North Pacific (ENP) gray whales in

usual and accustomed grounds off the coast of Washington State. We are requesting written comments on the DEIS and announcing the dates and locations of three public meetings regarding the DEIS.

**DATES:** Three public meetings will be held as follows:

- (1) May 28, 2008, Port Angeles, Washington;
- (2) June 2, 2008, Seattle, Washington; and
- (3) June 5, 2008, Silver Spring, Maryland.

Specific times and locations for each of these meetings is included in **SUPPLEMENTARY INFORMATION**.

Written or electronic comments on the DEIS from all interested parties are encouraged and must be received no later than 5 p.m. PDT on July 8, 2008. All comments and material received, including names and addresses, will become part of the administrative record and may be released to the public.

**ADDRESSES:** All comments concerning the DEIS should be addressed to: Steve Stone, NMFS Northwest Region, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232. Comments may also be submitted via fax (503) 230-5441, Attn: 2008 Makah DEIS, or by e-mail to [MakahDEIS.nwr@noaa.gov](mailto:MakahDEIS.nwr@noaa.gov) with a subject line containing the document identifier: 2008 Makah DEIS.

The DEIS is available in electronic form on the Internet at the following address: <http://www.nwr.noaa.gov/Marine-Mammals/Whales-Dolphins-Porpoise/Gray-Whales/>. The DEIS also may be viewed at various libraries identified at this Internet address or at the following NMFS offices:

- (1) NMFS Protected Resources Division, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232. Contact Steve Stone at 503-231-2317; and
- (2) NMFS, Protected Resources Division, 7600 Sand Point Way, NE, Building 1, Seattle, WA 98115-6349. Contact Josephine Evans at 206-526-6150.

In addition, copies of the DEIS are available on CD by contacting Steve Stone (see **FOR FURTHER INFORMATION CONTACT**).

**FOR FURTHER INFORMATION CONTACT:** Steve Stone, NMFS Northwest Region, (503) 231-2317, or Tom Eagle, Office of Protected Resources, (301) 713-2322, ext. 105.

### SUPPLEMENTARY INFORMATION:

#### Meeting Information

Dates, times, and addresses for the public meetings are as follows:

- (1) May 28, 2008, 6:30 p.m.-9:30 p.m., Vern Burton Memorial Community

Center, 308 East 4th Street, Port Angeles, WA;

(2) June 2, 2008, 6:30 p.m.–9:30 p.m., Lake Union Park Armory-Great Hall, Seattle, 860 Terry Avenue North, Washington; and

(3) June 5, 2008, 10 a.m.–1 p.m., NOAA Auditorium, 1301 East-West Highway, Silver Spring, Maryland.

### Background

On May 9, 2008, the U.S. Environmental Protection Agency announced the availability of NMFS' DEIS concerning the Makah Indian Tribe's February 2005 request to resume limited hunting of ENP gray whales in the coastal portion of the Tribe's usual and accustomed fishing grounds, off the coast of Washington State, for ceremonial and subsistence purposes. The Tribe's proposed action stems from the 1855 Treaty of Neah Bay, which expressly secures the Makah Tribe's right to hunt whales. To exercise that right, the Tribe is seeking authorization from NMFS under the MMPA and the Whaling Convention Act. The release of this DEIS is one of several steps NMFS will undertake to evaluate the Tribe's request.

The DEIS, prepared pursuant to the National Environmental Policy Act, considers various alternatives to the Tribe's proposed action. To develop the full range of action alternatives—five in total—we considered the principal components associated with a hunt, including: the time when whale hunting would occur; the area where whale hunting would occur; the annual and five-year limits on the number of whales harvested, struck, and struck and lost; cessation of whale hunting if a predetermined number of identified whales (i.e., included in a photographic catalog of whales from the Pacific Coast Feeding Aggregation area) were harvested; and the method of hunting. We developed these alternatives with input from NMFS staff, the applicant, the cooperating agency (i.e., Bureau of Indian Affairs), and oral and written comments from the public. This DEIS addresses a number of resources identified for review during both internal and public scoping, including: water quality, marine habitat and species, ENP gray whales, other wildlife species, economics, environmental justice, social environment, cultural resources, ceremonial and subsistence resources, noise, aesthetics, transportation, public services, public safety, and human health.

The DEIS provides an important opportunity for the public to formally comment on the Tribe's proposal and the various alternatives. These

comments, in conjunction with considerations described in the DEIS, will provide key information to assist NMFS with its final decision on the Tribe's request.

### Access to Government Building

For access to a Federal government building, the Department of Commerce Office of Security at NOAA has advised that all attendees must register for the meeting and must have a valid government-issued identification (e.g. driver's license or passport) with a photograph. Therefore, prospective attendees for the public meeting in the NOAA Auditorium, Silver Spring, MD, should submit their first and last names and affiliation, if appropriate, by telephone or e-mail to Tom Eagle (See **FOR FURTHER INFORMATION CONTACT**) by 4 p.m. EDT on June 2, 2008.

### Reasonable Accommodation

Persons needing reasonable accommodations to attend and participate in the public meetings should contact Steve Stone (see **FOR FURTHER INFORMATION CONTACT**). To allow sufficient time to process requests, please call at least 5 business days prior to the relevant meeting(s).

Dated: May 5, 2008.

**Barbara A. Schroeder,**

*Acting Chief, Marine Mammal and Sea Turtle Conservation Division, National Marine Fisheries Service.*

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## DEPARTMENT OF DEFENSE

### Department of the Army; Corps of Engineers

#### Notice of Availability for the Recirculated Draft Environmental Impact Statement/Environmental Impact Report for the Berths 97-109 [China Shipping] Container Terminal Project, Los Angeles County, CA

**AGENCY:** Department of the Army—U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of Availability.

**SUMMARY:** The U.S. Army Corps of Engineers, Los Angeles District (Regulatory Division), in coordination with the Port of Los Angeles, has completed and is re-circulating the Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Berths 97-109 [China Shipping] Container Terminal Project. The Port of Los Angeles requires authorization pursuant to Section 404 of the Clean Water Act and Section 10 of the River

and Harbor Act to construct new wharves at Berths 100 and 102; dredge (41,000 cubic yards [yd<sup>3</sup>] of sediments) and dispose of that material at the upland Port Anchorage Road Disposal Site; develop backlands, including construction of terminal buildings, on 142 acres; install 10 new A-frame cranes at Berths 100 and 102; construct transportation infrastructure improvements in the vicinity of the existing terminal entrance (shared by the Berths 97-109 terminal and the Berths 121-131 terminal); construct two new bridge structures connecting Berths 97-109 terminal and Berths 121-131 terminal across the Southwest Slip; and relocate the Catalina Terminal to south of the Vincent Thomas Bridge at Berth 95.

### FOR FURTHER INFORMATION CONTACT:

Questions or comments concerning the recirculated Draft EIS/EIR should be directed to Dr. Spencer D. MacNeil, North Coast Branch, Regulatory Division, U.S. Army Corps of Engineers, P.O. Box 532711, Los Angeles, CA 90053-2325, (805) 585-2152.

**SUPPLEMENTARY INFORMATION:** The Port of Los Angeles and U.S. Army Corps of Engineers originally released the Berths 97-109 [China Shipping] Container Terminal Project Draft EIS/EIR in August 2006. Based on comments received on the Draft EIS/EIR, the Port of Los Angeles and U.S. Army Corps of Engineers decided to re-circulate the document. The April 2008 Draft EIS/EIR is a full recirculation of the original Draft EIS/EIR and addresses comments received on the August 2006 document. The Port of Los Angeles and U.S. Army Corps of Engineers will jointly hold a public meeting on June 5, 2008 at Banning's Landing Community Center in Wilmington, California, to receive public comments and assess public concerns regarding this recirculated Draft EIS/EIR and proposed terminal project. Written comments will be accepted until the close of the public review period on June 30, 2008.

**Mark Durham,**

*Acting Chief, Regulatory Division, Los Angeles District.*

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## DEPARTMENT OF EDUCATION

### Submission for OMB Review; Comment Request

**AGENCY:** Department of Education.

**SUMMARY:** The IC Clearance Official, Regulatory Information Management Services, Office of Management invites