

they also will become a matter of public record.

Dated: January 17, 2006.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. E6-671 Filed 1-20-06; 8:45 am]

BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Limits on Applications of Take Prohibitions

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before March 24, 2006.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Steve Stone, at (503) 231-2317, National Marine Fisheries Service, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232-1274 or [steve.stone@noaa.gov](mailto:steve.stone@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

Section 4(d) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires the National Marine Fisheries Service (NMFS) to adopt such regulations as it "deems necessary and advisable to provide for the conservation of" threatened species. Those regulations may include any or all of the prohibitions provided in section 9(a)(1) of the ESA, which specifically prohibits "take" of any endangered species ("take" includes actions that harass, harm, pursue, kill, or capture). The first salmonid species listed by NMFS as threatened were

protected by virtually blanket application of the section 9 take prohibitions. There are now 21 separate Evolutionarily Significant Units (ESUs) of west coast salmonids listed as threatened, covering a large percentage of the land base in California, Oregon, Washington and Idaho. NMFS is obligated to enact necessary and advisable protective regulations. NMFS makes section 9 prohibitions generally applicable to many of those threatened ESUs, but also seeks to respond to requests from states and others to both provide more guidance on how to protect threatened salmonids and avoid take, and to limit the application of take prohibitions wherever warranted (see 70 FR 37160, June 28, 2005, and 71 FR 834, January 5, 2006). The regulations describe programs or circumstances that contribute to the conservation of, or are being conducted in a way that adequately limits impacts on, listed salmonids. The regulations do not apply the take prohibitions to those programs and circumstances. Some of these limits on the take prohibitions entail voluntary submission of a plan to NMFS and/or annual or occasional reports by entities wishing to take advantage of these limits, or continue within them.

##### II. Method of Collection

Submissions may be in paper or electronic format.

##### III. Data

*OMB Number:* 0648-0399.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* State, local, or tribal government; business or other for-profit organizations.

*Estimated Number of Respondents:* 201.

*Estimated Time per Response:* 20 hours for a road maintenance agreement; 5 hours for a diversion screening limit project; 30 hours for an urban development package; 10 hours for an urban development report; 20 hours for a tribal plan; and 5 hours for a report of aided, salvaged, or disposed of salmonids.

*Estimated Total Annual Burden Hours:* 500.

*Estimated Total Annual Cost to Public:* \$843.

##### IV. Request for Comments

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 (including hours and cost) 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 submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 17, 2006.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 011806A]

#### Fisheries of the Exclusive Economic Zone off Alaska; Application for an Exempted Fishing Permit

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

**ACTION:** Notice of receipt of an application for an exempted fishing permit.

**SUMMARY:** This notice announces receipt of an application for an exempted fishing permit (EFP) from the Aleut Enterprise Corporation (AEC). If granted, this permit would be used to support a project to investigate the feasibility of using commercial fishing vessels for acoustic surveys of pollock in the Aleutian Islands subarea. The project is intended to promote the objectives of the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI) by improving use of pollock in the Aleutian Islands subarea.

**ADDRESSES:** Copies of the EFP application and the environmental assessment (EA) are available by writing to Sue Salvesson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P. O. Box 21668, Juneau, AK 99802, Attn: Lori Durall. The EA also is available from the Alaska Region, NMFS website at <http://www.fakr.noaa.gov/index/analyses/analyses.asp>.

**FOR FURTHER INFORMATION CONTACT:**

Melanie Brown, 907-586-7228 or [melanie.brown@noaa.gov](mailto:melanie.brown@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS manages the domestic groundfish fisheries in the BSAI under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing the groundfish fisheries of the BSAI appear at 50 CFR parts 600 and 679. The FMP and the implementing regulations at §§ 679.6 and 600.745(b) authorize issuance of EFPs to allow fishing that would otherwise be prohibited. Procedures for issuing EFPs are contained in the implementing regulations.

NMFS received an application for an EFP from the AEC. The purpose of the EFP is to support a project to determine the feasibility of using commercial fishing vessels for acoustic surveys of pollock in the Aleutian Islands subarea. The goal of the project is to improve the use of Aleutian Islands pollock. NMFS currently does not have resources to conduct acoustic surveys of Aleutian Islands pollock. This project has been developed in cooperation with stock assessment scientists at the NMFS Alaska Fisheries Science Center. The acoustic and biological information from the project will be used to determine: (1) if it is feasible to conduct acoustic surveys in the Aleutian Islands subarea using commercial fishing vessels, (2) if the data collected in such a manner are of sufficient quality for management purposes, and (3) if the local aggregations of pollock are stable enough during spawning season to allow for fine scale spatial and temporal management. Additionally, genetic samples will be collected during this study that will be used for stock structure analysis. Improved information may lead to improved conservation and potentially finer spatial and temporal harvest management of Aleutian Islands pollock. More information on the Aleutian Islands pollock stock is needed because of the uncertainty of the stock's structure and the potential effects of the fishery on Steller sea lions.

The western distinct population segment (DPS) of Steller sea lions occurs in the Aleutian Islands subarea and is listed as endangered under the Endangered Species Act (ESA). Critical habitat has been designated for this DPS, including waters within 20 nautical miles (nm) of haulouts and rookeries (50 CFR 226.202). Pollock is a principal prey species of Steller sea lions.

The U.S. Congress, in section 803 of the Consolidated Appropriations Act of 2004 (Public Law 108-199), required that the directed fishing allowance of pollock in the Aleutian Islands subarea be allocated to the Aleut Corporation. Only fishing vessels approved by the Aleut Corporation or its agents are allowed to harvest this allowance. To harvest the fish, the Aleut Corporation is allowed to contract only with vessels under 60 feet (18.3 m) length overall (LOA), or vessels listed under the American Fisheries Act. The allocation was made to the Aleut Corporation for the purpose of furthering the economic development of Adak, Alaska. Public Law 108-199 requires half of the Aleutian Islands pollock allocation to be harvested by small boats (less than 60 feet (18.3 m) LOA) in 2013 and beyond. For safety reasons, fishing in waters closer than 20 nm from shore is preferred for the small boat fleet.

Aleutian Islands pollock has been harvested primarily in Steller sea lion critical habitat in the past until the Aleutian Islands subarea was closed to pollock fishing in 1999 (64 FR 3437, January 22, 1999). In 2003, the Aleutian Islands subarea was opened to pollock fishing outside of critical habitat under regulations implementing the current Steller sea lion protection measures (68 FR 204, January 2, 2003). In 2005, pollock was allocated to the Aleut Corporation for a directed pollock fishery in the Aleutian Islands subarea outside of Steller sea lion critical habitat. The Aleut Corporation harvested only about 1.2 percent of its initial 2005 pollock allocation due, in part, to difficulty in finding pollock. Based on historical harvests, pollock aggregations necessary to support an acoustic survey likely occur inside Steller sea lion critical habitat.

The EFP is necessary to allow the applicants to harvest groundfish to verify the acoustic data collected and to compensate the participants. The acoustic survey must be conducted in an area that is likely to contain concentrations of pollock. The EFP would provide exemptions to Steller sea lion closures to pollock fishing in two areas: Atka Island and Kanaga Sound. Two areas are provided for the project in the event that no aggregations of fish can be found in one of the areas. Only one area may be used for the acoustic survey and verification fishing. No more than 1000 metric tons (mt) of groundfish may be harvested from a single site in this project. Fishing may occur within 3 nm of Steller sea lion haulouts in the study area to verify acoustic survey data. No more than 10 mt of groundfish

may be harvested in a tow within 3 nm of a haulout.

All groundfish harvested will be counted towards the TAC amounts specified for the BSAI in § 679.20 and the 2006 harvest specifications (70 FR 8679, February 24, 2005) which are scheduled for revision by the end of February 2006. Nearly all groundfish harvested under the EFP is expected to be pollock with minor amounts of Pacific ocean perch. Any groundfish fishing in the Aleutian Islands subarea closed to directed fishing due to overfishing concerns would include the directed fishing under the EFP.

Overall, no more than 1,000 mt of groundfish would be harvested under the EFP by one vessel. The EFP applicant would retain all groundfish species to accurately document the catch amounts by species and compare this information to the acoustic data. The EFP would provide an exemption from maximum retainable amounts specified in Table 11 of 50 CFR part 679 so that the applicant may retain and sell all groundfish harvested.

The EFP may be modified to extend the effective date for an additional 12 months if the applicant is unable to complete the project in 2006. Fishing under the EFP is expected to occur during March 2006 for approximately three weeks. Because the activities are limited to one vessel for approximately three weeks in a discrete area with a 1,000 mt limit, significant impacts on the marine environment are not expected. Because the activity is in Steller sea lion critical habitat and includes the harvest of a principal prey species for Steller sea lions, a Section 7 consultation under the ESA has been initiated for this action and must be completed before the issuance of the EFP.

In accordance with § 679.6, NMFS has determined that the proposal warrants further consideration and has initiated consultation with the Council by forwarding the application to the Council. The Council will consider the EFP application during its February 6-13, 2006 meeting. The applicant has been invited to appear in support of the application, if the applicant desires. Interested persons may comment on the application at the Council meeting during public testimony. Information regarding the February 2006 Council meeting is available at the Council's website at <http://www.fakr.noaa.gov/npfmc/default.htm>.

Copies of the application and EA are available for review from NMFS (see **ADDRESSES**).

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: January 18, 2006.

**Alan D. Risenhoover,**

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.  
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 031704B]

#### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Conducting Air-to-Surface Gunnery Missions in the Gulf of Mexico

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

**ACTION:** Notice of receipt of application for an incidental take authorization; request for comments and information.

**SUMMARY:** NMFS has received a request from Eglin Air Force Base (Eglin AFB), for authorization to harass marine mammals, incidental to conducting air-to-surface (A-S) gunnery missions in the Gulf of Mexico (GOM). As a result of this request, NMFS is proposing to issue a 1-year authorization to take marine mammals by Level B harassment incidental to this activity and will propose regulations at a later time that would govern these incidental takes under a Letter of Authorization (LOA) issued to Eglin for a period of up to 5 years after the 1-year IHA expires. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an authorization to Eglin AFB to incidentally take, by harassment, several species of cetaceans for a period of 1 year.

**DATES:** Comments and information must be postmarked no later than February 22, 2006.

**ADDRESSES:** Comments should be addressed to Steve Leathery, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3226. The mailbox address for providing email comments on this action is [PR2.031704B@noaa.gov](mailto:PR2.031704B@noaa.gov). Comments sent via email, including all attachments, must not exceed a 10-megabyte file size. A copy of the application and a list of references used in this document may be obtained by writing to this address, by telephoning

the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) and is also available at: [http://www.nmfs.noaa.gov/prot\\_res/PR2/Small\\_Take/smalltake\\_info.htm#applications](http://www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake_info.htm#applications). A copy of the Final Programmatic Environmental Assessment (Final PEA) is available by writing to the Department of the Air Force, AAC/EMSN, Natural Resources Branch, 501 DeLeon St., Suite 101, Eglin AFB, FL 32542-5133.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Hollingshead, NMFS, 301-713-2289, ext 128.

#### SUPPLEMENTARY INFORMATION:

##### Background

Sections 101(a)(5)(A) and 101(a)(5)(D) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*) (MMPA) direct the Secretary of Commerce (Secretary) 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 or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "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."

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The National Defense Authorization Act of 2004 (NDAA) (Pub. L. 108-136) amended the definition of "harassment" in section 18(A) of the MMPA as it applies to a "military readiness activity" to read as follows:

(i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to,

migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B harassment].

#### Summary of Request

On February 13, 2003, Eglin AFB petitioned NMFS, as a precautionary measure, for an authorization under section 101(a)(5) of the MMPA for the taking, by harassment, marine mammals incidental to programmatic mission activities within the Eglin Gulf Test and Training Range (EGTTR) for the next five years. The EGTTR is described as the airspace over the Gulf of Mexico that is controlled by Eglin AFB; this area is also sometimes referred to as the "Eglin Water Range."

The A-S gunnery test and training activities currently comprise the majority of Eglin's missions that deploy ordnance into the GOM and have been determined through a review under the National Environmental Policy Act (NEPA) to be the only activity to impact marine mammals (Eglin AFB, 2002). The effects of other components of the mission activities, including supersonic and subsonic noise from aircraft, occasional fuel releases, debris, the release of chemicals into the water from chaff, flares, drones, and missiles, and direct physical impacts (discussed later in this document) were determined not to impact marine mammals (Eglin AFB, 2002).

#### Description of Activities

A-S gunnery missions involve surface impacts of projectiles and small underwater detonations with the potential to affect cetaceans that may potentially occur within the EGTTR. These missions typically involve the use of 25-mm (0.98 in), 40-mm (1.57 in), and 105-mm (4.13 in) gunnery rounds containing, 0.0662 lb (1.1 oz 30 g), 0.865 (13.8 oz, 392 g), and 4.7 lbs (2.1 kg) of explosive, respectively. Live rounds must be used to produce a visible surface splash that must be used to "score" the round; the impact of inert rounds on the sea surface would not be detected. The Air Force has developed a 105-mm training round (TR) that contains less than 10 percent of the amount of explosive material (0.35 lb; 0.16 kg) as compared to the "Full-Up" (FU) 105-mm (4.13 in) round. The TR was developed as one method to mitigate effects on marine life during night-time A/S gunnery exercises when visibility at the water surface would be poor. However, the TR cannot be used in daytime since the amount of explosive material is insufficient to be detected from the aircraft.