

consideration of forest lands when presented with proposals for landfills. These include criteria which must be met for exchange of lands for purposes of a landfill, as well as conditions which would exclude a landfill on Forest lands.

The Forest Service determined that the need for transfer of land from the National Forest to the private sector was not established in the analysis for the purpose of siting a landfill in Elsmere Canyon. This was based on the following:

- Other potential in-county sites have potential for development.
- Existing in-county sites have the potential for expansion.
- Waste diversion has not been developed to its full potential.
- Exportation to out-of-county facilities has not been developed.
- Exportation to out-of-state facilities has not been developed.

Other factor found not to meet the requirements of the Forest Plan was:

- Forest exchange land contained riparian areas, resulting in a net overall loss of Riparian land thus not meeting the criteria set forth in the Plan.

**PL 104-333—Omnibus Public Lands Bill of 1996**

Congress passed PL 104-333 which included Section 812 entitled "Prohibition on certain transfer of National Forest Lands". This Act stated that the Secretary shall not transfer any lands owned by the United States and managed by the Secretary as part of the Angeles National Forest to any person unless the instrument of conveyance contains a restriction on the future use of such land prohibiting the use of any portion of such land as a solid waste landfill.

For the above reasons, the Forest Service would not have prepared a non-significant amendment to the Angeles National Forest Land and Resources Management Plan for the transfer or exchange of any lands within the boundaries of the Forest or the private sector for use as a solid waste landfill.

Dated: November 25, 1996.

Michael J. Rogers,  
*Forest Supervisor.*

[FR Doc. 96-30986 Filed 12-4-96; 8:45 am]

**BILLING CODE 3410-11-M**

**ARMS CONTROL AND DISARMAMENT AGENCY**

**Performance Review Board; Membership**

**AGENCY:** Arms Control and Disarmament Agency.

**ACTION:** Notice of membership of Performance Review Board.

**SUMMARY:** In accordance with 5 U.S.C. 4314(c)(4), the U.S. Arms Control and Disarmament Agency announces the appointment of Performance Review Board members.

**EFFECTIVE DATE:** January 1, 1997.

**FOR FURTHER INFORMATION CONTACT:** Nancy Aderholdt, Director of Personnel, U.S. Arms Control and Disarmament Agency, Washington, DC 20451 (202) 647-2034.

The following are the names and present titles of the individuals appointed to the register from which Performance Review Boards will be established by the U.S. Arms Control and Disarmament Agency during the period beginning on the effective date of this notice and ending when a new register is published and becomes effective in approximately one year. Specific Performance Review Boards will be established as needed from this register.

These appointments supersede those in the announcement published in 1995.

Name	Title
Ralph Earle, II .....	Deputy Director.
Lisa Farrell .....	Chief of Staff.
Donald Gross .....	Counselor.
Thomas Graham, Jr.	Special Representative.
James Sweeney .....	Special Representative-CSA.
Robert Sherman .....	Director, Advanced Project.
Q. James Sheaks .....	Deputy Assistant Director, Intelligence, Verification and Information Management Bureau.
Sarah Mullen .....	Chief, Intelligence Technology and Analysis, Intelligence, Verification and Information Management Bureau.
Lawrence Scheinman	Assistant Director, Nonproliferation and Regional Arms Control Bureau.
Norman Wulf .....	Deputy Assistant Director, Nonproliferation and Regional Arms Control Bureau.
Michael Rosenthal .....	Chief, Nuclear Safeguards and Technology Division, Nonproliferation and Regional Arms Control Bureau.
Donald Mahley .....	Deputy Assistant Director, Multilateral Affairs Bureau.

Name	Title
Michael Guhin .....	Associate Assistant Director, Multilateral Affairs Bureau.
Robert Mikulak .....	Chief, Chemical and Biological Policy Division, Multilateral Affairs Bureau.
Pierce Corden .....	Chief, International Security and Nuclear Policy Division Multilateral Affairs Bureau.
Michael Nacht .....	Assistant Director, Strategic and Eurasian Affairs Bureau.
R. Lucas Fischer .....	Deputy Assistant Director, Strategic and Eurasian Affairs Bureau.
Karin Look .....	Chief, Strategic Negotiations and Implementation Division, Strategic and Eurasian Affairs Bureau.
David Wollan .....	Chief, Theater and Strategic Defenses Division, Strategic and Eurasian Affairs Bureau.
Cathleen Lawrence ...	Director of Administration, Office of Administration.
Ivo Spalatin .....	Director of Congressional Affairs, Office of Congressional Affairs.
Mary Elizabeth Hoinkes.	General Counsel, Office of the General Counsel.
Joerg Menzel .....	Principal Deputy of the On-Site Inspection Agency.
Stanley Riveles .....	U.S. Standing Consultative Commission, Commissioner.

Cathleen Lawrence,

*Director of Administration.*

[FR Doc. 96-30976 Filed 12-4-96; 8:45 am]

**BILLING CODE 6820-32-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[I.D. 110796]

**Taking of Endangered and Threatened Marine Mammals Incidental to Commercial Fishing Operations; Commonwealth of Massachusetts**

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

**ACTION:** Notice of receipt of application for a small take authorization and application for incidental take authority; request for comments and information.

**SUMMARY:** NMFS has received a request from the Commonwealth of Massachusetts (Massachusetts) for a general incidental take permit under the Endangered Species Act (ESA) for northern right whales incidental to commercial fishing activities within Massachusetts' territorial waters, and a small take authorization for the same species and activity under the Marine Mammal Protection Act (MMPA).

At this time, NMFS is providing the public with an advance opportunity to review these applications. NMFS also is providing background information, issuing certain suggestions and preliminary determinations, and identifying important issues raised by these applications in an attempt to describe the issues accurately, efficiently and formally in the public forum.

**DATES:** Comments and information must be received no later than January 6, 1997.

**ADDRESSES:** Comments on the applications or related information should be addressed to Michael Payne, Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-2337. A copy of the applications and/or Federal Register notices and other documents mentioned in this notice may be obtained by writing to this address or by telephoning the contact listed below.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Hollingshead, NMFS (301) 713-2055.

**SUPPLEMENTARY INFORMATION:** The MMPA was amended on April 30, 1994 (Public Law 103-238). The amendments replaced the Interim Exemption for Commercial Fisheries, section 114 of the MMPA, with sections 117 and 118, which provide a long-term regime for governing interactions between commercial fishing operations and marine mammals. The objective of the new regime was to reduce incidental mortalities and serious injuries of marine mammals occurring in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate by the year 2001.

Pursuant to section 118, NMFS places each U.S. commercial fishery into Category I, II or III based on the level of serious injury and mortality of marine mammals incidental to commercial

fishing operations. Fishers who participate in a Category I or II fishery must register in the Marine Mammal Authorization Program (MMAP). Generally, those fishers who register and who comply with the other provisions of the regulations in 50 CFR part 229 are exempt from the general prohibition on the taking of marine mammals incidental to commercial fishing. In addition to the registration requirement, participants in Category I and II fisheries must take an observer on board their vessel if requested, and must carry aboard the vessel documentation that indicates that they have registered in the MMAP. Participants in all categories of fisheries must report instances of mortality or injury to marine mammals that occur in their fishing activities. Fishers also are required to comply with emergency regulations and any applicable take reduction plans (TRPs) issued under section 118.

Section 118 of the MMPA requires that NMFS develop and implement a take reduction plan (TRP) designed to assist in the recovery, or prevent the depletion of each strategic stock which interacts with a commercial fishery classified as Category I or II under this section. The immediate goal of a TRP for a strategic stock of marine mammals is to reduce, within 6 months of its implementation, mortalities and serious injuries of those marine mammals incidentally taken in the course of commercial fishing operations to less than the potential biological removal (PBR) level for that stock. The long-term goal of the TRP is to reduce, within 5 years after implementation, serious injuries and mortalities to insignificant levels approaching a zero mortality and significant injury rate, taking into account the economics of the fishery, the availability of existing technology, and existing state or regional fishery management plans.

With respect to the taking of marine mammals that are listed as endangered or threatened under the ESA, both sections 118 and 101(a)(5)(E) of the MMPA are applicable. Section 7(b)(4)(C) of the ESA provides that an incidental take statement may be issued under that section only if the take is also authorized pursuant to section 101(a)(5) of the MMPA. Prior to 1994 section 101(a)(5) did not exist; thus, an incidental take statement could not be issued for the incidental taking of endangered and threatened marine mammals in the course of commercial fishing operations. Section 101(a)(5)(E) was added in 1994, in part, to correct this technical oversight and provide a

mechanism for authorizing these types of incidental takes.

Section 101(a)(5)(E)(i) of the MMPA requires NMFS to permit the taking of marine mammals listed as endangered or threatened under the ESA incidental to commercial fishing operations if NMFS determines that: (1) Incidental mortality and serious injury will have a negligible impact on the affected species or stock, (2) a recovery plan for that species or stock has been developed or is being developed, and (3) where required under section 118, a monitoring program has been established, vessels are registered, and a TRP has been developed or is being developed. Permits issued under section 101(a)(5)(E)(i) are valid for up to three consecutive years.

On August 30, 1995, NMFS published final regulations to implement section 101(a)(5)(E) and section 118 of the MMPA (60 FR 45086) codified at 50 CFR part 229. Those regulations and the associated notice of proposed rulemaking (60 FR 31666, June 16, 1995) indicated that, in addition to the authorization issued under section 118 of the MMPA, a separate determination and permit issued under 101(a)(5)(E) of the MMPA would be necessary for fishers to incidentally take marine mammals from stocks listed as endangered or threatened under the ESA.

Section 101(a)(5)(E)(ii) of the MMPA and 50 CFR 229.20(d) provide that vessels that are not registered under section 118 of the MMPA (those participating in category III fisheries) are not subject to MMPA penalties for the incidental taking of endangered or threatened marine mammals provided that any mortality or injury of such a marine mammal is reported to NMFS.

On August 31, 1995 (60 FR 45399), NMFS issued interim final permits to those fisheries with incidental interactions with certain marine mammal stocks listed as endangered or threatened under the ESA for which the appropriate determinations could be made under section 101(a)(5)(E)(i) of the MMPA. In making these determinations, NMFS referred to the definition of "negligible impact," which under 50 CFR 216.103, means "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."

NMFS also announced that, as a starting point, it would consider a total annual serious injury and mortality of not more than 10 percent of a stock's PBR level to be insignificant. NMFS also emphasized that such a criterion would

not be the only factor in evaluating whether a particular level of take could be considered negligible. The population abundance and fishery-related mortality information provided in the stock assessment reports has varying degrees of uncertainty, and factors other than PBR levels (e.g., population trend, reliability of abundance and mortality estimates) must also be considered.

The negligible impact determinations required that NMFS assess the available information both quantitatively and qualitatively. A finding of negligible impact made under section 101(a)(5)(E) indicates NMFS' best assessment that the estimated mortality and serious injury of endangered and threatened marine mammals incidental to commercial fishing operations will not adversely affect the species or stock through effects on annual rates of recruitment or survival. In addition, section 101(a)(5)(E)(i) also requires that in order to make a finding of negligible impact, a recovery plan under the ESA must either be in place or be under development, a monitoring program must be in place under section 118(d), and a TRP must be developed or in place for fisheries that impact that stock.

Based on the above, NMFS evaluated the best available information for stocks listed as endangered or threatened under the ESA and determined, on a stock-by-stock basis, whether the incidental mortality and serious injury from all commercial fisheries has a negligible impact on each marine mammal stock.

NMFS was unable to determine that the mortality and serious injury incidental to commercial fishing operations would have a negligible impact to the following stocks, and consequently, indicated that no take incidental to commercial fishing was allowed: (1) Fin whale, western North Atlantic stock; (2) humpback whale, western North Atlantic stock; (3) northern right whale, western North Atlantic stock; (4) sperm whale, Western North Atlantic stock; (5) sperm whale, California/Oregon/Washington stock; (6) humpback whale, California/Oregon/Washington-Mexico stock; and (7) Hawaiian monk seal.

NMFS issued interim final permits to allow for the incidental, but not intentional, taking of three stocks of endangered or threatened marine mammals: (1) Humpback whale, central North Pacific stock; (2) Steller sea lion, eastern stock; and (3) Steller sea lion, western stock.

NMFS concluded that there was no documented evidence of fishery-related interactions for several other

endangered and threatened marine mammal stocks. For further information, refer to the referenced Federal Register documents and the "Assessment of Fishery Impacts on Endangered and Threatened Marine Mammals Pursuant to section 101(a)(5)(E) of the MMPA" (NMFS August 31, 1995). Copies are available upon request (see **ADDRESSES**).

NMFS indicated on August 31, 1995, at 60 FR 45399 that it was issuing a single interim permit under section 101(a)(5)(E) to appropriate vessels for 1995, but that individual permits would be issued for 1996, 1997, and 1998 in conjunction with authorizations issued under section 118 of the MMPA. In 1996, NMFS issued individual permits, where appropriate, in association with the section 118 authorization certificates.

NMFS conducted a consultation under section 7 of the ESA on the issuance of permits under section 101(a)(5)(E) of the MMPA. NMFS concluded that issuing these permits would not jeopardize the continued existence of endangered or threatened species under NMFS jurisdiction. NMFS issued an incidental take statement for each stock of endangered or threatened marine mammal where takes were authorized. A copy of the consultation and incidental take statement is available to reviewers (see **ADDRESSES**).

#### Issues To Be Addressed

With respect to the new regime for governing interactions between commercial fishing operations and marine mammals, several issues should be emphasized. Some issues may need to be addressed prior to processing the applications submitted by Massachusetts.

First, section 101(a)(5)(E)(i) of the MMPA refers to commercial fisheries in the plural. In the past, NMFS considered the impacts of all commercial fishery operations in making its negligible impact determinations. Thus, NMFS has not authorized the take of an endangered or threatened marine mammal in any category I or II fishery unless all fisheries satisfy the negligible impact standard, even if a particular fishery, by itself, might satisfy the standard.

In contrast, under 50 CFR part 229, subpart A, fisheries are classified in Category I, II or III based on cumulative incidental serious injury and mortality of a particular stock in all fisheries, and the serious injury and mortality incidental to a particular fishery (60 FR 45086, August 30, 1995). NMFS invites comments on whether it would be appropriate to consider this approach

with respect to making negligible impact determinations.

Second, although both Congress and NMFS have stressed the need to reduce incidental mortalities and serious injuries of marine mammals occurring in commercial fishing operations, little consideration has been given to the authorization of less serious types of takings, such as taking by harassment. Section 118 of the MMPA does not address takings by harassment. While section 118 requires all injuries to be reported, fisheries are classified and TRTs are formed based on the levels of serious injuries and mortalities.

NMFS recognizes Congressional intent that the "negligible impact" standard in the MMPA is more stringent than the "no jeopardy" standard in the ESA (H.R. Rep. No. 439, 103d Cong. 2d Sess. 30). Consequently, it could be concluded that the MMPA provides more protection for endangered and threatened marine mammals than the ESA. From the language of the statute it would appear that all types of takings of endangered and threatened marine mammals incidental to commercial fishing operations are prohibited unless a permit is issued under section 101(a)(5)(E)(i). Still, it is not absolutely clear whether Congress intended 101(a)(5)(E) to prohibit all types of takings, including takes by harassment. The use of the term "taking" in the introductory portion of section 101(a)(5)(E)(i) does not appear to be limited to serious injuries and mortalities yet the first criterion for issuing that permit in section 101(a)(5)(E)(i)(I) focuses only on the impact of serious injuries and mortalities.

In the past, NMFS has not distinguished between types of takes in issuing permits that authorize the taking of marine mammals incidental to commercial fishing operations. When NMFS made its determination under section 101(a)(5)(E) regarding whether permits should be issued authorizing the take of any threatened or endangered marine mammals in the Atlantic Ocean, it did not distinguish between takings by harassment only versus takings by serious injury or mortality.

To date, the agency has not considered issuing permits under section 101(a)(5)(E) solely for the purpose of taking by harassment. NMFS is inviting comments on whether it should issue permits for harassment under 101(a)(5)(E) and, if so, what standards should be used in making determinations concerning the issuance of these permits.

### Summary of Request

On October 17, 1996, the Director of the Massachusetts Division of Marine Fisheries submitted to NMFS an application under the MMPA seeking authorization of a small take of northern right whales (*Eubalaena glacialis*) incidental to commercial fishing activities within Massachusetts' territorial waters, in particular Cape Cod Bay during the months of February through May. This application was in response to an order dated September 24, 1996, in *Strahan v. Coxe* wherein the presiding District Court judge ordered Massachusetts to apply, under the MMPA, for a small take of northern right whales. In their letter, Massachusetts also requested a general incidental take permit for the northern right whale under either section 7(b)(4) or section 10(a)(1)(b) of the ESA.

### Preliminary Determinations and Suggestions

NMFS is issuing the following preliminary determinations and suggestions with respect to Massachusetts' request:

(1) *Application for a permit under section 101(a)(5)(E)(i) of the MMPA.* On May 28, 1996, NMFS advised Massachusetts that it was unnecessary and inappropriate for Massachusetts to apply for a small take permit under section 101(a)(5)(E) and noted that, where appropriate, NMFS would issue incidental take authority through the section 118 authorization certificate process. There was no new evidence provided in the letter submitted by Massachusetts to indicate that NMFS should re-evaluate its previous position that a negligible impact determination could not be made for right whales.

Since registration under the MMPA is required under section 118 for participants in Category I and II fisheries, NMFS' initial response indicated that an application for a permit under section 101(a)(5)(E) would be redundant.

In 1995 and 1996, NMFS initiated the process for issuing permits under 101(a)(5)(E) without requiring applications from individuals, states or fishing groups. This process should be distinguished from the process under section 118 where individual applications are required unless registration is integrated with a pre-existing registration program. NMFS recognizes that the legislative history of the 1994 amendments stresses that the agency should, wherever possible, provide permits under section 101(a)(5)(E) to identifiable groups of vessels rather than individuals (H.R.

Rep. No. 439, 103d Cong. 2d Sess. 30); NMFS issued section 101(a)(5)(E) permits in conjunction with section 118 authorization certificates in accordance with this legislative guidance.

Essentially, the section 101(a)(5)(E) permit is "piggy-backed" on the section 118 authorization certificate. This approach is consistent with other NMFS actions to integrate and coordinate registration under the MMPA with existing fishery license, registration, or permit systems and related programs, wherever possible (50 CFR 229.4). In addition, the proposed rule for the 1997 list of fisheries proposes to provide additional flexibility for integrated registration systems (61 FR 37035, July 16, 1995). The authorization certificate is issued annually while a permit under section 101(a)(5)(E) normally remains valid for 3 years. NMFS may initiate a review of the appropriateness of its section 101(a)(5)(E) determinations for certain marine mammal stocks and for certain fisheries at any time within this 3-year period. For example, NMFS may initiate review in the context of the development of TRPs that are expected to achieve the negligible impact goal for various stocks of endangered and threatened marine mammals.

NMFS is seeking public comments on its initial response provided to Massachusetts.

(2) *State cooperative application under section 118.* As an alternative to applying for a permit under section 101(a)(5)(E), NMFS encourages Massachusetts to work to develop an integrated registration system so that registration for the purpose of the MMPA (including both section 118 certificates of authorization and section 101(a)(5)(E) permits) can be coordinated with Massachusetts' fishery registration system.

(3) *Petition for modification under section 101(a)(5)(E)(iv) of the MMPA.* Section 101(a)(5)(E)(iv) and 50 CFR 229.20(f) authorize NMFS to modify the list of fisheries authorized to take endangered or threatened marine mammals, after notice and opportunity for public comment, if NMFS determines that there has been a significant change in the information or conditions used to make the original determinations.

If Massachusetts is applying for a permit under section 101(a)(5)(E)(i) in order to challenge the list of fisheries authorized to take endangered or threatened marine mammals (See 60 FR 45399, August 31, 1996), NMFS suggests that Massachusetts consider submitting a petition for the modification of that list. It should be emphasized that such a determination must be based on a

significant change in the information or conditions used to make the original determination with respect to that list.

At this time NMFS does not consider the application submitted by Massachusetts to indicate a significant change in the information available in August, 1995. However, NMFS notes that the court in *Strahan v. Coxe* ordered Massachusetts to develop a Massachusetts Take Reduction Plan (Massachusetts TRP) and that Massachusetts is cooperating with NMFS to develop a Large Whale Take Reduction Plan (LWTRP) that addresses the take of right whales in Massachusetts waters as well as waters off other Atlantic coastal states. As Massachusetts and NMFS develop and implement these or other TRPs, the impact of fisheries on endangered and threatened marine mammal stocks may be reduced significantly. NMFS encourages Massachusetts to provide a summary of new information, including the Massachusetts TRP, the LWTRP, and any other mitigation efforts or relevant material, as a part of any petition for modification under section 101(a)(5)(E)(iv).

(4) *Application for an incidental take statement under section 7(b)(4) of the ESA.* NMFS does not consider it necessary or appropriate for Massachusetts to apply for an incidental take statement under section 7(b)(4) of the ESA. If there is an agency action by NMFS or another Federal agency, that Federal agency must comply with section 7 of the ESA and, if appropriate, a section 7 incidental take statement will be issued in association with that consultation. Although a state or private party may initiate the process that would result in an agency action, e.g., by applying for a Federal permit, it is inappropriate for a state or private party to apply for an incidental take statement directly.

NMFS considers the issuance of permits under section 101(a)(5)(E)(i) and the implementation of a Federal TRP under section 118 to be "agency actions" and would engage in consultation with itself before taking such actions; if appropriate, an incidental take statement would be issued in association with such consultations.

Although NMFS views an application for an incidental take statement under section 7(b)(4) to be inappropriate, certain information from Massachusetts would be useful in conducting any consultation related to state fishing activities and NMFS would encourage Massachusetts to work with the agency in providing that information. For example, a detailed description of the

proposed activity, information concerning the expected level of impact of the activity on northern right whales and other endangered and threatened species under NMFS' jurisdiction, including species other than marine mammals, and reasonable measures to minimize such impacts would assist NMFS in conducting the consultation and in issuing any incidental take statement.

Therefore, NMFS intends to reject Massachusetts' request for an incidental take statement.

(5) *Application for an incidental take permit under section 10(a)(1) of the ESA.* An incidental take permit under section 10(a)(1) of the ESA is unnecessary if an incidental take statement is issued in conjunction with a consultation conducted under section 7 of the ESA, with respect to the issuance of permits under section 101(a)(5)(E).

The legislative history of section 101(a)(5)(E) indicates that the issuance of a permit under that section should be considered a federal agency action for the purposes of the ESA (H. Rept. 103-439 p. 30). This indicates that any incidental take associated with a section 101(a)(5)(E) authorization would be covered through a section 7 incidental take statement rather than a section 10 incidental take permit.

NMFS notes that, unlike section 7 of the ESA, the provisions of section 10 do not include a cross-reference to section 101(a)(5) of the MMPA; nonetheless, NMFS stresses that section 7 of the ESA indicates that, except as otherwise provided, no provision of the ESA shall take precedence over any more restrictive provision of the MMPA. Therefore, any authorization to take endangered and threatened marine mammals must comply with provisions of both the ESA and the MMPA.

NMFS would refuse to consider any application for an incidental take permit unless the application referred to all endangered and threatened species under NMFS' jurisdiction that may be taken by the proposed activity. For that reason, NMFS considers the application submitted by Massachusetts to be incomplete. In addition, NMFS recommends that Massachusetts provide a more detailed and complete description of the proposed activity, with particular emphasis on the anticipated impact of that activity on endangered and threatened species.

NMFS also considers the proposed conservation plan submitted by Massachusetts to be inadequate. For example, that plan should specify the steps that will be taken to monitor, minimize and mitigate the impacts of

the proposed activity on endangered and threatened species and their habitat and the funding that will be available to implement such measures. These and other requirements are specified at 50 CFR 222.22. NMFS, again, notes that additional mitigation measures to protect northern right whales may be developed in the context of the Massachusetts TRP, the LWTRP or through other efforts. At this time, NMFS considers the application for an incidental take permit to be incomplete. NMFS encourages Massachusetts to provide additional information in support of their request.

#### Information Solicited

At this time, NMFS is offering the public an opportunity to review and comment on (1) the applications, (2) the issues described above, and (3) NMFS' preliminary determinations and suggestions. Interested persons are encouraged to submit comments, new and relevant information regarding interactions between northern right whales and commercial fisheries in Massachusetts, and suggestions concerning the request (see ADDRESSES). Following the close of the comment period and upon a determination that the applications are appropriate and complete, NMFS will consider all relevant information in a reassessment of impacts. If appropriate, NMFS will propose to authorize the taking as requested. If NMFS proposes to authorize this take request, interested parties will be given additional time and opportunity to comment.

Dated: November 29, 1996.

Ann Terbush,

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

[FR Doc. 96-30933 Filed 12-4-96; 8:45 am]

BILLING CODE 3510-22-P

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[I.D. 112796A]

### Marine Mammals; Scientific Research Permit No. 1023 (P6P)

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

**ACTION:** Issuance of permit.

**SUMMARY:** Notice is hereby given that Dr. G. David Johnson, Marine Mammal Program, Department of Vertebrate Zoology, National Museum of Natural History, Smithsonian Institution, NHB 390, MRC 108, 10th & Constitution Ave., SW., Washington, D.C. 20560, has been issued a permit to take marine mammal specimens and parts for the purpose of scientific research.

**ADDRESSES:** The permit and related documents are available for review upon written request or by appointment (see SUPPLEMENTARY INFORMATION).

**SUPPLEMENTARY INFORMATION:** On September 30, 1996, notice was published in the Federal Register (61 FR 51082) that a request for a scientific research permit to take marine mammals had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR parts 222.25), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Issuance of this permit as required by the Endangered Species Act of 1973, was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the Act.

Documents may be reviewed in the following locations:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713-2289);

Branch of Permits, Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Arlington, VA 22203 (703/358-2104);

Regional Administrator, Northwest Region, NMFS, 7600 Sandpoint Way, NE BIN C15700, Bldg. 1, Seattle, WA 98115-0070 (206/526-6150);

Regional Administrator, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668 (907/586-7221);

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213 (310/980-4001);