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Any business confidential information provided that is marked business confidential will be kept confidential and protected from disclosure to the full extent permitted by law. To the extent business confidential information is provided, a non-confidential submission should also be provided, in which business confidential information is summarized or, if necessary, deleted.

Dated: March 6, 2001.

**Donald L. Evans,**

*Secretary, United States Department of Commerce.*

[FR Doc. 01-7515 Filed 3-28-01; 8:45 am]

BILLING CODE 3510-DR-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 032001A]

#### Regulations Governing the Taking and Importing of Marine Mammals; Threatened and Endangered Wildlife; Gulf of Maine/Bay of Fundy Stock of Harbor Porpoise

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

**ACTION:** Notice of intent to conduct a status review and request for information.

**SUMMARY:** The National Marine Fisheries Service (NMFS) is initiating a status review of the Gulf of Maine/Bay of Fundy stock of harbor porpoise (*Phocoena phocoena*). NMFS solicits information to facilitate its review of this stock, which is currently classified as a candidate species under the Endangered Species Act (ESA).

**DATES:** Comments and information must be received by May 1, 2001.

**ADDRESSES:** Information, comments, or questions concerning the status review of the Gulf of Maine/Bay of Fundy stock of harbor porpoise should be submitted to Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3226.

**FOR FURTHER INFORMATION CONTACT:** Emily Hanson, Office of Protected Resources, (301) 713-2322, ext. 101, or Kim Thounhurst, Northeast Region, (978) 281-9138.

**SUPPLEMENTARY INFORMATION:** The ESA requires determinations of whether species of wildlife and plants are endangered or threatened based on the best available scientific and commercial data. With some exceptions that are not applicable here, NMFS is responsible under the ESA for species that reside all or the major portion of their lifetime in marine or estuarine waters. The ESA and regulations at 50 CFR 424.02 define "species" as any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any vertebrate species that interbreeds when mature. The Gulf of Maine/Bay of Fundy stock of Harbor Porpoise is on the ESA list of candidate species in order to continue to monitor the species' status (64 FR 480, January 5, 1999; 64 FR 33466, June 23, 1999). NMFS is conducting a review of the status of this stock to determine, among other things, if it warrants listing as endangered or threatened under the ESA.

In 1993, NMFS proposed listing the Gulf of Maine/Bay of Fundy stock of harbor porpoise as threatened under the ESA (58 FR 3108, January 7, 1993). That proposed rule reviewed existing information regarding the status of the stock and identified mortality and serious injury incidental to commercial fishing operations as the only significant factor that may be threatening the stock. On January 5, 1999, NMFS withdrew that proposed rule (64 FR 465). The notice of withdrawal discussed information that had become available since the proposed rule and concluded that a Take Reduction Plan, which was prepared in accordance with section 118 of the MMPA, contained an adequate regulatory mechanism to reduce mortality and serious injury of harbor porpoise incidental to commercial fishing operations. Because no other factors were identified that would have a significant adverse impact on the stock, NMFS determined that listing the Gulf of Maine/Bay of Fundy stock of harbor porpoise was not warranted at that time. NMFS maintained the stock as a candidate species under the ESA (64 FR 480, January 5, 1999; 64 FR 33466, June 23, 1999).

The status review will give consideration to the current status of the Gulf of Maine/Bay of Fundy stock of harbor porpoise, including life history, habitat, distribution, abundance, and trends. Additionally, the review will consider present or threatened destruction, modification, or curtailment of habitat or range; over-utilization for commercial, recreational, scientific, or educational purposes (e.g., incidental and intentional take, research permits, stranding); disease and

predation; other natural or anthropogenic factors affecting the stock; evaluation of the effectiveness of the Harbor Porpoise Take Reduction Plan; and, the need to list harbor porpoise under the ESA.

This document is not a proposal to list the Gulf of Maine/Bay of Fundy stock of harbor porpoise as threatened or endangered. This document is a request for information to facilitate a review of the status of the species to determine, among other things, whether the species should be listed as threatened or endangered. NMFS will make the status review and any proposal that results from the review available for public comment.

#### Biological Information Solicited

To ensure that the review is comprehensive and based on the best available data, NMFS is soliciting information and comments from any interested person concerning the status of the Gulf of Maine/Bay of Fundy stock of harbor porpoise. NMFS is primarily interested in new information that has become available since NMFS last determined that listing of this stock was not warranted (64 FR 465, January 5, 1999). It is requested that data, information, and comments be accompanied by (1) supporting documentation, such as maps, logbooks, bibliographic reference, personal notes, or reprints of pertinent publications and (2) the name of the person submitting the data, his/her address, and any association, institution, or business that the person represents.

Dated: March 23, 2001.

**Wanda Cain,**

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

[FR Doc. 01-7799 Filed 3-28-01; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 032201E]

#### Notice of Decision and Availability of Decision Documents on the Issuance of a Permit for Incidental Takes of Threatened and Endangered Species (1248)

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

**ACTION:** Notice of decision and availability of decision documents on