

description of the limit for Tribal Resource Management Plans (§ 223.209) so that the text would appear next to the 4(d) rule in the Code of Federal Regulations, improving the clarity of the 4(d) regulations; and Amend the current 4(d) rule so that the section 9(a) take prohibitions apply to anadromous fish with an intact adipose fin only (that is, the take prohibitions and 4(d) protective regulations would not apply to unclipped hatchery fish or resident O. mykiss included in the subject ESUs).

Because the proposed action creates an optional ESA process, the effects that it may generate are limited to those associated with amending the 4(d) protective regulations. The proposed action does not address the potential effects of individual activities or programs that may seek coverage under one of the 4(d) "limits." It is impossible to anticipate the specific impacts of such programs that may be submitted to and approved by NMFS. NMFS will conduct further NEPA analyses as necessary when a specific program is submitted to NMFS for coverage under one of the 4(d) limits for West Coast salmonids.

This notice is provided pursuant to the NEPA regulations (40 CFR 1506.6). The final NEPA determinations will not be completed until after the end of the 30-day comment period and after NMFS has fully considered all comments received during the public comment period.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: November 9, 2004.

Laurie K. Allen,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102704]

Taking and Importing of Marine Mammals

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

ACTION: Notice of affirmative finding renewal.

SUMMARY: The Assistant Administrator for Fisheries, NMFS, (Assistant Administrator) renewed the affirmative finding for the Republic of Ecuador under the Marine Mammal Protection

Act (MMPA). This affirmative finding renewal will allow yellowfin tuna and yellowfin tuna products harvested in the eastern tropical Pacific Ocean (ETP), in compliance with the International Dolphin Conservation Program (IDCP) by Ecuadorian-flag purse seine vessels or vessels operating under Ecuadorian jurisdiction, to continue to be imported into the United States. The affirmative finding renewal was based on review of documentary evidence submitted by the Republic of Ecuador and obtained from the Inter-American Tropical Tuna Commission (IATTC) and the Department of State. This finding remains in effect through March 31, 2005.

DATES: Effective April 1, 2004, through March 31, 2005.

FOR FURTHER INFORMATION CONTACT: Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, California, 90802-4213; Phone 562-980-4000; Fax 562-980-4018.

SUPPLEMENTARY INFORMATION: The MMPA, 16 U.S.C. 1361 *et seq.*, allows entry into the United States of yellowfin tuna harvested by purse seine vessels in the ETP under certain conditions. Under implementing regulations at 50 CFR 216.24, a nation with purse seine vessels greater than 400 short tons (362.8 metric tons) carrying capacity fishing for tuna in the ETP must have an affirmative finding in order to export such tuna and tuna products to the United States. If requested by the harvesting nation, the Assistant Administrator will determine whether to make an affirmative finding based upon documentary evidence provided by the government of the harvesting nation, the IATTC, or the Department of State. The finding will be reviewed annually to ensure that the nation continues to meet the requirements for an affirmative finding. The requirements must be met in order for the finding to remain valid for the following 12-month period: April 1 through March 31, or for such other period as the Assistant Administrator may determine.

The affirmative finding process requires that the harvesting nation meet several conditions related to compliance with the IDCP. Every 5 years, the government of the harvesting nation must request an affirmative finding and submit the required documentary evidence directly to the Assistant Administrator. A nation may opt to provide information regarding compliance with the IDCP directly to NMFS on an annual basis or to authorize the IATTC to release the information to NMFS in years when

NMFS will review and consider whether to issue an affirmative finding determination without an application from the harvesting nation.

An affirmative finding will be terminated, in consultation with the Secretary of State, if the Assistant Administrator determines that the requirements of 50 CFR 216.24(f) are no longer being met or that a nation is consistently failing to take enforcement actions on violations which diminish the effectiveness of the IDCP. Every 5 years, the government of the harvesting nation must request an affirmative finding and submit the required documentary evidence directly to the Assistant Administrator.

As a part of the annual review process set forth in 50 CFR 216.24(f), the Assistant Administrator considered documentary evidence submitted by the Republic of Ecuador and obtained from the IATTC and the Department of State and determined that Ecuador has met the MMPA's requirements to receive an affirmative finding.

After consultation with the Department of State, NMFS renewed the Republic of Ecuador's affirmative finding allowing the continued importation into the United States of yellowfin tuna and products derived from yellowfin tuna harvested in the ETP by Ecuadorian-flag purse seine vessels or vessels operating under Ecuadorian jurisdiction.

The Republic of Ecuador must submit a new application no later than January 2005 for an affirmative finding to be effective for the period April 1, 2005, through March 31, 2006, and the subsequent 4 years.

Dated: November 9, 2004.

Rebecca Lent,

*Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101304E]

Issuance of Permit 1493

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

ACTION: Notice of decision and availability of decision documents on the issuance of ESA research/