

millimeters across each solar cell, and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features); and

2. Small off-grid panels with glass cover, with the following characteristics: (A) surface area from 3,450 mm² to 33,782 mm², (B) with one black wire and one red wire (each of type 22AWG or 28 AWG not more than 350 mm in length when measured from panel extrusion), (C) not exceeding 10 volts, (D) not exceeding 1.1 amps, (E) not exceeding 6 watts, and (F) for the purposes of this exclusion, no panel shall contain an internal battery or external computer peripheral ports.

Additionally excluded from the scope of the investigations are:

1. Off grid rigid CSPV panels with a glass cover, with the following characteristics: (A) a total power output of 175 watts or less per panel, (B) a maximum surface area of 9,000 cm² per panel, (C) do not include a built-in inverter, (D) must include a permanently connected wire that terminates in waterproof connector with a cylindrical positive electrode and a rectangular negative electrode with the positive and negative electrodes having an interlocking structure; (E) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (F) must be in individual retail packaging (for purposes of this provision, retail packaging typically includes graphics, the product name, its description and/or features); and

2. Off grid CSPV panels without a glass cover, with the following characteristics: (A) a total power output of 220 watts or less per panel, (B) a maximum surface area of 16,000 cm² per panel, (C) do not include a built-in inverter, (D) must include visible parallel grid collector metallic wire lines every 1–4 millimeters across each solar cell, and (E) each panel is encased in a laminated material without stitching.

Also excluded from the scope of these investigations are off-grid CSPV panels in rigid form, with or without a glass cover, permanently attached to an aluminum extrusion that is an integral component of an automation device that controls natural light, whether or not assembled into a fully completed automation device that controls natural light, with the following characteristics:

1. a total power output of 20 watts or less per panel;
2. a maximum surface area of 1,000 cm² per panel;
3. does not include a built-in inverter for powering third party devices.

Modules, laminates, and panels produced in a third-country from cells produced in a subject country are covered by the investigations; however, modules, laminates, and panels produced in a subject country from cells produced in a third-country are not covered by the investigations.

Also excluded from the scope of these investigations are all products covered by the scope of the antidumping and countervailing duty orders on *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final*

Determination of Sales at Less Than Fair Value, and Antidumping Duty Order, 77 FR 73018 (December 7, 2012); and *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Countervailing Duty Order*, 77 FR 73017 (December 7, 2012).

Merchandise covered by the investigations is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 8541.42.0010 and 8541.43.0010. Imports of the subject merchandise may enter under HTSUS subheadings 8501.71.0000, 8501.72.1000, 8501.72.2000, 8501.72.3000, 8501.72.9000, 8501.80.1000, 8501.80.2000, 8501.80.3000, 8501.80.9000, 8507.20.8010, 8507.20.8031, 8507.20.8041, 8507.20.8061, and 8507.20.8091. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the investigations is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Application of Facts Available with Adverse Inferences
- V. Adjustments To Cash Deposit Rates For Export Subsidies In The Companion Countervailing Duty Investigation
- VI. Recommendation

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE350]

Taking of Threatened or Endangered Marine Mammals Incidental to Commercial Fishing Operations; Issuance of a Permit

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

ACTION: Notice.

SUMMARY: NMFS is issuing a permit to authorize the incidental, but not intentional, take of specific Endangered Species Act (ESA)-listed marine mammal species or stocks under the Marine Mammal Protection Act (MMPA), in the Washington (WA)/Oregon (OR)/California (CA) sablefish pot fishery.

DATES: This permit is effective for a 3-year period beginning December 4, 2024.

ADDRESSES: The materials supporting the permit are available on the internet at <https://www.regulations.gov/docket/>

NOAA-NMFS-2024-0087. Other supporting information is available on the internet including: recovery plans for the ESA-listed marine mammal species, <https://www.fisheries.noaa.gov/national/endangered-species-conservation/recovery-species-under-endangered-species-act>; 2024 MMPA List of Fisheries (LOF), <https://www.fisheries.noaa.gov/national/marine-mammal-protection/list-fisheries-summary-tables>; the most recent Marine Mammal Stock Assessment Reports (SAR) by region, <https://www.fisheries.noaa.gov/national/marine-mammal-stock-assessment-reports-region>, and stock, <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-species-stock>; and Take Reduction Teams (TRT) and Plans, <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-take-reduction-plans-and-teams>.

FOR FURTHER INFORMATION CONTACT: Dan Lawson, West Coast Region, (206) 526–4740, Dan.Lawson@noaa.gov, or Jaclyn Taylor, NMFS Office of Protected Resources, (301) 427–8402, Jaclyn.Taylor@noaa.gov.

SUPPLEMENTARY INFORMATION: The MMPA requires NMFS to authorize the incidental take of ESA-listed marine mammals in commercial fisheries provided it can make the following determinations: (1) the incidental mortality and serious injury (M/SI) from commercial fisheries will have a negligible impact on the affected species or stocks; (2) a recovery plan for all affected species or stocks of threatened or endangered marine mammals has been developed or is being developed pursuant to the ESA; and (3) where required under MMPA section 118, a take reduction plan (TRP) has been developed or is being developed, a monitoring program is established, and vessels participating in the fishery are registered. We have determined that the Category II WA/OR/CA sablefish pot fishery meets these three requirements and are issuing a permit to the fishery to authorize the incidental take of ESA-listed marine mammal species or stocks (Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA stocks of humpback whale) under the MMPA for a period of 3 years.

Background

The MMPA LOF classifies each commercial fishery as a Category I, II, or III fishery based on the level of mortality and injury of marine mammals

occurring incidental to each fishery as defined in 50 CFR 229.2. Section 118(c)(2) of the MMPA requires fishing vessels that operate in Category I and II fisheries to register with NMFS and are subsequently authorized to incidentally take marine mammals during commercial fishing operations. However, that authorization is limited to those marine mammals that are not listed as threatened or endangered under the ESA. Section 118(a)(2) of the MMPA, 16 U.S.C. 1387(a)(2), also requires an additional authorization at section 101(a)(5) of the MMPA, 16 U.S.C. 1371, for incidental taking of ESA-listed marine mammals. Section 101(a)(5)(E) of the MMPA, 16 U.S.C. 1371, states that NMFS, as delegated by the Secretary of Commerce, for a period of up to 3 consecutive years shall allow the incidental, but not intentional, taking of marine mammal species or stocks designated as depleted because of their listing as an endangered species or threatened species under the ESA, 16 U.S.C. 1531 *et seq.*, by persons using vessels of the United States, while engaging in commercial fishing operations, if NMFS makes certain determinations. NMFS must determine, after notice and opportunity for public comment, that: (1) incidental M/SI from commercial fisheries 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 pursuant to 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 section 118 of the MMPA, and a TRP has been developed or is being developed for such species or stock.

The LOF includes a list of marine mammal species or stocks incidentally killed or injured in each commercial fishery. We evaluated ESA-listed stocks or species included on the final 2024 MMPA LOF (89 FR 12257, February 16, 2024) as killed or seriously injured following NMFS' Procedural Directive 02–238 “Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals.” Based on this evaluation, we proposed to issue a permit under MMPA section 101(a)(5)(E) to vessels registered in the Category II WA/OR/CA sablefish pot fishery, as classified on the final 2024 MMPA LOF, to incidentally kill or seriously injure individuals from the Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA stocks of humpback whale (89 FR 73377, September 10, 2024).

NMFS regularly evaluates commercial fisheries for purposes of making a negligible impact determination (NID) and issuing section 101(a)(5)(E) authorizations with the annual LOF as new information becomes available. More information about the fishery is available in the 2024 MMPA LOF (89 FR 12257, February 16, 2024) and on the internet at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/list-fisheries-summary-tables>.

We reviewed the best available scientific information to determine if the WA/OR/CA sablefish pot fishery met the three requirements of MMPA section 101(a)(5)(E) for issuing a permit. This information is included in the 2024 MMPA LOF (89 FR 12257, February 16, 2024), the SARs for these species (available at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports>), recovery plans for these species (available at: <https://www.fisheries.noaa.gov/national/endangered-species-conservation/recovery-species-under-endangered-species-act>), and other relevant information, as detailed further in the documents describing the determinations supporting the permit (available at: <https://www.regulations.gov/docket/NOAA-NMFS-2024-0087>).

Basis for Determining Negligible Impact

Prior to issuing a MMPA 101(a)(5)(E) permit to take ESA-listed marine mammals incidental to commercial fishing, NMFS must determine if the M/SI incidental to commercial fisheries will have a negligible impact on the affected marine mammal species or stocks. NMFS satisfies this requirement by making a NID. Although the MMPA does not define “negligible impact,” NMFS has issued regulations providing a qualitative definition of “negligible impact,” defined 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.

Criteria for Determining Negligible Impact

NMFS uses a quantitative approach for determining negligible impact detailed in NMFS Procedural Directive 02–204–02 (directive), “Criteria for Determining Negligible Impact under MMPA section 101(a)(5)(E),” which became effective on June 17, 2020 (NMFS 2020). The procedural directive

is available online at: <https://www.fisheries.noaa.gov/national/laws-and-policies/protected-resources-policy-directives>. The directive describes NMFS' process for determining whether incidental M/SI from commercial fisheries will have a negligible impact on ESA-listed marine mammal species/stocks (the first requirement necessary for issuing a MMPA section 101(a)(5)(E) permit as noted above).

The directive first describes the derivation of two Negligible Impact Thresholds (NIT), which represent levels of removal from a marine mammal species or stock. The first, Total NIT (NIT_t), represents the total amount of human-caused M/SI that NMFS considers negligible for a given stock. The second, lower threshold, Single NIT (NIT_s) represents the level of M/SI from a single commercial fishery that NMFS considers negligible for a stock. NIT_s was developed in recognition that some stocks may experience non-negligible levels of total human-caused M/SI but one or more individual fisheries may contribute a very small portion of that M/SI, and the effect of an individual fishery may be considered negligible.

The directive describes a detailed process for using these NIT values to conduct a NID analysis for each fishery classified as a Category I or II fishery on the MMPA LOF. The NID process uses a two-tiered analysis. The Tier 1 analysis first compares the total human-caused M/SI for a particular stock to NIT_t. If NIT_t is not exceeded, then all commercial fisheries that kill or seriously injure the stock are determined to have a negligible impact on the particular stock. If NIT_t is exceeded, then the Tier 2 analysis compares each individual fishery's M/SI for a particular stock to NIT_s. If NIT_s is not exceeded, then the commercial fishery is determined to have a negligible impact on that particular stock. For transboundary, migratory stocks, because of the uncertainty regarding the M/SI that occurs outside of U.S. waters, we assume that total M/SI exceeds NIT_t and proceed directly to the Tier 2 NIT_s analysis. If a commercial fishery has a negligible impact across all ESA-listed stocks, then the first of three findings necessary for issuing a MMPA 101(a)(5)(E) permit to the commercial fishery has been met (*i.e.*, a NID). If a commercial fishery has a non-negligible impact on any ESA-listed stock, then NMFS cannot issue a MMPA 101(a)(5)(E) permit for the fishery to incidentally take ESA-listed marine mammals.

These NID criteria rely on the best available scientific information,

including estimates of a stock's minimum population size and human-caused M/SI levels, as published in the most recent SARs and other supporting documents, as appropriate. Using these inputs, the quantitative negligible impact thresholds allow for straightforward calculations that lead to clear negligible or non-negligible impact determinations for each commercial fishery analyzed. In rare cases, robust data may be unavailable for a straightforward calculation, and the directive provides instructions for completing alternative calculations or assessments where appropriate.

Negligible Impact Determination

NMFS evaluated the impact of the WA/OR/CA sablefish pot fishery following the directive and based on the best available scientific information and made a NID. The NID analysis is presented in the accompanying MMPA 101(a)(5)(E) evaluation document that provides summaries of the information used to evaluate each ESA-listed stock documented on the 2024 MMPA LOF as killed or injured incidental to the fishery (available at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/list-fisheries-summary-tables>). The MMPA 101(a)(5)(E) evaluation document is available at: <https://www.regulations.gov/docket/NOAA-NMFS-2024-0087>.

The Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA stocks of humpback whale are transboundary stocks. As noted above, because of the uncertainty regarding M/SI that occurs outside of U.S. waters for transboundary stocks, we assumed that total M/SI exceeds NIT_s for the above transboundary stocks and proceeded directly to the Tier 2 NIT_s analysis.

The most recent SARs for the Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA stocks of humpback whale include fishery-related M/SI not assigned to a specific commercial fishery (information provided in NID analyzes summaries where applicable below). This unattributed fishery-related M/SI could be from any number of commercial, recreational, or tribal fisheries, including the WA/OR/CA sablefish pot fishery. Because data are not currently available to assign the unattributed fishery-related M/SI to a specific commercial fishery, we did not include unattributed mortality in the calculations for NID Tier 2 analyses (described below). NMFS is actively monitoring the WA/OR/CA sablefish pot fishery through a fishery observer

program. If additional fishery-related M/SI is documented through the observer program that indicates additional M/SI of the Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA stocks of humpback whale, then NMFS will re-evaluate the NID and the permit.

Based on the criteria outlined in the directive, the most recent SARs, and the best available scientific information, NMFS has determined that the M/SI of Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA stocks of humpback whale incidental to the WA/OR/CA sablefish pot fishery will have a negligible impact on these stocks. Accordingly, this MMPA 101(a)(5)(E) requirement is satisfied for WA/OR/CA sablefish pot fishery (see MMPA 101(a)(5)(E) determination document is available at: <https://www.regulations.gov/docket/NOAA-NMFS-2024-0087>). Summaries of the NID analyses are provided below.

The Category II WA/OR/CA sablefish pot fishery has documented incidental M/SI of the Central America/Southern Mexico-CA/OR/WA stock of humpback whale. The 2022 SAR includes a mean annual total commercial fishery-related M/SI (8.1) for the Central America/Southern Mexico-CA/OR/WA stock of humpback whale (Carretta *et al.* 2023). This comprises M/SI from all commercial fisheries, including the WA/OR/CA sablefish pot fishery, as well as fishery-related M/SI for the stock not assigned to a specific commercial fishery. The SAR also includes unattributed fishery-related M/SI (4.582) for the stock, which is not assigned to a specific commercial fishery.

The estimated M/SI of humpback whales (Central America/Southern Mexico-CA/OR/WA stock) in the WA/OR/CA sablefish pot fishery is 0.66 (Carretta *et al.* 2023). Since this M/SI (0.66) is less than NIT_s (0.68), NMFS determined that the WA/OR/CA sablefish pot fishery has a negligible impact on the Central America/Southern Mexico-CA/OR/WA stock of humpback whale (see accompanying MMPA 101(a)(5)(E) evaluation document).

The Category II WA/OR/CA sablefish pot fishery has documented incidental M/SI of the Mainland Mexico-CA/OR/WA stock of humpback whale. The 2022 SAR includes a mean annual total commercial fishery-related M/SI (11.4) for the Mainland Mexico-CA/OR/WA stock of humpback whale (Carretta *et al.* 2023). This comprises M/SI from all commercial fisheries, including the WA/OR/CA sablefish pot fishery, as well as fishery-related M/SI for the stock not assigned to a specific commercial

fishery. The SAR also includes unattributed fishery-related M/SI (6.431) for the stock, which is not assigned to a specific commercial fishery.

The estimated M/SI of humpback whales (Mainland Mexico-CA/OR/WA stock) in the WA/OR/CA sablefish pot fishery is 0.902 (Carretta *et al.* 2023). Since this M/SI (0.902) is less than NIT_s (1.70), NMFS determined that the WA/OR/CA sablefish pot fishery has a negligible impact on the Mainland Mexico-CA/OR/WA stock of humpback whale (see accompanying MMPA 101(a)(5)(E) evaluation document).

Recovery Plans

A recovery plan for the globally ESA-listed humpback whale species was developed in 1991. In 2016, NMFS revised the listing status of the humpback whale under the ESA. The globally listed endangered species was divided into 14 distinct population segments (DPSs), the species-level listing was removed, and NMFS listed four DPSs as endangered and one DPS as threatened (81 FR 62260, September 8, 2016). In June 2022, NMFS published a recovery outline for the Central America, Mexico, and Western North Pacific DPSs of humpback whales (<https://www.fisheries.noaa.gov/resource/document/recovery-outline-central-america-mexico-and-western-north-pacific-distinct>). The recovery outline serves as an interim guidance document and, with the existing species-wide recovery plan, directs recovery efforts, including recovery planning, for the Central America (Central America/Southern Mexico-CA/OR/WA stock) and Mexico (Mainland Mexico-CA/OR/WA stock) DPSs of humpback whales. Once finalized, the new recovery plan will replace the species-wide recovery plan that was published in 1991.

Accordingly, the requirement that a recovery plan has been developed pursuant to the ESA is satisfied.

Take Reduction Plan

The MMPA section 118 requires the development and implementation of a TRP for each strategic stock that interacts with a Category I or II fishery. Subject to available funding, the Secretary shall give highest priority to the development of TRPs for species or stocks whose M/SI exceeds potential biological removal level, have a small population size, and which are declining most rapidly. The stocks considered for this permit are designated as strategic stocks under the MMPA because the stocks or a component of the stocks are listed as threatened species or endangered

species under the ESA (MMPA section 3(19)(C)). A TRP for the WA/OR/CA sablefish pot fishery and the affected marine mammal species or stocks (Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA stocks of humpback whale) is under development.

On September 29, 2023, NMFS published a notice (*Scoping for a Marine Mammal Take Reduction Team to Address Incidental Mortality and Serious Injury of Humpback Whale Stocks in the Pacific*, 88 FR 67254) expressing NMFS' intent to establish a TRT to develop a TRP to address the incidental mortality and serious injury of the Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA stocks of humpback whales in the WA/OR/CA sablefish pot fishery and seeking input on whether other Category I or II fisheries that incidentally kill or seriously injure these stocks of humpback whales should be addressed by the Team. For more information, please see <https://www.fisheries.noaa.gov/west-coast/marine-mammal-protection/west-coast-take-reduction-team>.

Accordingly, the requirement under MMPA section 118 to have TRPs in place or in development is satisfied (see determinations supporting the permit available on the internet at <https://www.regulations.gov/docket/NOAA-NMFS-2024-0087>).

Monitoring Program

Under MMPA section 118(d), NMFS is to establish a program for monitoring incidental M/SI of marine mammals from commercial fishing operations. The WA/OR/CA sablefish pot fishery is monitored by a NMFS fishery observer program. Accordingly, the requirement under MMPA section 118 to have a monitoring program in place is satisfied.

Vessel Registration

MMPA section 118(c) requires that vessels participating in Category I and II fisheries register to obtain an authorization to take marine mammals incidental to fishing activities. NMFS has integrated the MMPA registration process, implemented through the Marine Mammal Authorization Program, with existing state and Federal fishery license, registration, or permit systems for Category I and II fisheries on the LOF. Therefore, the requirement for vessel registration is satisfied.

Conclusions for Permit

Based on the above evaluation for the WA/OR/CA sablefish pot fishery as it relates to the three requirements of MMPA section 101(a)(5)(E), we are

issuing an MMPA 101(a)(5)(E) permit to the WA/OR/CA sablefish pot fishery to authorize the incidental take of ESA-listed species or stocks during commercial fishing operations. If, during the 3-year authorization, there is a significant change in the information or conditions used to support any of these determinations, NMFS will re-evaluate whether to amend or modify the authorization, after notice and opportunity for public comment.

ESA Section 7 and National Environmental Policy Act (NEPA) Requirements

ESA section 7(a)(2) requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of any species listed under the ESA, or destroy or adversely modify designated critical habitat of any ESA-listed species. The effects of the WA/OR/CA sablefish pot commercial fishery on ESA-listed marine mammals were analyzed in the appropriate ESA section 7 Biological Opinions on the commercial fishery (see <https://www.fisheries.noaa.gov/s3/2024-11/BiOp-PCGF-BiOp-Final-MM-22NOV2024.pdf>), and incidental take was exempted for those ESA-listed marine mammals for the WA/OR/CA sablefish pot fishery in accordance with the Biological Opinions' incidental take statement. Under section 7 of the ESA, Biological Opinions quantify the effects of the proposed action on ESA-listed species and their critical habitat and, where appropriate, exempt take of ESA-listed species that is reasonably certain to occur, as specified in the incidental take statement.

Under MMPA section 101(a)(5)(E), NMFS analyzes previously documented M/SI incidental to commercial fisheries through the NID process, and when the necessary findings can be made, issues a MMPA section 101(a)(5)(E) permit that allows for an unspecified amount of incidental taking of specific ESA-listed marine mammal stocks while engaging in commercial fishing operations. Thus, the applicable standards and resulting analyses under the MMPA and ESA differ, and as such, do not always align.

NEPA requires Federal agencies to evaluate the impacts of alternatives for their actions on the human environment. Because the permit would not modify any fishery operation and the effects of the fishery operations have been evaluated in accordance with NEPA, no additional NEPA analysis beyond that conducted for the associated Fishery Management Plans and their implementing regulations is required for the permit. Issuing the

permit has no additional impact on the human environment or effects on threatened or endangered species beyond those analyzed in these documents.

Comments and Responses

On September 10, 2024, NMFS published a notice and request for comments in the **Federal Register** for the proposed issuance of a permit under MMPA section 101(a)(5)(E) (89 FR 73377). The public comment period closed on October 10, 2024. NMFS received one comment letter in response to the request for comment on the proposed issuance of a permit to the WA/OR/CA sablefish pot commercial fishery and its underlying preliminary determinations. NMFS received a joint letter from Center for Biological Diversity, American Cetacean Society Oregon Chapter, Defenders of Wildlife, Earthjustice, Endangered Habitats League, Natural Resources Defense Council, Ocean Defenders Alliance, and Whale and Dolphin Conservation (CBD *et al.*) opposing issuance of the permit. NMFS' also received a joint letter from Defenders of Wildlife, Conservation Law Foundation, and Whale and Dolphin Conservation (Defenders of Wildlife *et al.*) that commented on NMFS' determination that the Category II Atlantic mixed species trap/pot fishery does not require a 101(a)(5)(E) permit. Based on Defenders of Wildlife *et al.*'s comment letter, NMFS is further evaluating the need for a 101(a)(5)(E) permit for the Atlantic mixed species trap/pot fishery and is not moving forward with the determination at this time. Only responses to significant comments pertaining to the proposed permit and preliminary determinations under MMPA section 101(a)(5)(E) for the WA/OR/CA sablefish pot commercial fishery are addressed below.

Comment 1: CBD *et al.* asserts that not including unattributed M/SI of the Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA stocks of humpback whales of humpback whales in the Tier 2 analyses can lead to erroneous NIDs. They recommend NMFS use the best available science to apportion unattributed fishery-related M/SI and consider using a correction factor to account for unattributed M/SI.

Response: As noted above, the most recent SARs (2022) for the Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA stocks of humpback whale include fishery-related M/SI not assigned to a specific commercial fishery. This unattributed fishery-related M/SI could

be from any number of commercial, recreational, or tribal fisheries, including the WA/OR/CA sablefish pot fishery. Because data are not currently available to assign the unattributed fishery-related M/SI to a specific commercial fishery, we did not include unattributed mortality in the calculations for NID Tier 2 analyses. NMFS is actively monitoring the WA/OR/CA sablefish pot fishery through a fishery observer program. If data and/or analyses become available to assign the unattributed fishery-related M/SI to specific commercial fisheries, NMFS will re-evaluate the NID and the permit for the WA/OR/CA sablefish pot fishery. In addition, if additional fishery-related M/SI is documented through the observer program that indicates additional M/SI of the Central America/Southern Mexico-CA/OR/WA or Mainland Mexico-CA/OR/WA stocks of humpback whale, then NMFS will re-evaluate the NID and the permit.

Comment 2: CBD *et al.* reiterates comments on the draft 2022 SAR that the maximum net productivity rate (R_{\max}) neither reflects the best available scientific information nor the guidance set forth in the Guidelines for Assessing Marine Mammal Stocks (GAMMS). CBD *et al.* recommends NMFS adopt either a stock-specific R_{\max} , similar to Curtis *et al.* (2022) or use the default value of 4 percent provided by the GAMMS.

Response: The SAR generally represents the best available scientific information on the stock. We incorporate by reference NMFS' response to Comment 17 in the final 2022 SAR **Federal Register** notice (88 FR 54592, August 11, 2023). Curtis *et al.* estimated the observed growth rate of the stock. CBD *et al.* conflates the observed growth rate of a population and R_{\max} , which is the maximum theoretical or estimated growth rate that would be expected if the stock were at a small population size. R_{\max} is the only relevant growth rate for calculations of PBR and the NID thresholds.

Comment 3: CBD *et al.* recommends NMFS use its discretion and deviate from NID made for the Central America/Southern Mexico-CA/OR/WA stock of humpback whales. They note that NMFS' Procedural Directive 02–204–02 acknowledges there may be circumstances when NMFS may deviate from the NID if M/SI is slightly below or slightly above the negligible impact threshold(s). Since NIT_s for the Central America/Southern Mexico-CA/OR/WA stock of humpback whale is only slightly higher than (0.02) than incidental M/SI in the WA/OR/CA sablefish pot fishery, NMFS should use its discretion and not make a NID.

Response: NMFS Procedural Directive 02–204–02, *Criteria for Determining Negligible Impact under MMPA section 101(a)(5)(E)* states, “There may be circumstances, such as when the M/SI estimate is slightly below or slightly above the NIT threshold(s), where [NMFS] may deviate from the determination that would be dictated by strictly adhering to the NIT thresholds. Such deviations may be due to the consideration of additional factors affecting the likelihood or impact of the incidental M/SI such as data uncertainty and reliability, information on the population trend, and expected trends in commercial fisheries impacts including implemented or concurrently implemented management measures aimed at reducing M/SI below the threshold.” NMFS considered this guidance in making the preliminary NID for the Central America/Southern Mexico-CA/OR/WA stock of humpback whales. NMFS is not aware of any specific bias in regards to the uncertainty and/or unreliability with the data on the population trend and expected trends in commercial fisheries impacts that would suggest the WA/OR/CA sablefish pot fishery would have a non-negligible impact on the Central America/Southern Mexico-CA/OR/WA stock of humpback whales. Therefore, NMFS is not deviating from the direct quantitative comparison of incidental M/SI to the NIT threshold in this case.

Thus, based on the criteria outlined in the Procedural Directive, the most recent SARs, and the best available scientific information, NMFS has determined that the M/SI of Central America/Southern Mexico-CA/OR/WA stock of humpback whale incidental to the WA/OR/CA sablefish pot fishery will have a negligible impact on this stock. If, during the 3-year authorization, there is a significant change in the information or conditions used to support the NID, NMFS will re-evaluate whether to amend or modify the authorization, after notice and opportunity for public comment.

Comment 4: CBD *et al.* claims NMFS has not developed a recovery plan for the ESA-listed humpback whale DPSs and should not rely on the recovery plan developed in 1991 for the global listing of humpback whales.

Response: As noted, a recovery plan for the humpback whale species (global listing) was developed in 1991. In June 2022, NMFS published a recovery outline for the Central America, Mexico, and Western North Pacific DPSs of humpback whales ([https://www.fisheries.noaa.gov/resource/document/recovery-outline-central-america-mexico-and-western-north-](https://www.fisheries.noaa.gov/resource/document/recovery-outline-central-america-mexico-and-western-north-pacific-distinct)

pacific-distinct). This recovery outline serves as an interim guidance document and, along with the existing species-wide recovery plan, directs recovery efforts, including recovery planning, for the Central America (Central America/Southern Mexico-CA/OR/WA stock) and Mexico (Mainland Mexico-CA/OR/WA stock) DPSs of humpback whales. Once finalized, the new recovery plan will replace the species-wide recovery plan that was published in 1991.

Comment 5: CBD *et al.* expressed concern that the proposed permit did not include conditions or limitations to avoid incidental M/SI of humpback whales or other ESA-listed marine mammals. They note that MMPA section 101(a)(5)(E)(iv) allows the Secretary to suspend for a time certain or revoke a permit if it is determined that the conditions or limitations set forth in such permit are not being complied with. They continue that without conditions in the proposed permit, NMFS cannot use the authority granted under MMPA section 101(a)(5)(E)(iv). CBD *et al.* further recommends several permit conditions to include in the final permit.

Response: NMFS disagrees. The MMPA requires NMFS to authorize the incidental take of ESA-listed marine mammals during commercial fishing operations provided it can make the following determinations: (1) the incidental M/SI from commercial fisheries will have a negligible impact on the affected species or stocks; (2) a recovery plan for all affected species or stocks of threatened or endangered marine mammals has been developed or is being developed pursuant to the ESA; and (3) where required under MMPA section 118, a TRP has been developed or is being developed, a monitoring program is established, and vessels participating in the fishery are registered. MMPA section 101(a)(5)(E)(ii) states if the Secretary determines these requirements are met, the Secretary *shall* issue an appropriate permit under section 101(a)(5)(E). Section 101(a)(5)(E) does not require the Secretary, as delegated to NMFS, to prescribe permit conditions to “avoid” M/SI. Moreover, as discussed in the Take Reduction Plan section of this notice, NMFS is in the process of developing a TRP to address the incidental M/SI of the Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA stocks of humpback whales in the WA/OR/CA sablefish pot fishery. Once convened, the Take Reduction Team will recommend various mitigation measures to reduce M/SI of the Central America/Southern Mexico-CA/OR/WA and

Mainland Mexico-CA/OR/WA stocks of humpback whales in the WA/OR/CA sablefish pot fishery pursuant to the goals of MMPA section 118(f)(2). The Take Reduction Team's recommended measures will be used to develop a TRP, which will include regulatory or voluntary measures to reduce incidental M/SI in the fishery.

References

- Carretta, J.W., E.M. Oleson, K.A. Forney, M.M. Muto, D.W. Weller, A.R. Lang, J. Baker, B. Hanson, A.J. Orr, J. Barlow, J.E. Moore, and R.L. Brownell. 2023. U.S. Pacific Marine Mammal Stock Assessments: 2022. U.S. Department of Commerce. NOAA Technical Memorandum NMFS-SWFSC-684. 409 p.
- Curtis, K.A., J. Calambokidis, K. Audley, M.G. Castaneda, J. De Weerd, A.J. García Chávez, F. Garita, P. Martínez-Loustalot, J. D. Palacios-Alfaro, B. Pérez, E. Quintana-Rizzo, R. Ramírez Barragan, N. Ransome, K. Rasmussen, J. Urbán R., F. Villegas Zurita, K. Flynn, T. Cheeseman, J. Barlow, D. Steel and J. Moore. 2022. Abundance of Humpback Whales (*Megaptera novaeangliae*) Wintering in Central America and Southern Mexico from a One-Dimensional Spatial Capture-Recapture Model. U.S. Department of Commerce. NOAA Technical Memorandum NMFS-SWFSC-661. 35 p. <https://doi.org/10.25923/9cq1-rx80>.
- National Marine Fisheries Service (NMFS). 2020. National Marine Fisheries Service Procedure 02-204-02: Criteria for Determining Negligible Impact under MMPA Section 101(a)(5)(E). 20 p. Available online: <https://www.fisheries.noaa.gov/national/laws-and-policies/protected-resources-policy-directives>.

Dated: November 26, 2024.

Kimberly Damon-Randall,

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

[FR Doc. 2024-28380 Filed 12-3-24; 8:45 am]

BILLING CODE 3510-22-P

CONSUMER FINANCIAL PROTECTION BUREAU

[Docket No. CFPB-2024-0056]

Agency Information Collection Activities: Comment Request

AGENCY: Consumer Financial Protection Bureau.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (CFPB) requests the Office of Management and Budget's (OMB's) approval of an information collection titled "Survey Screening Questions."

DATES: Written comments are encouraged and must be received on or before January 3, 2025 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Anthony May, Paperwork Reduction Act Officer, at (202) 435-7278, or email: CFPB_PRA@cfpb.gov. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov. Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: Survey Screening Questions.

OMB Control Number: 3170-00XX.

Type of Review: New information collection.

Affected Public: Individuals.

Estimated Number of Respondents: 50,000.

Estimated Total Annual Burden Hours: 12,500.

Abstract: The CFPB conducts a variety of research efforts to ascertain financial issues the American public may be experiencing. The CFPB developed a list of potential screener questions formulated to allow their research efforts to focus on the appropriate consumers for each study and strengthen our ability to address financial needs and concerns of the public and to improve the CFPB's delivery of services and programs. Usage of the included questions will ensure CFPB's future survey efforts target applicable respondents, reduce administrative burden on the CFPB, and grant greater flexibility in conducting research on emergent financial issues.

Request for Comments: The CFPB published a 60-day **Federal Register** notice on October 2, 2024 (89 FR 80231) under Docket Number: CFPB-2024-0050. The CFPB is publishing this notice and soliciting comments on: (a) Whether the collection of information is necessary for the proper performance of the functions of the CFPB, including whether the information will have practical utility; (b) The accuracy of the CFPB's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (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 reviewed by OMB as part of its review of this request. All comments will become a matter of public record.

Anthony May,

Paperwork Reduction Act Officer, Consumer
Financial Protection Bureau.

[FR Doc. 2024-28375 Filed 12-3-24; 8:45 am]

BILLING CODE 4810-AM-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2315-178]

Dominion Energy South Carolina, Inc.; Notice of Intent To Prepare an Environmental Assessment

On May 23, 2024, as supplemented on September 9, 2024, Dominion Energy South Carolina, Inc. (DESC) filed an application for a non-capacity amendment of the license for the Neal Shoals Hydroelectric Project No. 2315. The project is located on the Broad River in South Carolina and occupies Federal lands administered by the Sumter National Forest.

The licensee proposes to replace the four existing turbines in the powerhouse with eight submersible turbine-generator units to be installed at the existing draft tube openings and construct a new substation and underground duct bank at the project. The licensee proposes to decouple the existing generators, which would no longer be needed, and decommission and abandon them in place. The licensee expects the project's generating capacity to increase from 4.4 MW to 5.6