

efforts by NOAA. The SSWG was requested to develop findings and recommendations to enhance NOAA's social science research capabilities. The complete terms of reference for the working group can be found at [http://www.sab.noaa.gov/Working\\_Groups/current/socialscience/SAB%20SSWG07\\_ToR\\_FINAL.pdf](http://www.sab.noaa.gov/Working_Groups/current/socialscience/SAB%20SSWG07_ToR_FINAL.pdf). The SAB is chartered under the Federal Advisory Committee Act and is the only Federal Advisory Committee with the responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on long- and short-term strategies for research, education, and application of science to resource management and environmental assessment and prediction.

NOAA welcomes all comments on the content of this draft report. We also request comments on any inconsistencies perceived within the report, and possible omissions of important topics or issues. This draft report is issued for comment only and is not intended for external purposes. For any inadequacies noted within the draft report, please propose specific remedies. Suggested changes will be incorporated where appropriate, and a final report will be posted on the SAB Web site.

Please follow these instructions for preparing and submitting comments. Using the format guidance described below will facilitate the comments process and assure that all comments are appropriately considered. Overview comments should be provided first and should be numbered. Comments that are specific to particular pages, paragraphs or lines of the section should follow any overview comments and should identify the page and line numbers to which they apply. Please number each page of your comments.

Dated: November 20, 2008.

**Mark E. Brown,**

*Chief Financial Officer, Office of Oceanic and Atmosphere Research, National Oceanic and Atmospheric Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XL66**

#### **Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Regulatory Amendment to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico**

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

**ACTION:** Notice of intent (NOI) to prepare a draft environmental impact statement (DEIS); notice of scoping meetings; request for comments.

**SUMMARY:** NMFS, Southeast Region, in collaboration with the Gulf of Mexico Fishery Management Council (Council), intends to prepare a DEIS to describe and analyze management alternatives to be included in a regulatory action taken under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP). These alternatives will consider measures to reduce the incidental take of sea turtles by the bottom longline component of the reef fish fishery. The purpose of this NOI is to solicit public comments on the scope of issues to be addressed in the DEIS.

**DATES:** Written comments on the scope of issues to be addressed in the DEIS must be received by NMFS by December 26, 2008. Scoping meetings will be held in December 2008. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

**ADDRESSES:** Written comments on the scope of the DEIS, suggested alternatives and potential impacts, and requests for additional information on the action should be sent to Peter Hood, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701-5511; telephone (727) 824-5305; fax (727) 824-5308. Comments may also be sent by e-mail to [0648-XL66@noaa.gov](mailto:0648-XL66@noaa.gov). Requests for information packets and for sign language interpretation or other auxiliary aids should be directed to the Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: (813) 348-1630; fax: (813) 348-1711; Web site: [www.gulfcouncil.org](http://www.gulfcouncil.org). Requests may also be sent by e-mail to [Carrie.Simmons@gulfcouncil.org](mailto:Carrie.Simmons@gulfcouncil.org).

**FOR FURTHER INFORMATION CONTACT:** Peter Hood, phone: (727) 824-5305; fax:

(727) 824-5308; e-mail: [Peter.Hood@noaa.gov](mailto:Peter.Hood@noaa.gov).

**SUPPLEMENTARY INFORMATION:** A 2005 Biological Opinion on the Gulf of Mexico (Gulf) reef fish fishery concluded the fishery's continued authorization is not likely to jeopardize the continued existence of any species listed under the Endangered Species Act (ESA). The Incidental Take Statement (ITS) anticipated takes of 85 loggerhead sea turtles over a three-year period for the bottom longline portion of the reef fish fishery and 203 loggerhead sea turtles for the entire fishery. Take was also anticipated for other sea turtle species and smalltooth sawfish.

Beginning in 2006, NMFS has required vessels participating in the Gulf reef fish fishery to carry observers if selected to participate in the observer program. Observer data is collected from reef fish vessels as well as shark bottom longline vessels that also participate in the reef fish fishery. Currently, the program covers one percent of the fishery. From July 2006 through December 2007, observers documented 16 loggerhead sea turtles and 2 unidentified hardshell sea turtles captured by longlines targeting reef fish in the eastern Gulf. Only 44 percent of captured sea turtles were released alive. Based on these data and levels of effort from logbooks, NMFS estimated 902 hardshell sea turtle takes occurred during the 18-month study period in the eastern Gulf by reef fish bottom longline vessels.

According to the ESA, reinitiation of a consultation on the effect a federal action has on listed species is necessary when "the amount or extent of taking specified in the ITS is exceeded." The 18-month estimates from the NMFS study for bottom longlines in the eastern Gulf exceed the anticipated takes for all gear in the entire Gulf for three years. Accordingly, the Southeast Regional Office, Sustainable Fisheries Division, requested reinitiation of consultation for the Gulf reef fish fishery on September 3, 2008.

At its October 2008 meeting, the Council decided to initiate regulatory action including measures to reduce the incidental take of sea turtles by the bottom longline component of the reef fish fishery. NMFS, in collaboration with the Council, will develop a DEIS to evaluate alternatives to accomplish this reduction. Those alternatives include, but are not limited to: a "no action" alternative; alternatives to develop time/area closures; alternatives for gear or bait modification; alternatives to expand the observer

program; and alternatives for effort limitation.

In accordance with NOAA's Administrative Order 216-6, Section 5.02(c), the Council has identified this preliminary range of alternatives as a means to initiate discussion for scoping purposes only. These preliminary issues may not represent the full range of issues that eventually will be evaluated in the Environmental Impact Statement.

The Council has scheduled the following scoping meetings to provide the opportunity for additional public input:

1. Tuesday, December 9, 2008 Hilton Garden Inn, 1101 US Highway 231, Panama City, FL 32405, phone: 850-392-1093;

2. Wednesday, December 10, 2008 City of Madeira Beach, 300 Municipal Drive, Madeira Beach, FL 33708, phone: 727-391-9951.

Copies of the scoping document are available from the Council or can be downloaded from the Council Web site (see **ADDRESSES**).

All scoping meetings will begin at 7 p.m. The meetings will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council (see **ADDRESSES**).

Once the DEIS associated with the regulatory action is completed, it will be filed with the Environmental Protection Agency (EPA). The EPA will publish a notice of availability of the DEIS for public comment in the **Federal Register**. The DEIS will have a 45-day comment period. This procedure is pursuant to regulations issued by the Council on Environmental Quality (CEQ) for implementing the procedural provisions of the National Environmental Policy Act (NEPA; 40 CFR parts 1500-1508) and to NOAA's Administrative Order 216-6 regarding NOAA's compliance with NEPA and the CEQ regulations.

NMFS will consider public comments received on the DEIS in developing the final environmental impact statement (FEIS) and before adopting final management measures for the action. NMFS will submit both the final measures and the supporting FEIS to the Secretary of Commerce (Secretary) for review as per the Magnuson-Stevens Fishery Conservation and Management Act.

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

Dated: November 20, 2008.

**Emily H. Menashes,**

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

### National Oceanic and Atmospheric Administration

**RIN 0648-XK83**

#### Incidental Takes of Marine Mammals During Specified Activities; Marine Seismic Surveys in the Southwest Pacific Ocean, January-February, 2009

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

**ACTION:** Notice; proposed incidental take authorization; request for comments.

**SUMMARY:** NMFS has received an application from the Lamont-Doherty Earth Observatory (L-DEO) for an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by harassment, incidental to conducting a seismic survey in the southwest Pacific Ocean. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS requests comments on its proposal to authorize L-DEO to take, by Level B harassment only, small numbers of marine mammals incidental to conducting a marine seismic survey during January through February, 2009.

**DATES:** Comments and information must be received no later than December 26, 2008.

**ADDRESSES:** Comments on the application should be addressed to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. The mailbox address for providing email comments is *PR1.0648-XK83@noaa.gov*. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Jeannine Cody or Ken Hollingshead, Office of Protected Resources, NMFS, (301) 713-2289.

**SUPPLEMENTARY INFORMATION:**

## Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental taking shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), 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 mitigation, 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."

Section 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. Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild ["Level A harassment"]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering ["Level B harassment"].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS' review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

## Summary of Request

On August 18, 2008, NMFS received an application from L-DEO for the taking by Level B harassment only, of small numbers of 29 species of marine mammals incidental to conducting, with