

section 1.49 and all other applicable sections of the Commission's rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission.

25. Parties are also strongly encouraged to submit comments and reply comments on diskette. Such diskette submissions would be in addition to, and not a substitute for, the formal filing requirements addressed above. Interested parties submitting diskettes should submit them to Warren Firschein, Accounting Safeguards Division, Common Carrier Bureau, 2000 L Street, N.W., Suite 200, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Wordperfect 5.1 for Windows software. The diskette should be submitted in "read only" mode. The diskette should be clearly labeled with the party's name, proceeding, Docket No., type of pleading (comment or reply comments), date of submission, and filename with the "\*.wp" extension. The diskette should be accompanied by a cover letter.

26. This proceeding will be treated as a "permit-but-disclose" proceeding subject to the "permit-but-disclose" requirements under Section 1.1206(b) of the rules, 47 CFR 1.1206(b)(2), as revised. Additional rules pertaining to oral and written presentations are set forth in Section 1.1206(b).

#### Ordering Clauses

27. Accordingly, it is ordered that, pursuant to sections 1, 2, 4, and 11 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, and 161 that notice is hereby given of proposed amendments to part 32 and 64 of the Commission's rules, 47 CFR parts 32 and 64, as described in this Notice of Proposed Rulemaking.

28. It is further ordered that, pursuant to sections 1, 4, and 220 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, and 220, and § 1.401 of the Commission's rules, 47 CFR 1.401, the Petition for Rulemaking of the United States Telephone Association is granted to the extent indicated herein.

29. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects

##### Part 32

Communications common carriers, Reporting and recordkeeping requirements, Telephone, Uniform System of Accounts.

##### Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telephone. Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 98-22601 Filed 8-24-98; 8:45 am]

BILLING CODE 6701-12-P

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 73

[MM Docket No. 98-152, RM-9338]

##### Radio Broadcasting Services; Avon, NC

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Avon Broadcasting Company to allot Channel 294A to Avon, NC, as its first local aural service. Channel 294A can be allotted to Avon in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 35-21-06 North Latitude; 75-30-24 West Longitude. Petitioner is requested to provide further information to demonstrate that Avon is a community for allotment purposes.

**DATES:** Comments must be filed on or before October 13, 1998, and reply comments on or before October 28, 1998.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard J. Hayes, Jr., 8404 Lee's Ridge Road, Warrenton, VA 20186.

##### FOR FURTHER INFORMATION CONTACT:

Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98-152, adopted August 12, 1998, and released August 21, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC

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 contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

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* contacts.

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.*

[FR Doc. 98-22808 Filed 8-24-98; 8:45 am]

BILLING CODE 6712-01-P

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 216

[Docket No. 970703165-8208-02; I.D. 062397A]

RIN 0648-AK00

##### Taking and Importing Marine Mammals; Taking of Marine Mammals Incidental to Power Plant Operations

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

**ACTION:** Proposed rule; request for comment and information.

**SUMMARY:** NMFS has received an application from North Atlantic Energy Service Corporation (North Atlantic) for an incidental small take exemption under the Marine Mammal Protection Act (MMPA) to take a small number of marine mammals incidental to routine operations of the Seabrook Station nuclear power plant, Seabrook, NH (Seabrook Station). By this document, NMFS is proposing regulations to allow incidental takes of certain species of

seals at a level up to 2 percent of the potential biological removal (PBR) level for harbor seals, which is currently approximately 34 animals. In order to grant the exemption and issue the regulations, NMFS has preliminarily determined that these takings will have a negligible impact on the affected species and stocks of marine mammals. NMFS invites comment on the application and proposed regulations.

**DATES:** Comments and information must be postmarked no later than October 9, 1998.

**ADDRESSES:** Comments should be addressed to Michael Payne, Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3226. A copy of the application, draft Environmental Assessment (EA) and of the supporting documents may be obtained by writing to this address, or by telephoning the following contacts.

Comments regarding the burden-hour estimate or any other aspect of the collection of information requirement contained in this rule should be sent to the preceding individual and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Hollingshead, NMFS, (301) 713-2055, or Scott Sandorf, Northeast Regional Office, NMFS, (978) 281-9388.

#### **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 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 and will not have an unmitigable adverse impact on the availability of these species for subsistence uses and that regulations are prescribed setting forth the permissible method of taking and the requirements pertaining to the monitoring and reporting of such taking.

#### **Summary of Request**

On June 16, 1997, NMFS received an application for an incidental, small take exemption under section 101(a)(5)(A) of the MMPA from North Atlantic to take

marine mammals incidental to routine operations of the Seabrook Station. Seabrook Station is a single unit, 1,150 megawatt nuclear power plant generating facility located in Seabrook, NH. Cooling water for plant operations is supplied by three intake structures approximately 1 mile (1.6 km) offshore in about 60 ft (18.3 m) of water. During normal power operations about 469,000 gallons per minute are drawn through the intakes to a 19-ft (5.8-m) diameter, 3-mile-long (4.8 km) tunnel beneath the seafloor and into large holding bays (called forebays) at the power plant. Lethal takes of harbor seals (*Phoca vitulina*) are known to have occurred and are expected to continue to occur as the animals enter the cooling water intake structures and apparently drown enroute to the forebays. Lethal takes of gray seals (*Halichoerus grypus*), harp seals (*Phoca groenlandica*), and hooded seals (*Cystophora cristata*) have also occurred.

Each of the three seawater intake structures consists of a velocity cap that is connected to the subterranean intake tunnel by vertical risers. The velocity intake caps are 30 ft (9.1 m) in diameter and rest, mushroom-like, on top of 9 ft (2.7 m) diameter risers that vertically descend 110 ft (33.5 m) to connect with the horizontal intake tunnel. The bottom of the horizontal intake cap openings is 10 ft (3.05 m) above the ocean bottom, and 16-inch (40.6-cm) spaced vertical bars are in place around the diameter of the intake openings. The intent of the vertical bars is to reduce the amount of large debris that can enter the intake. The purpose of the cooling water intake design is to minimize the rate of water flow at the entrance to the intakes and thereby minimize the entrainment of marine organisms. The rate of water flow at the edge of the velocity intake caps during normal, continuous power operations is about 0.5 ft per second (0.15 m/sec; 0.3 knots).

Because the structures are offshore and submerged, seals have not been observed entering the intakes, but they are discovered in the forebays of the station. It is unknown whether the horizontal flow rate at the entrance to the intakes is strong enough to sweep seals into the intakes. The animals may swim into the structures in pursuit of prey or by curiosity. Once inside the velocity cap, the rate of water flow increases in the risers and intake tunnel. The accelerating, downward turning flow and the low-light conditions may disorient the seals and may inhibit their escape from the intakes. For an object traveling passively with the water flow, the minimum transit time from the offshore intake velocity cap to the

forebay is approximately 80 minutes. A seal that enters the intakes and is unable to find its way out would not be able to survive the transit through the intake tunnel to the plant.

Though Seabrook Station has been in commercial operation since August 1990, no seal takes were known to have occurred prior to 1993, when the remains of two seals were discovered. In 1994, the remains of seven seals were found, and, in 1995, the remains of six to seven were found. In 1996, 12 to 17 animals were taken and, in 1997, 10 seals were taken at the facility. Given that the local abundance of harbor seals is known to be increasing and given that plant operations are scheduled to continue, as yet unmodified, takes are likely to continue to occur in the coming years. The expected number of future takes cannot be estimated at this point, but an examination of past years' takes may illustrate a trend for upcoming years.

#### **Comments and Responses**

NMFS published an Advance Notice of Proposed Rulemaking (ANPR) in the **Federal Register** on July 24, 1997 (62 FR 39799). A 30-day comment period on the ANPR ended on August 25, 1997. NMFS received several comments on the ANPR.

*Comment 1:* NMFS should establish specific goals and timetables for any mitigation measures that will be incorporated at Seabrook Station.

*Response:* If NMFS determines that mitigation measures should be implemented, then Seabrook Station would be required to implement such measures within a prescribed schedule. There are also clear and concise guidelines to be used for the monitoring and reporting of any entrapped seals. A requirement for Seabrook Station to submit a decision on mitigation measure alternatives is included in the proposed rule.

*Comment 2:* The proposed lethal take of seals over a 5-year period would have a negligible impact on the affected populations.

*Response:* NMFS concurs. The projected takes of any of the four species of seals appears to be well below any calculated PBR level for the species. NMFS has preliminarily determined that the current levels of take are not likely to adversely effect the species or stock through effects on annual rates of recruitment or survival.

*Comment 3:* If and when acoustic harassment devices are tested, such testing should be conducted under a scientific research permit as specified under the MMPA.

*Response:* The testing and use of acoustic harassment devices may require a scientific research permit if such testing results in the taking of marine mammals not authorized by either the Small Take Authorization under consideration or section 101(a)(4) of the MMPA. Implementation of a monitoring program that includes a mitigation requirement to use an acoustic harassment device in order to reduce seal mortality would not require a permit under section 104 of the MMPA if it did not result in the intentional taking of a marine mammal.

*Comment 4:* Any proposed authorization should include not only harbor seals, but also harp seals (*Phoca groenlandica*), hooded seals (*Cystophora cristata*), and gray seals (*Halichoerus grypus*).

*Response:* NMFS concurs. Harbor, harp, hooded, and gray seals are all included as species whose take would be authorized under this action.

#### **Description of the Habitat and Marine Mammals Affected by the Activity**

A description of the U.S. Atlantic coast environment, its marine mammal abundance, distribution, and habitat can be found in the draft EA on this subject and is incorporated herein by reference. Additional information on Atlantic coast marine mammals can be found in Waring *et al.* (1997). These documents are available upon request (see ADDRESSES).

#### **Summary of Potential Impacts**

Since 1993, the remains of 37 to 43 seals have been discovered in Seabrook Station's forebays or on the devices used to clean the forebays' condenser intake screens. Human access to the forebays is restricted and visibility is poor. Consequently, intact animals occasionally go undetected in the forebays, and pieces of hide and bones are recovered in the screen washings as the animals decompose, causing uncertainty in the total number of animals taken to date. The remains are turned over to authorized members of the Northeast Marine Mammal Stranding Network for analysis and disposal. The remains of two gray seals and skull fragments of two harp seals and of one hooded seal have been identified. Twenty-seven of the seals have been positively identified as harbor seals. For the animals whose ages could be determined, the majority have been young-of-the-year harbor seals, divided fairly equally between males and females.

It is proposed that the annual authorized takes be limited to a fraction of the PBR level for the harbor seal

population. Harbor seals constitute the majority of the animals taken, and the comparatively larger U.S. population size best lends itself to evaluating future trends in the regional seal population. The PBR level for western North Atlantic harbor seals is 1,729. The gray seal, whose regional population is not as large as that of the harbor seal, has a PBR level of 122. Harp and hooded seals do not have a PBR level because the minimum population size in U.S. waters is unknown. The limit for the annual take authorization would be less than 2.0 percent of the PBR level of harbor seals, or approximately 34 seals. Any takes of harbor, gray, harp, and hooded seals would count against the same annual take authorization limit based on a proportion of the harbor seal PBR level. Thus, takes of any of these four seal species would be considered to be a take of a harbor seal.

#### **Mitigation**

North Atlantic is presently investigating a number of measures to prevent or reduce the lethal taking of seals at Seabrook Station. To date, no preventative measures have been implemented, but some alternatives warrant further study. Designs of a physical barrier system and an acoustical deterrence array are still being evaluated. These alternatives are being reviewed for practicability with regard to nuclear power safety, costs, and ability to withstand the high energy offshore environment.

It should be recognized that, due to inherent difficulties in designing, constructing, and maintaining a structure or device in the offshore high energy environment of the intakes, a reliable and durable mitigation system is needed. Any chosen mitigation measure must be also economically and technologically feasible as a means to affect the least practicable adverse impact. To ensure that any mitigation method that may be employed is feasible, NMFS proposes to require Seabrook Station to use this authorization period to fully explore any feasible mitigation methods. If a method or combination of methods is found to be feasible, it must also be tested, constructed, deployed, and be operational during the defined schedule that occurs within the 5-year authorization.

If, after North Atlantic conducts the appropriate feasibility studies, it is determined that no mitigation measure is proven to be feasible due to economic, technological, or safety reasons, then at the next renewal of the authorization, NMFS and North Atlantic must explore and undertake steps to

promote the conservation of the population of Gulf of Maine seals as a whole. These measures may take the form of studies that examine population trends, migration patterns, or of work that may enhance the survival of young-of-the-year seals.

#### **Monitoring**

NMFS proposes to require Seabrook Station personnel to continue their efforts to monitor the station for the presence of entrapped seals. Timely awareness of a taken seal allows for a more comprehensive evaluation on the level of takes and on the characteristics of each seal that occurs. Seals that go undetected in the intake circulating water system can decompose and fail to be noticed during examination of screen wash debris. Frequent and regular inspections of various parts of the intake circulating water system allow for a greater chance of detecting a seal, thus providing a better estimate on the total number of animals that are taken.

This monitoring must include continuing the twice daily visual inspections of the circulating water and service water forebays as well as the daily visual inspection of the outer transition structure. Screen washings must be conducted at least twice weekly. Examination of the screen wash debris must be conducted to determine if any seal remains are present.

#### **Reporting Requirements**

Seal takes would be required to be reported to NMFS by both oral and written notification. NMFS must be notified by telephone within 24 hours of any seal takes that have occurred and by letter within 15 business days. The written notification must contain the results from any examinations conducted by qualified members of the Marine Mammal Stranding Network as well as any information relating to the take.

#### **National Environmental Policy Act (NEPA)**

A draft EA has been prepared for this proposed action. A copy of the EA is available upon request (see ADDRESSES).

#### **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 this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as described in the Regulatory

Flexibility Act. If implemented, this rule will affect only North Atlantic Energy, and an undetermined number of contractors providing services related to plant operation, including the monitoring of impacts on marine mammals. Although North Atlantic Energy, because it generates in excess of 4 million megawatt-hours, by definition, is not a small business, some of the affected contractors may be small businesses. The economic impact on these small businesses is dependent upon the award of contracts for such services. The economic impact cannot be determined with certainty, but will either be beneficial or have no effect, directly or indirectly, on small businesses. As such, a regulatory flexibility analysis is not required.

This proposed rule contains collection-of-information requirements subject to the provisions of the Paperwork Reduction Act (PRA) and which has been approved by the Office of Management and Budget under control number 0648-0151. This is the requirement for an annual report. Requirements for reporting on seals and seal parts found and on mitigation measures taken, are not subject to the PRA since they apply only to a single respondent and are not in a rule of general applicability.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

The reporting burden for this collection is estimated to be approximately 80 hours, including the time for gathering and maintaining the data needed and for completing and reviewing the collection of information. Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments regarding these burden estimates or any other aspect of the collections of information, including suggestions for reducing the burdens, should be forwarded to NMFS and OMB (see ADDRESSES).

## List of Subjects in 50 CFR Part 216

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: August 18, 1998.

**Andrew A. Rosenberg,**

*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. In § 216.3, a new definition for "Administrator, Northeast Region" is added in alphabetical order to read as follows:

### § 216.3 Definitions.

\* \* \* \* \*

*Administrator, Northeast Region* means Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298.

\* \* \* \* \*

3. Subpart L is added to read as follows:

### Subpart L—Taking of Marine Mammals Incidental to Power Plant Operations

Sec.

216.130 Specified activity, specified geographical region, and incidental take levels.

216.131 Effective dates.

216.132 Permissible methods of taking.

216.133 Prohibitions.

216.134 Mitigation requirements.

216.135 Monitoring and reporting.

216.136 Renewal of the Letter of Authorization.

216.137 Modifications to the Letter of Authorization.

216.138—216.139 [Reserved]

### Subpart L—Taking of Marine Mammals Incidental to Power Plant Operations

#### § 216.130 Specified activity, specified geographical region, and incidental take levels.

(a) Regulations in this subpart apply only to the incidental taking of harbor seals (*Phoca vitulina*), gray seals (*Halichoerus grypus*), harp seals (*Phoca groenlandica*), and hooded seals (*Cystophora cristata*) by U.S. citizens engaged in power plant operations at the Seabrook Station nuclear power plant, Seabrook, NH.

(b) The incidental take of harbor, gray, harp, and hooded seals under the activity identified in this section is limited to 2 percent of the potential biological removal level (see definition in 50 CFR 229.2) for harbor seals for each year of the authorization. Takes of any of these four species of seals would be evaluated as a take of a harbor seal for the purposes of this take limit definition.

#### § 216.131 Effective dates.

Regulations in this subpart are effective from October 1, 1998, until October 1, 2003.

#### § 216.132 Permissible methods of taking.

Under a Letter of Authorization (LOA) issued to North Atlantic Energy Services Corporation for Seabrook Station, the North Atlantic Energy Services Corporation may incidentally, but not intentionally, take the marine mammals specified in § 216.130 in the course of operating the station's intake cooling water system.

#### § 216.133 Prohibitions.

Notwithstanding takings authorized by § 216.130(a) and by the Letter of Authorization, issued under § 216.106, the following activities are prohibited:

(a) The taking of harbor seals, gray seals, harp seals, and hooded seals that is other than incidental.

(b) The taking of any marine mammal not authorized in this applicable subpart or by any other law or regulation.

(c) The violation of, or failure to comply with, the terms, conditions, and requirements of this part or a Letter of Authorization issued under § 216.106.

#### § 216.134 Mitigation requirements.

The holder of the Letter of Authorization is required to report, within 6 months from the issuance of a final rule, to NMFS, on possible mitigation measures effecting the least practicable adverse impact on the seals specified in § 216.130. The report shall also include a recommendation of which such measures, if any, the holder could feasibly implement. After submission of such report, NMFS shall determine whether the holder of the LOA must implement measures to effect the least practicable adverse impact on the seals. If NMFS determines that such measures must be implemented then NMFS shall specify, after consultation with the holder of the LOA, the schedule and other conditions for implementation of the measures. Implementation of such measures must be completed no later than 42 months after the date of issuance of the final

rule or at the closest scheduled plant outage before or after that date. Failure of the holder of the LOA to implement such measures in accordance with the NMFS specifications may be grounds to invalidate the LOA.

#### **§ 216.135 Monitoring and reporting.**

(a) The holder of the Letter of Authorization is required to cooperate with NMFS and any other Federal, state, or local agency monitoring the impacts of the activity on harbor, gray, harp, or hooded seals.

(b) The holder of the Letter of Authorization must designate a qualified individual or individuals, approved in advance by the Northeast Regional Administrator, NMFS, to observe and record any marine mammals that occur in the intake circulating system, including the outer transition structure, both forebays, and any marine mammals observed as a result of screen washings conducted.

(c) The holder of the LOA must conduct at least two daily visual inspections of the circulating water and service water forebays.

(d) The holder of the LOA must conduct at least daily inspections of the outer transition structure.

(e) The holder of the LOA must conduct screen washings at least twice weekly. Examination of the screen wash debris must be conducted to determine if any seal remains are present.

(f) The holder of the LOA must report orally to the Northeast Regional Administrator, NMFS, by telephone or other acceptable means, any seals or seal parts or other marine mammals or marine mammal parts found in the locations specified in § 216.135(b) or at any other locations on the property of the holder of the LOA, or through the inspection required by § 216.135(b) through (e). Such oral reports must be made within 24 hours of finding the seal or seal parts, or other marine mammal or marine mammal parts.

(g) The holder of the LOA must arrange to have a necropsy examination performed by qualified individuals on any seal or seal parts or marine mammal or marine mammal parts recovered through monitoring as specified under § 216.135(b) through (e).

(h) The holder of the LOA must also provide written notification to the Northeast Regional Administrator, NMFS, of such seals or seal parts or marine mammal or mammal parts found within 15 business days from the time of the discovery. This report must contain the results of any examinations or necropsies of the marine mammals as well as any other information relating to the circumstances of the take.

(i) An annual report on mitigation measures to effect the least practicable adverse impact on the seals that have been implemented or are being considered for implementation pursuant to the requirements specified at § 216.134 must be submitted to the Northeast Regional Administrator, NMFS, within 30 days prior to the expiration date of the issuance of the LOA.

#### **§ 216.136 Renewal of the Letter of Authorization.**

(a) A Letter of Authorization issued under § 216.106 for the activity identified in § 216.130(a) may be renewed annually provided the following conditions and requirements are satisfied:

(1) Timely receipt of the reports required under § 216.135, which have been reviewed by the Northeast Regional Administrator, and determined to be acceptable;

(2) A determination that the maximum incidental take authorizations in § 216.130(b) will not be exceeded; and

(3) A determination that research on mitigation measures required under § 216.134(a) and the Letter of Authorization have been undertaken.

(b) If the species' annual incidental take authorization is exceeded, NMFS will review the documentation submitted under § 216.135, to determine that the taking is not having more than a negligible impact on the species or stock involved. If such taking is determined to be not having more than a negligible impact on the species or stock involved, the LOA may be renewed provided other conditions and requirements specified in § 216.136(a) are satisfied, and provided that any modifications of the LOA that may be required are done pursuant to § 216.137.

(c) Notice of issuance of a renewal of the Letter of Authorization will be published in the **Federal Register** within 30 days of issuance.

#### **§ 216.137 Modifications to the Letter of Authorization.**

(a) In addition to complying with the provisions of § 216.106, except as provided in paragraph (b) of this section, no substantive modification, including withdrawal or suspension, to the Letter of Authorization issued pursuant to § 216.106 and subject to the provisions of this subpart shall be made until after notice and an opportunity for public comment. For purposes of this paragraph, renewal of a Letter of Authorization under § 216.136, without modification, is not considered a substantive modification.

(b) If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 216.130, the Letter of Authorization issued pursuant to § 216.106, or renewed pursuant to this section may be substantively modified without prior notice and an opportunity for public comment. Notification will be published in the **Federal Register** subsequent to the action.

#### **§§ 216.138—216.139 [Reserved]**

[FR Doc. 98-22778 Filed 8-24-98; 8:45 am]  
BILLING CODE 3510-22-F

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 660**

[I.D. 080798B]

### **Pacific Fishery Management Council; Public Hearings**

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

**ACTION:** Public hearings; request for comments.

**SUMMARY:** The Pacific Fishery Management Council (Council) will convene six public hearings on Draft Amendment 11 to the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) and Draft Amendment 8 to the Northern Anchovy Fishery Management Plan (NA FMP) and its draft supplemental environmental impact statement (draft SEIS).

**DATES:** Written comments will be accepted until September 9, 1998. The hearings will be held from September 8 to September 10, 1998. See

**SUPPLEMENTARY INFORMATION** for specific dates and times.

**ADDRESSES:** Comments should be sent to Mr. Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201; telephone (503) 326-6352. Written comments sent to the Council should be received by Wednesday, September 9, 1998, to assure time for copying and distribution before final consideration of the amendments by the Council. Copies of the draft amendments and the anchovy SEIS are available from the Council office.

Comments may also be provided during the Council meeting, September 14-18, 1998, at the Red Lion