

[Federal Register: August 2, 1994]

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
[I.D. 071594C]

Marine Mammals: Pinniped Removal Authority

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

ACTION: Notice of receipt of application to establish a **Pinniped-Fishery Interaction Task Force**; request for comments.

SUMMARY: NMFS announces the receipt of, and requests comments and information on, an application under section 120 of the **Marine Mammal Protection Act (MMPA)** from the Washington Department of Fish and Wildlife (WDFW). This application requests the Secretary of Commerce (Secretary) to establish a **Pinniped-Fishery Interaction Task Force (Task Force)** and initiate the process provided by the MMPA to authorize the intentional lethal taking of individually identifiable California sea lions that prey on wild winter-run steelhead that migrate through the Ballard Locks in Seattle, WA. This authorization is requested in order to protect the 1994-95 Lake Washington winter-run of steelhead.

DATES: Comments and information must be received by September 1, 1994.

ADDRESSES: Comments on the application should be addressed to J. Gary Smith, Acting Director, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115. A copy of the application and supplemental documents may be obtained by writing to this address or by telephoning the contacts listed below.

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

SUPPLEMENTARY INFORMATION:

Background

Section 120 of the MMPA (16 U.S.C. 1361 et seq.) as amended in 1994, provides the Secretary the discretion to authorize the intentional lethal taking of individually identifiable pinnipeds which are having a significant negative impact on salmonids that are either: (1) Listed under the Endangered Species Act (ESA); (2) approaching a threatened or endangered status; or (3) migrate through the Ballard Locks in Seattle. The authorization applies only to pinnipeds that are not: (1) Listed under the ESA; (2) designated as depleted; or (3) designated a strategic stock. The process for determining whether to implement the **authority** in section 120 commences with a state developing and submitting an application that provides a detailed description of the interaction problem, the means of identifying the individual pinnipeds, and expected benefits of the taking. Within 15 days of receiving an application, the Assistant Administrator for Fisheries, NOAA (AA) must determine whether the applicant has produced sufficient evidence to warrant establishing a **Pinniped-Fishery Interaction Task Force (Task Force)** to address the situation described in the application. If the application provides sufficient evidence,

NMFS must publish a notice in the Federal Register requesting public comment on the application, and establish a Task Force consisting of: (1) NMFS/NOAA staff; (2) scientists who are knowledgeable about the **pinniped** interaction; (3) representatives of affected conservation and fishing community organizations; (4) treaty Indian tribes; (5) the States; and (6) such other organizations as NMFS deems appropriate. The Task Force must, to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests. Meetings of the Task Force must be open to the public. Within 60 days after establishment, and after reviewing public comments in response to the Federal Register notice, the Task Force is to recommend to NMFS approval or denial of the proposed intentional lethal taking along with recommendations on 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**. The Task Force must also suggest non-lethal alternatives, if available and practicable, including a recommended course of action. Within 30 days after receipt of the Task Force's recommendations, NMFS must either approve or deny the application. If such application is approved, NMFS must immediately take steps to implement the intentional lethal taking. The intentional lethal taking is to be performed by Federal or state agencies, or qualified individuals under contract to such agencies.

Notice of Request

On July 12, 1994, NMFS received an application, dated June 30, 1994, from the WDFW, to authorize the intentional lethal taking of individually identifiable California sea lions (*Zalophus californianus*) that prey on wild winter-run steelhead (*Oncorhynchus mykiss*) that migrate through the Ballard Locks in Seattle, WA. The WDFW requested that the Secretary establish a Task Force and initiate the process provided by section 120 of the MMPA so that authorization for lethal **removal**, if approved, is authorized in time for protection of the 1994-95 winter-run of steelhead that will migrate through the Ballard Locks from December 1994 through the end of March 1995.

The AA has determined that the WDFW's application does provide sufficient evidence to warrant establishment of a Task Force. The NMFS Northwest Regional Office will take the lead in establishing the Task Force and making arrangements for the meetings of the Task Force. These meetings will be open to the public.

The WDFW's application references several studies and documents prepared by NMFS and the WDFW which provide scientific information that California sea lions are negatively affecting the wild winter-run of steelhead migrating through the Ballard Locks through predation and obstruction of fish passage. Although other factors may have contributed to the decline of this wild steelhead population, extensive studies by NMFS and WDFW have documented that predation by California sea lions has been a principal factor since 1985 affecting the status of this steelhead run. Studies at the Ballard Locks have documented that California sea lions have consumed over 50 percent of the adult returns in recent years. This winter-run steelhead population has declined dramatically in recent years, and NMFS is currently undertaking a status review to determine whether this population should be proposed for listing under the ESA. Non-lethal means of controlling sea lion predation have not been successful in reducing predation and allowing increased passage through the Ballard Locks facility. Although the sea lion predation problem may involve as many as 40 animals, an average of only three to six animals have been responsible for much of the predation each year. Wild steelhead spawning escapement into the Lake Washington drainage has declined from about 2,500 fish in the mid-1980's to a 1993-94 spawning escapement of only 70 steelhead. The WDFW's application indicates that lethal **removal** is a short-term solution for an emergency situation in preventing extirpation of a wild salmonid stock. Their expected immediate benefit of selective lethal

removal of depredating sea lions at the Ballard Locks will be to enhance steelhead escapement levels, thereby enhancing spawning success to maintain the stock.

Information Solicited

Public comments and information on the WDFW's application are requested and will be considered by the Task Force and NMFS in determining whether lethal removal should be authorized. A copy of the WDFW's application is available from NMFS (see ADDRESSES). In addition, NMFS and the WDFW are making available to the public copies of Environmental Assessments (EAs) published in 1989, 1992 and 1994 under the National Environmental Policy Act on the situation at Ballard Locks (see ADDRESSES). These EAs provide extensive background information on the problem and non-lethal efforts to address the problem. NMFS also has available limited copies of a recent report prepared for the Marine Mammal Commission entitled ``A Description and Assessment of the Interaction Between California Sea Lions and Steelhead Trout at the Chittenden Locks, Seattle, Washington.''

Dated: July 27, 1994.

William W. Fox, Jr., Ph.D.,
Director, Office of Protected Resources, National Marine Fisheries Service.

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