commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the cactus to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. If Lloyd's hedgehog cactus is removed from the List of Endangered and Threatened Plants, these prohibitions would no longer apply.

If Lloyd's hedgehog cactus is delisted, the requirements under section 7 of the Act would no longer apply. Federal agencies would not be required to consult with the Service on their actions that may affect Lloyd's hedgehog cactus.

The 1988 amendments to the Act require that all species delisted due to recovery be monitored for at least 5 years following delisting. Lloyd's hedgehog cactus is being proposed for delisting because the taxonomic interpretation that it is a species has been found to be incorrect; Lloyd's hedgehog cactus is an unstable hybrid rather than a distinct taxon. Therefore, no monitoring period following delisting is required.

Some protection for Lloyd's hedgehog cactus may remain in place. All cacti, including hybrids, are on Appendix II of CITES. CITES regulates international trade of cacti, but does not regulate trade within the United States or prevent habitat destruction.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning the taxonomic status or threats (or lack thereof) to this apparent hybrid;

(2) The location and characteristics of any additional populations not considered in previous work that might have bearing on the current taxonomic interpretation; and

(3) Additional information concerning range, distribution, and population sizes, particularly if it would assist in the evaluation of the accuracy of the current taxonomic interpretation.

The Service will take into consideration the comments and any additional information received and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the Federal Register. Such requests must be made in writing and addressed to Field Supervisor (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

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Authors

The primary authors of this document are Elizabeth Materna and Kathryn Kennedy, Ecological Services Austin Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

§ 17.12 [Amended]

2. Section 17.12(h) is amended by removing the entry for ''*Echinocereus lloydii*'' under ''FLOWERING PLANTS'' from the List of Endangered and Threatened Plants.

Dated: May 28, 1996.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 96–15124 Filed 6–13–96; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 960318084–6084–01; I.D. 031396E]

RIN 0648–AG55

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Naval Activities

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

ACTION: Notice of receipt of a petition for regulations, and an application for a

small take exemption; request for comment and information.

SUMMARY: NMFS has received a request from the U.S. Navy for a small take of marine mammals incidental to shock testing the USS SEAWOLF submarine in the offshore waters of the U.S. Atlantic coast in 1997. As a result of that request, NMFS is considering whether to propose regulations that would authorize the incidental taking of a small number of marine mammals. In order to implement regulations and issue an authorization, NMFS must determine that these takings will have a negligible impact on the affected species and stocks of marine mammals. NMFS invites comment on the application and suggestions on the content of the regulations.

DATES: Comments and information must be postmarked no later than July 15, 1996.

ADDRESSES: Comments should be addressed to Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226. A copy of the application may be obtained by writing to the above address, telephoning the person below (see **FOR FURTHER INFORMATION CONTACT**) or by leaving a voice mail request at (301) 713–4060.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead (301) 713–2055.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*) (MMPA) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

Permission may be granted for periods of 5 years or less if the Secretary finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and regulations are prescribed setting forth the permissible methods of taking and the requirements pertaining to the monitoring and reporting of such taking.

Summary of Request

On June 7, 1996, NMFS received an application for an incidental, small take exemption under section 101(a)(5)(A) of the MMPA from the U.S. Navy to take marine mammals incidental to shock testing the USS SEAWOLF submarine off the U.S. Atlantic coast. The USS SEAWOLF is the first of a new class of submarines being acquired by the Navy. In accordance with 10 U.S.C. 2366, each new class of ships constructed for the Navy cannot proceed beyond initial production until realistic survivability testing of the system is completed. Realistic survivability testing means testing for the vulnerability of the system in combat by firing munitions likely to be encountered in combat. This testing and assessment is commonly referred to as ''Live Fire Test & Evaluation (LFT&E).'' Because realistic testing by detonating torpedoes or mines against a ship's hull could result in the loss of a multi-billion dollar Navy asset, the Navy has established an LFT&E program consisting of computer modeling, component and surrogate testing, and shock testing the entire ship. Together, these components complete the survivability testing as required by 10 U.S.C. 2366.

The shock test component of LFT&E is a series of underwater detonations that propagate a shock wave through a ship's hull under deliberate and controlled conditions. Shock tests simulate near misses from underwater explosions similar to those encountered in combat. Shock testing verifies the accuracy of design specifications for shock testing ships and systems, uncovers weaknesses in shock sensitive components that may compromise the performance of vital systems, and provides a basis for correcting deficiencies and upgrading ship and component design specifications. While computer modeling and laboratory testing provide useful information, they cannot substitute for shock testing under realistic, offshore conditions. To minimize cost and risk to personnel, the first ship in each new class is shock tested and improvements are applied to later ships of the class.

The Navy proposes to shock test the USS SEAWOLF by detonating a single 4,536–kg (10,000–lb) explosive charge near the submarine once per week over a 5-week period between April 1 and September 30, 1997. (If the Mayport FL site is selected, the shock tests would be conducted between May 1 and September 30, 1997 in order to minimize risk to sea turtles). Detonations would occur 30 m (100 ft) below the ocean surface in a water depth of 152 m (500 ft). The USS SEAWOLF would be underway at a depth of 20 m (65 ft) at the time of the test. For each test, the submarine would move closer to the explosive so the submarine would experience a more severe shock.

As part of a separate review under the National Environmental Policy Act (NEPA), two sites are being considered by the Navy for the USS SEAWOLF shock test effort. The Mayport site is located on the continental shelf of Georgia and northeast Florida and the Norfolk site is located on the continental shelf offshore of Virginia and North Carolina.

Potential impacts to the several marine mammal species known to occur in these areas from shock testing include both lethal and non-lethal injury, as well as harassment. Death or injury may occur as a result of the explosive blast, and harassment may occur as a result of non-injurious physiological responses to the explosion-generated shockwave and its acoustic signature. The Navy believes it is very unlikely that injury will occur from exposure to the chemical by-products released into the surface waters, and no permanent alteration of marine mammal habitat would occur. While the Navy does not anticipate any lethal takes would result from these detonations, calculations indicate that the Mayport site has the potential to result in one lethal take, 5 injurious takes, and 570 harassment takes, while the Norfolk site has the potential to result in 8 lethal takes, 38 injurious takes, and 4,819 harassment takes. Because of the potential impact to marine mammals, the Navy has requested NMFS to promulgate regulations and issue a letter of authorization under section 101(a)(5)(A) of the MMPA that would authorize the incidental taking.

The Navy's proposed action includes mitigation that would minimize risk to marine mammals and sea turtles. The Navy would: (1) Through pre-detonation aerial surveys, select a test area with the lowest possible number of marine mammals and turtles; (2) monitor the area visually (aerial and shipboard monitoring) and acoustically before each test and postpone detonation if any marine mammal or sea turtle is detected within a safety zone of 3.7 km (2 nmi); and (3) monitor the area after each test to find and treat any injured animals. If post-detonation monitoring shows that marine mammals or sea turtles were killed or injured as a result of the test, testing would be halted until procedures for subsequent detonations could be reviewed and changed as necessary.

NEPA

The Navy has released a draft environmental impact statement under NEPA for public review and comment on this action. NMFS is a cooperating agency as defined by the Council on

Environmental Quality (40 CFR 1501.6). For information on the availability of that document, please refer to the appropriate notice elsewhere in this issue of the Federal Register.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning the request and the structure and content of regulations to allow the taking. NMFS will consider this information in determining the appropriate action to take in response to this request. If NMFS proposes regulations to allow this take, a rule will be published in the Federal Register and interested parties will be given ample time and opportunity to comment.

Dated: June 7, 1996.

Patricia A. Montanio,

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

[FR Doc. 96–14935 Filed 6–13–96; 8:45 am]

BILLING CODE 3510–22–F

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50 CFR Part 285

[I.D. 112995B]

Negotiated Rulemaking Advisory Committee on Tuna Management in the Mid-Atlantic

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

ACTION: Notice of intent; update.

SUMMARY: In February 1996, NMFS announced that Commerce was considering establishing a new advisory committee under the Federal Advisory Committee Act (FACA) to negotiate certain issues between commercial and recreational fishermen competing for tuna off the Mid-Atlantic coast. NMFS has decided to schedule a public meeting for early fall 1996 to brief interested parties on the negotiated rulemaking process and obtain their views as to immediate steps for action that would permit resolution prior to next year's fishing season.

ADDRESSES: Comments should be submitted to the Highly Migratory Species Division, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Mark Murray-Brown, 301-713-2347.

SUPPLEMENTARY INFORMATION: On February 1, 1996, NMFS announced that Commerce was considering establishing a new advisory committee under FACA to negotiate issues leading to a proposed rule resolving the gear conflict between recreational and commercial fishermen competing for tuna off the Mid-Atlantic coast (61 FR 3666, February 1, 1996). The decision to use a negotiated rulemaking process—in accordance with the Presidential Directive of March 4, 1995, the report of the National Performance Review, and EO 12866—came in response to the National Fishing Association's petition to employ such a procedure in connection with the tuna dispute. The goal is to produce better regulations, use parties' time and resources more wisely, and reduce litigation, controversy, and uncertainty. The announcement described generally how an advisory committee would be established, participants selected, and requests for representation narrowed. It also set forth a list of possible interests and participants and sought comment on the tentative pool of representatives. Finally, the document set forth a tentative schedule, indicating NMFS' plans to hold meetings of the advisory committee at 2-week intervals starting in March 1996. This document supplements the February announcement, and is intended to provide an update. While NMFS had hoped to start, and finish, the negotiated rulemaking process before the 1996 fishery, this has not been possible.

Following the announcement, NMFS contracted with two dispute resolution professionals, Philip J. Harter and Charles Pou of Washington, DC, for advice on establishment of the advisory committee and to facilitate and mediate the negotiations. The contractors have begun to contact representatives of groups that responded to NMFS's announcement and will be speaking to all of these persons in the near future. The initial contacts indicate that most fishermen are now concentrating on preparing for the summer tuna fishery and, hence, it would be more convenient to postpone any negotiations until near the end of the 1996 season. The contractors have therefore recommended that NMFS hold a public briefing on the negotiated rulemaking process in early fall 1996 and select advisory committee members and commence negotiations soon after the public briefing. NMFS agrees with, and will implement, these recommendations.

The fall 1996 session will bring together representatives of as many affected interests as possible, as well as any others who want to attend, for a briefing on the negotiated rulemaking process; an opportunity for interested persons to offer views and discuss specific potential issues that should be addressed in such a process; and a chance to consider immediate steps for action that would permit resolution prior to commencement of next year's fishing season.

NMFS will work with the contractors over the summer to clarify issues and develop an agenda for the fall briefing, and welcomes input on these matters from interested persons. In addition, the discussion at the fall session, and subsequent negotiations, will be improved substantially if parties collect relevant data and other useful information over the summer, to permit these talks to proceed on the basis of fact. For this reason, NMFS encourages all parties to use the summer to identify and collect information that substantiates or illuminates their claims and concerns.

Authority: 16 U.S.C. 971 *et seq.*

Dated: June 7, 1996.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–15166 Filed 6–13–96; 8:45 am]

BILLING CODE 3510–22–F