

broadcast service. The coordinates for Channel 289A at Victor are 46-25-06 and 114-08-54. Canadian concurrence will be requested for this allotment.

DATES: Comments must be filed on or before June 9, 1997, and reply comments on or before June 24, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, Jr., President, West Vind Broadcasting, c/o Magic City Media, 1912 Capitol Avenue, Suite 300, Cheyenne, Wyoming 82001.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No.97-119, adopted April 9, 1997, and released April 18, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC. 20037, (202) 857-3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 960318084-6199-03; I.D. 071596C]

RIN 0648-AG55

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Naval Activities

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

ACTION: Proposed rule; request for comments.

SUMMARY: On March 11, 1997, the U.S. Navy submitted a petition to NMFS amending its June 7, 1996, application and requesting a modification to the proposed effective date of the regulations proposed by NMFS issuing an incidental small take exemption under the Marine Mammal Protection Act (MMPA) to take a small number of marine mammals incidental to shock testing the USS SEAWOLF submarine in the offshore waters of the U.S. Atlantic coast in 1997. By this notice, NMFS, in accordance with the Navy's request, amends the proposed regulations to make them effective from April 1 through September 30, 1998 and 1999. NMFS invites comment on this modification.

DATES: Comments must be received no later than May 28, 1997.

ADDRESSES: Comments should be addressed to Michael Payne, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3226. A copy of the March 11, 1997 petition, the application, or the proposed rule may be obtained by writing to the above address, telephoning the person below (see **FOR FURTHER INFORMATION CONTACT**) or by leaving a voice mail request at (301) 713-4070.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, NMFS, (301) 713-2055.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS 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.

Permission may be granted for periods of 5 years or less if NMFS finds that the taking will have a negligible impact on the species or stock(s) of marine mammals, will not have an unmitigable adverse impact on the availability of these species for subsistence uses, and regulations are prescribed setting forth the permissible methods of taking and the requirements pertaining to the monitoring and reporting of such taking.

On June 7, 1996, NMFS received an application for an incidental, small take exemption under section 101(a)(5)(A) of the MMPA from the U.S. Navy to take marine mammals incidental to shock testing the USS SEAWOLF submarine off the U.S. Atlantic coast. The USS SEAWOLF is the first of a new class of submarines being acquired by the Navy. In accordance with 10 U.S.C. 2366, each new class of ships constructed for the Navy cannot proceed beyond initial production until realistic survivability testing of the ship and its components are completed. Realistic survivability testing means testing for vulnerability in combat by firing munitions likely to be encountered in combat. This testing and assessment is commonly referred to as "Live Fire Test & Evaluation (LFT&E)." Because realistic testing by detonating torpedoes or mines against a ship's hull could result in the loss of a multi-billion dollar Navy asset, the Navy has established an LFT&E program consisting of computer modeling, component and surrogate testing, and shock testing the entire ship. Together, these components complete the survivability testing as required by 10 U.S.C. 2366.

The shock test component of LFT&E is a series of underwater detonations that propagate a shock wave through a ship's hull under deliberate and controlled conditions. Shock tests simulate near misses from underwater explosions similar to those encountered in combat. Shock testing verifies the accuracy of design specifications for shock testing ships and systems, uncovers weaknesses in shock sensitive components that may compromise the performance of vital systems, and provides a basis for correcting deficiencies and upgrading ship and component design specifications. While computer modeling and laboratory testing provide useful information, they cannot substitute for shock testing under realistic, offshore conditions. To minimize cost and risk to personnel, the first ship in each new class is shock tested and improvements are applied to later ships of the class.

In its original application, the Navy proposed to shock test the USS SEAWOLF by detonating a single 4,536-kg (10,000-lb) explosive charge near the submarine once per week over a 5-week period between April 1 and September 30, 1997. If the Mayport, FL, site is selected, the shock tests would be conducted between May 1 and September 30, 1997 in order to minimize risk to sea turtles. Detonations would occur 30 m (100 ft) below the ocean surface in a water depth of 152 m (500 ft). The USS SEAWOLF would be underway at a depth of 20 m (65 ft) at the time of the test. For each test, the submarine would move closer to the explosive so the submarine would experience a more severe shock.

As part of a separate review under the National Environmental Policy Act, two sites, Mayport, FL and Norfolk, VA, are being considered by the Navy for the USS SEAWOLF shock test effort. The Mayport site is located on the continental shelf of Georgia and northeast Florida and the Norfolk site is located on the continental shelf offshore of Virginia and North Carolina. The Mayport site is the preferred location by the Navy because of a lower abundance of marine mammals at that site. Because of the potential impact on marine mammals, the Navy has requested NMFS to grant an exemption under section 101(a)(5)(A) of the MMPA that would authorize the incidental taking and issue regulations governing the take.

On August 2, 1996 (61 FR 40377), NMFS published a proposed rule to issue an incidental small take exemption under the MMPA to take a small number of marine mammals incidental to shock testing the USS SEAWOLF submarine in the offshore waters of the U.S. Atlantic coast in 1997. A correction notice on the proposed regulations was published on August 23, 1996 (61 FR 43517). The comment period for the proposed rule closed on September 17, 1996. During the 45-day comment period, NMFS received 5 letters commenting on the rule. These comments, and relevant comments received as a result of this notice, will be addressed in the notice of final determination which will be published in the **Federal Register**.

Summary of Request

On March 11, 1997, the U.S. Navy submitted a petition to NMFS amending its June 7, 1996, application and requesting a modification to the proposed regulations for an incidental small take exemption under the MMPA to take a small number of marine mammals incidental to shock testing the USS SEAWOLF submarine in the

offshore waters of the U.S. Atlantic coast in 1997. The petition states that the U.S. Navy, for reasons unrelated to the environment, will not be able to conduct the shock trial from April 1, 1997, through September 30, 1997, and requests that the period of effectiveness for the regulations and the shock trial be extended until 1999. No modification to the proposed seasonal restriction (which would prohibit any marine mammal takings from October 1 through March 31 at the Norfolk site and from October 1 through April 30 at the Mayport site) to protect marine mammal and sea turtle species is requested. Because section 101(a)(5)(A) of the MMPA provides for small take authorizations to be effective for periods up to 5 years, NMFS believes that granting this request to modify the effective date of the proposed rule is warranted.

Classification

This action has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Small Business Administration that the August 2, 1996, proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities since it would apply only to the U.S. Navy and would have no effect, directly or indirectly, on small businesses. Extending the effective date for the rule has no effect on the economic impact or on who would be impacted.

This proposed rule does not contain a collection-of- information requirement subject to the provisions of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: April 22, 1997.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 216 is proposed to be amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.* unless otherwise noted.

2. Subpart O is amended by adding § 216.162 to read as follows:

Subpart O—Taking of Marine Mammals Incidental to Shock Testing the USS SEAWOLF by Detonation of Conventional Explosives in the Offshore Waters of the U.S. Atlantic Coast

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§ 216.162 Effective dates.

Regulations in this subpart are effective from April 1 through September 30, 1998, and April 1 through September 30, 1999.

[FR Doc. 97-10800 Filed 4-25-97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[I.D. 040797B]

Listing Endangered and Threatened Species and Designating Critical Habitat: Petition To Revise Critical Habitat Designation for Snake River Spring/Summer Chinook Salmon in Idaho

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

ACTION: Notice of finding and request for information.

SUMMARY: NMFS has received a petition to revise critical habitat for Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) to not include Napias Creek, a tributary to the Salmon River, located in the State of Idaho. NMFS has determined that the petition presents substantial scientific information indicating that the petitioned revision may be warranted. Therefore, NMFS is initiating a review to determine if the petitioned action is warranted. NMFS is soliciting information and comments on the petitioned revision.

DATES: Information and comments on the revision must be received by June 27, 1997.

ADDRESSES: Information and comments on this action should be submitted to Garth Griffin, Protected Species Program, NMFS, 525 NE Oregon Street, Suite 500, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Northwest Region, (503) 231-2005 or Marta Nammack, NMFS, Office of Protected Resources, (301) 713-1401.