

[Federal Register: September 27, 1994]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration
[I.D. 092294D]

Marine Mammals; Pinniped Removal Authority

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

ACTION: Notice of establishment of a **Pinniped**-Fishery Interaction Task Force and notice of first public meeting.

SUMMARY: NMFS announces the establishment of a **Pinniped**-Fishery Interaction Task Force (Task Force) on the sea lion/steelhead conflict at the Ballard Locks in Seattle, WA. The Task Force is being established pursuant to section 120 of the **Marine** Mammal Protection Act (MMPA), as recently amended. Section 120 of the MMPA sets forth a process for consideration of intentional lethal taking of individually identifiable pinnipeds that are having a significant negative impact on salmonids that migrate through the Ballard Locks in Seattle. The first Task Force meeting, which is open to the public, coincides with the date of establishment of the Task Force.

DATES: The first public meeting of the Task Force, is scheduled for September 30, 1994, at 10:00 a.m.

ADDRESSES: The Task Force meeting will be held in the Auditorium, Building 9, at NOAA's Western Regional Center, 7600 Sand Point Way NE. in Seattle, WA.

FOR FURTHER INFORMATION CONTACT: Joe Scordino, Northwest Region, 206-526-6143 or Ken Hollingshead, Office of Protected Resources, 301-713-2055.

SUPPLEMENTARY INFORMATION: NMFS received an application from the State of Washington on July 12, 1994, to consider the lethal **removal** of California sea lions that are depredating a wild run of winter steelhead as they migrate through the Ballard Locks. In accordance with the process set forth in section 120 of the MMPA, NMFS determined that the State's application provided sufficient evidence to warrant establishment of a Task Force to consider authorizing the intentional lethal taking of California sea lions that prey on wild winter-run steelhead that migrate through the Ballard Locks in Seattle, WA. Notice of receipt and acceptance of the State's application, along with an explanation of the process set forth in section 120 of the MMPA, was published in the Federal Register on August 2, 1994 (59 FR 39325) with a request for public comments. The public comment period closed on September 10, 1994, and approximately 100 public comments were received.

NMFS announces that, effective September 30, 1994, the **Pinniped**-Fishery Interaction Task Force is established and will have 60 days (in accordance with section 120 of the MMPA) or until November 30, 1994 to develop and submit its recommendations to NMFS. The Task Force will have 21 members consisting of scientists who are knowledgeable about the sea lion/steelhead conflict, representatives of conservation and

fishing community organizations, the State, Indian tribes, NOAA and other Federal agencies involved in the conflict at the Locks.

The Task Force is to review the public comments received in response to the Federal Register document and pertinent factual information on the sea lion/steelhead interaction and within 60 days:

1. Recommend to NMFS whether to approve or deny the proposed intentional lethal taking of pinnipeds, along with the recommendation a description of the specific **pinniped** individuals, the proposed location, time, and method of such taking, criteria for evaluating the success of the action, and the duration of the intentional lethal taking **authority**; and

2. Suggest non-lethal alternatives, if available and practicable, including a recommended course of action.

All meetings will be open to the public, but the public will not be allowed to discuss or debate issues with the Task Force at its meetings. However, NMFS does intend to have a pre-designated, limited amount of time at the Task Force's first meeting to allow the public to provide new or relevant information that may assist the Task Force in its deliberations. Subsequent meetings will be determined by the Task Force during its deliberations. Public notice of subsequent meetings of the Task Force will be announced through NOAA Press Releases. The public may call the NOAA Public Affairs Office in Seattle at 206-526-6046 to obtain more detailed information on the Task Force meeting dates, times and locations.

In addition, in accordance with section 120 of the MMPA, the Task Force may need to meet again after January of 1995 to discuss the effectiveness of its recommended actions after implementation. Specifically, the MMPA requires that the Task Force evaluate the effectiveness of the permitted intentional lethal taking or alternative actions implemented. If implementation is ineffective in eliminating the interaction problem, the Task Force shall recommend additional actions. If the implementation is effective, the Task Force shall so advise NMFS and the Task Force will be disbanded.

In considering whether the State's application should be approved or denied, the Task Force is to consider:

1. Population trends, feeding habits, the location of the **pinniped** interaction, how and when the interaction occurs, and how many individual pinnipeds are involved;

2. Past efforts to nonlethally deter such pinnipeds, and whether the applicant has demonstrated that no feasible and prudent alternatives exist and that the applicant has taken all reasonable nonlethal steps without success;

3. The extent to which such pinnipeds are causing undue injury or impact to, or imbalance with, other species in the ecosystem, including fish populations; and

4. The extent to which such pinnipeds are exhibiting behavior that presents an ongoing threat to public safety.

NMFS expects the Task Force to strive to reach agreement on its recommendations. To enhance this process, NMFS has procured the services of a professional facilitator to chair the meetings of the Task Force. However, if consensus is not achieved, the Task Force should have each member vote on the controversial decisions or recommendations. The Task Force recommendation on whether to recommend lethal taking and other determinations should be made upon a simple majority vote; however, the minority view should be provided the opportunity to submit its recommendations in writing to NMFS at the same time the majority view is submitted. The basis and justification for the recommendations and determinations should be included in the Task Force's written recommendation. The Task Force should specifically address those considerations outlined above, and any other considerations used by the Task Force in formulating its recommendations. Other considerations may include the likelihood of success of the proposed or recommended action and relationship to any long-term solutions to the interaction problem.

The role of the Task Force is to provide recommendations to NMFS;

the final decision on whether to approve the requested lethal **removal** remains with NMFS. In this regard, NMFS has asked the Task Force to fully consider and provide recommendations on all aspects of the interaction problem, including nonlethal alternatives and steps that should be taken toward a long-term solution. In accordance with the MMPA, upon receipt of the Task Force's recommendations, NMFS will have 30 days to decide whether to approve or deny the State's application for lethal **removal**. Notice of the final decision will be published in the Federal Register.

Dated: September 22, 1994.

William W. Fox, Jr., Ph.D.,

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

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