

1:00–1:45—Planning and Budget  
 1:45–2:30—SGRP Liaison Reports  
 2:30–3:00—Wrap-Up  
 3:00—Adjourn

The meeting will be open to the Public.

Dated: December 23, 1998.

**Louisa Koch,**

*Deputy Assistant Administrator for Oceanic and Atmospheric Research.*

[FR Doc. 98–34542 Filed 12–29–98; 8:45 am]

BILLING CODE 3510–12–M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 120998B]

#### Taking of Threatened or Endangered Marine Mammals Incidental to Commercial Fishing Operations; Extension of Permits

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

**ACTION:** Extension of permits; request for comments.

**SUMMARY:** NMFS hereby extends the current permits for those fisheries that have negligible impacts on marine mammal stocks listed as threatened or endangered under the Endangered Species Act (ESA) for 6 months through June 30, 1999. This action allows the incidental, but not intentional, taking of such marine mammals in commercial fishing operations.

NMFS also requests comments on the criteria for determining whether such fisheries have a negligible impact on marine mammal stocks and on such other issues as whether authorizations should include provisions for taking that does not involve mortalities and/or serious injuries to marine mammals.

**DATES:** Effective January 1, 1999–June 30, 1999. Comments on the criteria for issuance of permits will be accepted through February 16, 1999.

**ADDRESSES:** Send comments on the criteria for issuance of permits to Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–2337.

**FOR FURTHER INFORMATION CONTACT:** Dean Wilkinson, NMFS (301) 713–2322.

**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 Endangered Species Act (ESA) in the course of commercial fishing operations if it is determined 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 the provisions contained in section 118, and a take reduction plan has been developed or is being developed for such species or stock.

“Negligible impact” as defined in 50 CFR 216.103 and as applied 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.”

Section 118 requires the registration of vessels in fisheries listed as either Category I or Category II on the annual list of commercial fisheries. A Category I fishery is a fishery with “frequent incidental mortality and serious injury of marine mammals.” A Category II fishery is a fishery with “occasional incidental mortality and serious injury of marine mammals.” Registration is not required for Category III fisheries, which have “a remote likelihood of or no known incidental mortality or serious injury of marine mammals.” The proposed list of fisheries for 1999 was published on August 11, 1998 (63 FR 42803).

On August 31, 1995 (60 FR 45399), NMFS issued interim final permits for those fisheries meeting the conditions under section 101(a)(5)(E) of the MMPA. As a starting point for making determinations, NMFS announced it would consider a total annual serious injury and mortality of not more than 10 percent of a threatened or endangered marine mammal stock’s potential biological removal (PBR) level to be insignificant. PBR is defined in the MMPA as “the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population.” NMFS also announced 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 used in calculation of PBR have varying degrees of uncertainty, NMFS

determined that such factors as population trend and reliability of abundance and mortality estimates also should be considered.

Based on requirements of section 101(a)(5)(E) of the MMPA and these criteria, NMFS issued interim final permits to allow for the incidental, but not intentional, taking of three stocks of endangered or threatened marine mammals: (1) Humpback whale, central North Pacific stock; (2) Steller sea lion, eastern stock; and (3) Steller sea lion, western stock. Permits were issued for Category I and Category II fisheries taking animals from these stocks. Consistent with the provisions of section 101(a)(5)(E)(ii) of the MMPA, NMFS determined that permits were not required for Category III fisheries, which are not required to register under section 118 of the Act. The only requirement for Category III fisheries is that any serious injury or mortality be reported.

The MMPA provides that permits may be issued for a three year period. The current permits expire on December 31, 1998. The list of permitted fisheries was published on August 31, 1995 (60 FR 45401). Currently, none of the permitted fisheries has a serious injury and mortality level above 10 percent of PBR for listed species. Combined mortality from the western stock of Steller sea lions for all currently permitted fisheries is estimated to be 30.3, and ten percent of PBR is 35. Combined mortality from the eastern stock of Steller sea lions is estimated to be 13.8, and ten percent of PBR is 136. Combined mortality from the central north Pacific stock of humpback whales caused by currently permitted fisheries is 0.8 and ten percent of PBR is 0.74. Because the population is increasing and the estimated mortality is less than one whale per year, current permits could be reissued.

If existing criteria were to be used, permits could be reissued for a 3-year period for fisheries affecting all three stocks. NMFS views this as an opportunity to review existing criteria for the issuance of permits and to address issues that have arisen since the permits were first issued. Therefore, NMFS is extending the existing permits for a 6-month period and requesting public comment before issuing new permits. In accordance with the MMPA, opportunity will also be given to comment on the permits before they are issued.

NMFS requests comments on whether the current criteria for issuance of permits under section 101(a)(5)(E) of the MMPA are adequate or whether changes should be made. Currently, the method

for determining negligible impact is based on 10 percent of PBR with other factors considered when appropriate. Some suggestions have been made including: the determination be based on recovery rate for the stock involved; some other percentage of PBR be used since PBR already contains a recovery factor; or the criteria be related to the zero mortality rate goal. In addition, NMFS invites comments on how cumulative impact of a number of different fisheries should affect permit issuance. This is not an issue with the existing permits, but it may be a consideration in the future.

A couple of issues have arisen since the first permits were issued, and NMFS invites comment on how they should be addressed. First, there is an issue as to whether the permits should apply to takings that do not involve serious injuries and mortalities. It is not absolutely clear whether Congress intended section 101(a)(5)(E) to apply to all types of takes. The use of the term "taking" in the introductory portion of the section does not appear to be limited to serious injuries and mortalities, but the criteria for issuance of a permit focus only on the impact of serious injuries and mortalities. There is a question as whether permits should cover both types of taking. In addition, to date, the agency has not considered issuing permits solely for takings that do not involve serious injuries or mortalities. NMFS invites comments on whether it should issue permits to cover such takings and, if so, what criteria should be used in making determinations concerning the issuance of such permits.

Second, NMFS request comments on whether it should or can issue permits covering less serious types of taking when permits cannot be issued to fisheries for takings involving serious injury or mortalities.

#### *Issuance of Permits*

Section 105(a)(5)(E) permits are hereby issued to all vessel owners registered in fisheries currently holding such permits. The permits will be effective on January 1, 1999, and will expire on June 30, 1999.

Permits may be suspended or revoked if the level of taking specified in the Incidental Take Statement prepared under section 7 of the ESA for each stock for which an incidental take permit is issued is exceeded.

Dated: December 23, 1998.

**P. Michael Payne,**

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

[FR Doc. 98-34451 Filed 12-29-98; 8:45 am]

BILLING CODE 3510-22-F

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### **Notice of Round Table Discussion on Proposed Reform of Patent Law and Operational Authority of the Patent and Trademark Office**

**AGENCY:** Patent and Trademark Office, Commerce.

**ACTION:** Notice of meeting.

**SUMMARY:** The Patent and Trademark Office (PTO) announces a one-day, round table discussion on legislative proposals to reform patent law and the operational authority of the PTO. There will be approximately 10 to 20 round table participants. The participants may include Congressional representatives, Administration officials, and PTO customers invited by the PTO in consultation with groups representing large and small entities and independent inventors. Subject to space limitations, observers are invited to attend and, if time permits, make comments.

**DATES:** The round table discussion will be held on Friday, January 22, 1999, from 9:00 a.m. until 5:00 p.m. Individuals who would like to attend as observers must register by telephone between 12 noon Eastern time on January 14, 1999, and 12 noon January 20, 1999.

**ADDRESSES:** The round table discussion will take place at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, Virginia 22202. Individuals who would like to attend must register their name with Andrew Hirsch, Director of Congressional Affairs, by telephone at (703) 305-9300, or by facsimile transmission marked to his attention at (703) 305-8885.

#### **FOR FURTHER INFORMATION CONTACT:**

Andrew Hirsch, Director of Congressional Affairs, by telephone at (703) 305-9300, or by facsimile transmission marked to his attention at (703) 305-8885.

#### **SUPPLEMENTARY INFORMATION:**

#### *Background*

The U.S. patent system plays a critical role in our dynamic economy. Inventors rely on a strong patent system to protect their creativity and investment as they

bring their new technology and products to the marketplace. Inventors want their patent applications examined and patents issued and protected in the most efficient manner possible. While all PTO customers and other interested parties agree with those goals, they disagree as to what, if any, reforms are necessary to achieve those goals.

Efforts intended to reform and improve the U.S. patent system have intensified over the last two Congresses. However, legislation was not enacted because of disagreement over the specific proposals to reform patent law and the operational authority of the PTO.

#### *Purpose of Round Table Discussion*

This round table discussion is expected to begin a constructive dialogue among PTO customers and other interested parties on the desirability and the proper nature and scope of the various proposed legislative reforms to U.S. patent law and to the operational authority of the PTO. The PTO does not intend to use the group to arrive at any consensus. Accordingly, the PTO will host the round table discussion both to bring insights and experiences of diverse viewpoints to the agency and to find out where problems have been observed in the patent system before those problems harm the American economy. Attendees will be encouraged to supply the agency with general commentary, suggestions, and raw data.

#### *Issues*

Issues to be addressed by round table participants include, but are not limited to, the following:

1. Early publication of patent applications and provisional rights.
2. Reform of reexamination procedures.
3. Prior user rights.
4. Patent term restoration/extension provisions.
5. Recasting the PTO as a Government corporation and/or performance-based organization with improved operating and financial flexibilities.
6. Patent fee related issues.
7. Invention promotion fraud.

#### *Registration of Public Observers*

Because of space limitations, a limited number of public observers will be allowed to attend. Individuals who would like to attend must register their name with Andrew Hirsch, Director of Congressional Affairs, by telephone at (703) 305-9300, or by facsimile transmission marked to his attention at (703) 305-8885. Requests to register as