public with an early opportunity to engage in discussions regarding the RP/EIS and to provide oral and written comments. The NOA of the draft RP/EIS was published in the Federal Register (61 FR 41383–41384, August 8, 1996) with the comment period ending on October 8, 1996. Based on comments received, modifications were made to the documents and a RP/FEIS was prepared. The final RP will become part of the Record of Decision. The background and rationale for this action were discussed in the NOA and are not repeated here.

B. RP/FEIS

The purpose of preparing the RP/EIS is to coordinate and implement restoration projects under the CB/NRDA. Since this is a programmatic EIS, the management alternatives reflect general approaches to the restoration of natural resources and services injured as a result of releases of hazardous substances and discharges of oil in the Commencement Bay environment. The five alternatives subjected to detailed analysis were: (1) No action; (2) species-specific; (3) habitat function; (4) acquisition of equivalent natural resources and services; and, (5) integrated approach. The integrated approach, which is a comprehensive plan based on the habitat function alternative, but supplemented with the best features of the other alternatives, is the FWS and NMFS/NOAA's preferred alternative. This alternative best meets the needs of the CB/NRDA restoration goals and principles by maximizing ecological benefits to a wider range of natural resources and their associated services.

Dated: February 24, 1997.

Thomas J. Dwyer,

Acting Regional Director, U.S. Fish and Wildlife Service.

Dated: March 4, 1997.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021097A]

Gulf of Maine Aquaculture-Pinniped Interaction Task Force

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

ACTION: Notice of availability; request for comments.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), the Gulf of Maine Aquaculture-Pinniped Interaction Task Force (Task Force) was established to advise NMFS of issues and problems regarding pinnipeds interacting in a dangerous or damaging manner with aquaculture resources in the Gulf of Maine. The Task Force's final report to NMFS was made available for public review and comment on February 20, 1996. A summary of the comments received on the final report of the Task Force and NMFS' response to those comments is provided in this notice.

The MMPA requires that NMFS consider recommendations from the Task Force and prepare a report to Congress recommending alternatives to mitigate the effects of aquaculture-pinniped interactions. NMFS has completed a draft report to Congress, and it is available to the public upon request for review and comment (see **ADDRESSES**).

DATES: Comments on the draft report to Congress must be submitted on or before April 16, 1997.

ADDRESSES: Copies of the report are available from, and written comments should be sent to, Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: LTJG. Daniel Morris (508) 281–9388, or Dr. Thomas Eagle (301) 713–2322.

SUPPLEMENTARY INFORMATION:

Background

The salmon aquaculture industry in the northeastern United States has grown substantially in the last decade, as have regional populations of harbor seals (*Phoca vitulina*) and gray seals (*Halichoerus grypus*). The industry claims that losses caused by seals attacking the salmon pens are substantial and that the frequency of attacks has increased in recent years. Seals are protected under the MMPA, and the actions that salmon growers can take to protect their pens from seals are limited to non-lethal deterrence measures by the MMPA.

Pursuant to section 120(h) of the MMPA, a Task Force was established by NMFS to examine the issues and problems associated with pinniped-aquaculture interactions in the Gulf of Maine. Task Force members were selected from the aquaculture industry, state government, the scientific community, and conservation organizations. The Task Force convened three times for multi-day meetings, visited pen-sites, conducted public hearings, met with salmon growers, conducted surveys, and reviewed literature related to the issue, prior to completion of its report. The report contained Task Force recommendations to mitigate the seal predation, all of which represent the consensus of the Task Force. NMFS is required to consider recommendations of the Task Force's and draft a report to Congress recommending options available to mitigate the interaction. After opportunity for public review and comment of the draft report, NMFS must submit its recommendations to Congress.

Comments Received by NMFS on the Task Force Report

NMFS received six letters from the public regarding the Task Force report. All of these comments supported generally the Task Force findings and recommendations. The Task Force recommended against lethal deterrence measures.In general, NMFS expects to concur with that recommendation; however, NMFS is considering recommending that Congress reexamine the prohibition on intentional lethal taking of pinnipeds that was enacted in the MMPA Amendments of 1994 so that NMFS could authorize intentional lethal methods on a case-by-case basis, including the limited purpose of removing pinnipeds that are inside net-pens.

Comment: Is there anything known about the age, sex, and health of the seals that attack pens? Would lethal removal of that population segment have an adverse effect on the population at large?

Response: Little is know about the biology of seals that attack pens. The impacts of lethal removal on affected stocks, if the MMPA were amended for such authority, would have to be considered in granting an authorization.

Comment: In the typical attack scenario, growers claim, ''A seal would not be caught in the act of attacking but would be targeted as it approached the vicinity of a previously attacked pen.'' Identification of individual animals in the wild is especially difficult, and it is doubtful that the perpetrator of an attack can be distinguished from others.

Response: Identifying animals for lethal removal would be one of the issues that would have to be addressed if such an authority were included in the MMPA.

Comment: A paper recently published in *Conservation Biology* offers some insight into the issue of lethal removal of predators. This paper provides a decision matrix for assessing the need to kill abundant wildlife to protect endangered species prey. The paper concludes that unless the interaction situation is caused by a limited number of individuals, and no other preventative measures are available, lethal control of the abundant native species should not be considered. If culling cannot be supported as a measure contributing to the recovery of endangered species, it surely cannot be justified to mitigate losses of farm stock.

Response: NMFS is not considering the merits of culling pinniped populations to protect farm stock.

Comment: All letters included specific mention of the Task Force's deliberations regarding the use of lethal force to control/prevent seal depredation. Commenters supported the Task Force's three criteria that should be met to justify the lethal taking of individual seals presumed to be depredating salmon pens. It was noted that current conditions in the industry would not fit the criteria included in the Task Force Report.

Response: Comment noted.

Comment: During the interim exemption program of the MMPA, the killing of depredating seals was allowed under certain conditions if the lethal taking was reported to NMFS. Popular news media reports suggest that fishers admitted killing an estimated 300 animals per year; however, only two official reports of kills were filed with NMFS during the 5-year program. Given the potential under-reporting of intentional lethal takes of seals during the interim exemption period, a letter suggested that any program authorizing growers under certain conditions to shoot seals within cages is likely to be abused. Furthermore, some growers demonstrate an impressive array of deterrents, while others employ relatively few measure; therefore, non-lethal deterrence has not received a valid test of effectiveness. Intentional lethal deterrence is not warranted at this time.

Response: Comment noted.

Comment: The Task Force Report states that seal-fish farm interactions seem to be most frequent during February when harbor seals have redistributed to the south of Maine. Ice seals may be the actual culprits during this season, and their behavior might warrant different predator control strategies than would harbor and gray seals. Although a portion of the harbor seal population shifts southward during winter, harbor seals remain the most abundant seal species in Maine during February.

Response: Ice seals (harp, hooded, and ringed seals) occur in the Downeast region in winter, but attacks on the pens by these species have not been reported. It is conceivable that a seal may be misidentified; for example, a juvenile harp seal may be mistaken for a harbor seal. Although deterrence of ice seals may require different strategies, specific measures have not been explored.

Comment: One economic consideration related to predator control that is not addressed in the Task Force Report is the cost of rehabilitating wounded seals. Costs include fees for personnel, transportation, feed, veterinary supplies, and services.

Response: Section 101(a)(4) of the MMPA authorizes the deterrence of marine mammals to prevent damage to private and public property, including fishing gear and catch, so long as deterrence measures do not result in the death or serious injury of marine mammals. Minor injury that may result from deterrence measures would not require rehabilitation.

Comment: Under the Interim Exemption for Commercial Fisheries (MMPA section 114), intentionally killing depredating seals was used to classify fisheries. Incidental takes of seals should also be considered. Predator nets pose a risk of injury and mortality through entanglement of harbor and gray seals.

Response: Aquaculture facilities are classified in Category III in the current list of fisheries under MMPA section 118 because the likelihood of serious injury or mortality of marine mammals incidental to net pen operations is considered remote.

Comment: Avian predators, such as loons and cormorants, are frequently observed near the net pens, and their attacks may contribute to the stresses experienced by the penned fish.

Response: Comment noted.

Comment: More needs to be known about the effects of acoustic deterrence devices on harbor porpoises. No additional acoustic devices should be permitted in the area until more is known about how harbor porpoises use the inshore waters.

Response: Comment noted. NMFS is currently trying to develop a consistent policy for activities that introduce noise in the oceans.

Comment: California sea lions are numerous and can be easily trained. Individual sea lions could be trained to refrain from attacking the salmon in the pens while protecting the pens from rival pinnipeds. The sea lion could be domesticated to serve the growers. Also, the Task Force report states that the presence of dogs is of no benefit with regard to predation control; however, some breeds of water dogs may be trained enter the water to deter would-be predators.

Response: NMFS acknowledges the need for creative approaches to mitigate pinniped damage at fish farms.

Comment: Several salmon pen sites established near traditional seal haulouts report having no remarkable seal predation problems. There seems to be no correlation between the location of pens with respect to haul-outs and the levels of predation.

Response: The Task Force discerned no significant relationship between predation rates and proximity to haulouts. Site fidelity, prey availability, and other uncontrollable factors would confound any attempt to restrict siting of net-pens with respect to haulouts. The Task Force recommended research to investigate relationships between predation rates and location of haul-outs but made no recommendations regarding the siting of aquaculture operations.

Comment: Government assistance, such as low-rate loans, grants, and practical incentives, is necessary: 1) To ensure non-lethal predator control devices are employed and maintained optimally: and (2) remove the unfair advantage foreign salmon growers appear to have.

Response: If growers formed cooperatives as suggested in the Task Force Report, these organized efforts would facilitate marketing and other business-related aspects related to aquaculture without government assistance. Many variables, such as labor costs, veterinary treatment, environmental regulation, and shipping costs, affect competitiveness in international markets. Thus, governmental funding for predator control devices may not be a complete, or even effective, option.

Dated: March 11, 1997.

Hilda Diaz-Soltero,

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

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[I.D. 030597E]

South Atlantic Fishery Management Council; Public Meeting.

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