

and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713-0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 31, 2000.

Ann D. Terbush,

*Chief, Permits and Documentation Division,
Office of Protected Resources, National
Marine Fisheries Service.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050500F]

Taking of Threatened or Endangered Marine Mammals Incidental to Commercial Fishing Operations; Proposed Permit

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

ACTION: Notice of proposal for issuance of permit; request for comments.

SUMMARY: NMFS proposes to issue a permit for a period of three years, to authorize the incidental, but not intentional, taking of four stocks of threatened or endangered marine mammals by the California/Oregon drift gillnet fishery. The four stocks are: (1) Fin whale, California/Oregon/Washington stock; (2) Humpback whale, California/Oregon/Washington-Mexico stock; (3) Steller sea lion, eastern stock; and (4) Sperm whale, California/Oregon/Washington stock. This authorization is based on a determination that this incidental take will have a negligible impact on the affected marine mammal stocks.

DATES: Comments must be received at the appropriate address or fax number

(see **ADDRESSES**), no later than 5 p.m. Pacific Standard Time, by July 21, 2000. Comments will not be accepted if submitted via e-mail or Internet.

ADDRESSES: Comments on this proposed permit and requests for reference materials should be sent to Tim Price, Protected Resources Division, National Marine Fisheries Service, Southwest Region, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. Comments may also be sent via facsimile (fax) to 562-980-4027.

FOR FURTHER INFORMATION CONTACT: Tim Price, NMFS, Southwest Region, Protected Resources Division, (562) 980-4029.

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(E) of the Marine Mammal Protection Act (MMPA) requires the authorization of the incidental taking of individuals from marine mammal stocks listed as threatened or endangered under the ESA in the course of commercial fishing operations if NMFS determines that: (1) incidental mortality and serious injury will have a negligible impact on the affected species or stock; (2) a recovery plan has been developed or is being developed for such species or stock under the ESA; and (3) where required under section 118 of the MMPA, a monitoring program has been established, vessels engaged in such fisheries are registered in accordance with section 118 of the MMPA, and a take reduction plan has been developed or is being developed for such species or stock.

On August 31, 1995 (60 FR 45399), NMFS issued permits for fisheries meeting the conditions under section 101(a)(5)(E) of the MMPA. At that time, NMFS did not issue a permit to the California/Oregon drift gillnet fishery for the California/Oregon/Washington-Mexico humpback whale stock or the California/Oregon/Washington sperm whale stock because NMFS was unable to determine that the estimated mortality and serious injury incidental to commercial fishing operations was negligible. In addition, in 1995, NMFS did not consider issuing a permit for the incidental mortality and serious injury of the California/Oregon/Washington fin whale stock because there had been no reported incidental takes at that time, and NMFS had no reason to anticipate any such takes. However, NMFS did determine that the mortality and serious injury incidental to commercial fishing operations was negligible for the eastern Steller sea lion stock and issued a permit for that stock. On December 30, 1998 (63 FR 71894), NMFS extended the permit until June 30, 1999. At that time, NMFS announced that it was reviewing

the criteria for issuance of permits and evaluating whether the criteria were adequate or if changes should be made. No comments were received. On May 27, 1999 (64 FR 28800), NMFS proposed the issuance of permits for those fisheries that have negligible impacts on marine mammal stocks listed as threatened or endangered under the ESA for a period of 3 years. In addition, that document provided further guidance about the process for determining negligible impact. A permit for the mortality and serious injury of the Steller sea lion incidental to the California/Oregon drift gillnet fishing operations was also proposed. Based on new information, NMFS did not finalize the proposed permits.

Since 1995, NMFS has gathered additional data on the status of listed marine mammals. Based on the more recent survey data and analyses, the Stock Assessment Reports contain revised estimates of potential biological removal (PBR) levels. PBR is defined in the MMPA as "the maximum number of animals, not including natural mortalities, that may be removed from a stock while allowing that stock to reach or maintain its optimum sustainable population" (16 U.S.C. 1362(20)). Also, since 1995, NMFS has developed and implemented the Pacific Offshore Cetacean Take Reduction Plan (the Plan) (62 FR 51805) for the California/Oregon drift gillnet fishery. The initial goal of a take reduction plan is to reduce marine mammal bycatch in the fishery to levels below PBR for all stocks. Since the implementation of the Plan, overall cetacean mortality in this fishery has been reduced by 70 percent. For these reasons, NMFS is re-evaluating whether issuance of a permit under section 101(a)(5)(E) of the MMPA for the California/Oregon drift gillnet fishery is appropriate.

Process and Criteria for Issuing Permits

Section 101(a)(5)(E) of the Marine Mammal Protection Act (MMPA) requires the authorization of the incidental taking of individuals from marine mammal stocks listed as threatened or endangered under the ESA in the course of commercial fishing operations if NMFS determines, among other criteria, that incidental mortality and serious injury will have a negligible impact on the affected species or stock. "Negligible impact" as defined in 50 CFR 216.103 and as applies here is, "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."

In 1990, the Marine Mammal Commission (MMC) submitted scientific guidelines to NMFS to govern the incidental taking of marine mammals in the course of commercial fishing operations. In those guidelines, the MMC recommended NMFS determine negligible impact if the mortality and serious injury incidental to commercial fishing operations would cause no more than a 10 percent increase in the time to recovery. NMFS incorporated the MMC's recommendation of negligible impact criteria into the 1992 legislative proposal. Participants at NMFS' 1994 PBR workshop agreed, and determined that authorized levels of human-related mortality should increase recovery time of endangered stocks by no more than 10 percent. Therefore, a default recovery factor of 0.1 was chosen to use in the PBR equation for endangered stocks of marine mammals (Barlow *et al.*, 1995).

On August 31, 1995 (60 FR 45399), NMFS issued permits for fisheries meeting the conditions under section 101(a)(5)(E) of the MMPA. As an interim measure, NMFS considered a total annual serious injury and mortality of not more than 10 percent of a stock's PBR level to be negligible. In 1999, NMFS published a notice of proposal to issue permits under section 101(a)(5)(E) of the MMPA. In the 1999 proposal, NMFS again applied a serious injury and mortality of not more than 10 percent of a stock's PBR level as the starting point for negligible impact determinations. However, NMFS recognized that a strict application of 10 percent of PBR was not appropriate in some cases and that such a criterion would not be the only factor in evaluating whether a particular level of take would be considered negligible.

Because population abundance and fishery-related mortality information have varying degrees of uncertainty, NMFS considers factors such as population trends and reliability of abundance and mortality estimates in calculating PBR. When calculating a PBR for species listed as endangered under the ESA, NMFS uses a value of 0.1 for the recovery factor based on the rationale that this would not cause more than a 10 percent increase in the time to recovery (Barlow *et al.*, 1995). Using a PBR containing a recovery factor of 0.1 would allow a large portion of the stock's annual net production to be used for recovery rather than being authorized for removal due to incidental mortality. Therefore, when incidental mortality and serious injury was below the stock's PBR, such mortality and serious injury would have no more than a negligible impact on the stock.

In 1995, NMFS limited a determination of negligible impact only to those cases in which mortality and serious injury incidental to commercial fishing operations did not exceed 10 percent of any stock's PBR. When that criterion was applied to the cases in which the PBR equation contained a recovery factor of 0.1, the result was a situation where authorized mortality would cause only a small portion (10 percent) of the mortality that would cause a negligible impact according to the MMC's recommendation. Therefore, the standard was too restrictive for those fisheries that take endangered marine mammals with a recovery factor of 0.1 in the PBR calculation. Consequently, in making a negligible impact determination, NMFS has decided to use case-specific analyses in those cases where incidental mortality and serious injury exceeded 10 percent of an endangered stock's PBR in determining whether the estimated level of mortality or serious injury would delay recovery by more than 10 percent. In the case of the 4 stocks of marine mammals addressed by this permit, NMFS evaluated whether the estimated level of mortality and serious injury would likely increase the recovery time by more than 10 percent. Takes below this level will be considered negligible.

Summary of Findings

NMFS has evaluated the best available information for stocks listed as threatened or endangered under the ESA and has determined on a stock-by-stock basis, whether the mortality and serious injury (using 3-year averages 1997, 1998, 1999) incidental to the California/Oregon drift gillnet fishery that interacts with such stocks is having a negligible impact on such stocks (NMFS, 2000). Based on this assessment, NMFS concludes that the estimated mortality and serious injury caused by the California/Oregon drift gillnet fishery would cause no more than a 10-percent increase in the time to recovery for each of the four stocks of marine mammals addressed by this permit and is, therefore, negligible.

These stocks were then reviewed to confirm that: (1) a recovery plan has been developed or is being developed, and (2) where required under section 118 of the MMPA, a monitoring program has been established, vessels engaged in such fisheries are registered, and a take reduction plan has been, or is being, developed.

For the following stocks with documented evidence of fishery-related interactions, NMFS has determined that the mortality and serious injury incidental to the California/Oregon drift

gillnet fishery will have a negligible impact and proposes to issue a permit for incidental takes of:

- (1) Fin whale, California/Oregon/Washington stock;
- (2) Humpback whale, California/Oregon/Washington-Mexico stock;
- (3) Steller sea lion, eastern stock; and
- (4) Sperm whale, California/Oregon/Washington stock.

A stock-by-stock summary of the negligible impact determination follows.

Fin whale, California/Oregon/Washington stock: The PBR for this stock is 2.1 whales per year. After the 1997 implementation of the Plan, overall cetacean entanglement rates in the California/Oregon drift gillnet fishery dropped considerably. Using a 3-year (1997–1999) average, the annual mean mortality and serious injury rate from the California/Oregon drift gillnet fishery is estimated to be as low as 1.7 or as high as 2.3, depending on the methodology used. However, during the past 10 years, only one fin whale has been observed taken in this fishery, indicating a remote likelihood of a fin whale take in the California/Oregon drift gillnet fishery. When the mortality and serious injury rate is calculated from a more broad-based set of data than the 3-year period under the Plan, estimated mortality is low enough that it could be considered a negligible impact.

Humpback whale, California/Oregon/Washington-Mexico stock: The PBR level for this stock is 1.7 whales per year. Using a 3-year average (1997–1999), the mean annual mortality and serious injury rate from the California/Oregon drift gillnet fishery is estimated to be 0.0 humpback whales. One observed humpback whale entanglement in 1999 was released alive without any trailing gear and was not considered a serious injury or mortality. Since the beginning of the observer program in 1990, there have been no reported mortalities or serious injuries of humpback whales.

Steller sea lion, eastern stock: The PBR level for this stock is 1,368 animals per year. Fishery observers monitored the California/Oregon drift gillnet fishery between 1990 and 1999. In both 1992 and 1994, one Steller sea lion mortality was observed incidental to this fishery. Using a 3-year average (1997–1999), the mean annual mortality and serious injury rate from the California/Oregon drift gillnet fishery is estimated to be 0.0 animals for the California/Oregon drift gillnet fishery.

Sperm whale, California/Oregon/Washington stock: The PBR level for this stock is 2.0 whales per year. Using a 3-year average (1997–1999), the mean

annual mortality and serious injury rate from the California/Oregon drift gillnet fishery is estimated to be 1.7 sperm whales. In 1998, one sperm whale was observed killed in a net that was not in compliance with the Plan. The Pacific Offshore Cetacean Take Reduction Team (The Team) and the Pacific Scientific Review Group both recommended no further strategies to reduce sperm whale entanglement be taken until the effectiveness of pingers is better understood. At the recommendation of The Team, NMFS conducted workshops to educate vessel operators on the need to use the full complement of pingers required by the Plan. NMFS enforcement also trained the U.S. Coast Guard about the requirements of the Plan and requested their assistance with at-sea enforcement.

NMFS prepared an Environmental Assessment (EA) on the final rule to implement the Plan (62 FR 51805). This action falls within the scope of that EA and the environmental consequences described in that action, and there have been no changes to the fishery subsequent to issuing the EA. Therefore, this action qualifies for a categorical exclusion under section 5.05b of NOAA Administrative Order 216-6 because a prior NEPA analysis for the same action demonstrated that the action will not have significant impacts on the quality of the human environment.

Issuance of Permits

Based on requirements of section 101(a)(5)(E) of the MMPA, NMFS proposes to issue a permit to allow the incidental, but not intentional, taking of four stocks of endangered or threatened marine mammals to the California/Oregon drift gillnet fishery: (1) Fin whale, California/Oregon/Washington stock; (2) Humpback whale, California/Oregon/Washington-Mexico stock; (3) Steller sea lion, eastern stock; and (4) Sperm whale, California/Oregon/Washington stock. These permits may be suspended or revoked if the level of take is likely to result in an impact that is more than negligible.

References

Barlow, J., S. Swartz, T. Eagle, and P. Wade. 1995. U.S. Marine mammal stock assessments: guidelines for preparation, background, and a summary of the 1995 assessments. U.S. Department of Commerce, NOAA Technical Memorandum NMFS-SWFSC-219. 162 p.

National Marine Fisheries Service. 2000. Assessment for issuing a permit under section 101(a)(5)(E) of the Marine Mammal Protection Act to the California/Oregon Drift Gillnet Fishery.

Southwest Region, Protected Resources Division.

Wade, P.R. 1998. Calculating limits to the allowable human-caused mortality of cetaceans and pinnipeds. (Mar. Mamm. Sci., 1491): 1-37.

Dated: May 31, 2000.

Donald R. Knowles,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed. This form is available in alternate formats. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606-5256 between the hours of 9:00 a.m. and 4:30 p.m. Eastern time, Monday through Friday.

Currently, the Corporation is soliciting comments concerning the revision of its Financial Status Report form (Standard Form 269A) for National and Community Services Act programs. Copies of the information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by August 7, 2000.

ADDRESSES: Send comments to the Corporation for National and Community Service, Attn: Bruce Cline, Director, Grants Management Office,

1201 New York Avenue, N.W., Suite 8711, Washington, D.C., 20525.

FOR FURTHER INFORMATION CONTACT: Bruce Cline, (202) 606-5000, ext. 440.

SUPPLEMENTARY INFORMATION:

Comment Request

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Background

The National and Community Service Act of 1990, as amended, specifically sections 12571 and 12594, require matching contributions of varying proportion for both program (12571) and member support (12594) costs. Accordingly, our grantees must provide the Corporation information on match according to budget sections (Section A is member support and Sections B-G are other program support costs.) Without these breakdowns, the Corporation cannot accurately calculate match or determine whether the legislated levels are being met.

Current Action

The Corporation seeks OMB approval to request the required reporting information by allowing grantees to utilize the Remarks block, Section 12, of the Standard Form 269A, in the following format:

In Remarks, Section 12, please provide the following:

- For Recipient share of outlays (section 10—Transactions "Previously Reported," "This period," and "Cumulative"), please list separately:
 - (1) Outlays from Budget Section B-G, and
 - (2) Outlays from Budget Section A for Transactions columns "Previously Reported," "This Period," and "Cumulative."