

species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should provide the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

#### Permit Application Received

Rosi Dagit has applied for a permit to conduct a study with the Southern California Coast Distinct Population Segment of endangered steelhead trout (*Oncorhynchus mykiss*) in streams emptying to the Santa Monica Bay of southern California, with specific focus on Topanga, Arroyo Sequit, and Malibu Creeks. The purpose of this study is to use monitoring methods to gather information that will contribute to the understanding of migration patterns and the abundance and distribution of steelhead in Topanga Creek and the Santa Monica Bay streams. Monitoring methods include using mask and snorkel as the methods for estimating abundance and distribution of juvenile and adult steelhead in the streams of Santa Monica Bay including Topanga, Arroyo Sequit, and Malibu Creeks. In addition to snorkel surveys, study activities in Topanga Creek will also include migratory trapping and Passive Integrated Transponder (PIT) tagging. In addition to migratory trapping, sampling methods to obtain steelhead for PIT tagging may include use of a seine, angling, or electro fishing. Field activities related to this study will occur between June 2008 and May 2010. For this 2 year study, Rosi Dagit has requested an annual non-lethal take of 140 juvenile steelhead (ranging in length up to 250 mm) and 50 adult class steelhead (steelhead  $\leq$  250 mm). Of these adult class steelhead, it is expected that annually not more than 10 of those 50 would be large adults migrating in from the ocean. An annual collection and possession of up to 190 steelhead tissue samples is being requested as well as permission to recover up to five carcasses per year (if found). All

samples and carcasses would be sent to NMFS science center for genetic research and processing. The unintentional lethal take that may occur during trapping, sampling, and PIT tagging activities on Topanga Creek is up to six steelhead per year or no more than 3 percent of the total captured.

Dated: March 19, 2008.

**Angela Somma,**

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XB83**

#### Marine Mammals; Pinniped Removal Authority; Partial Approval of Application

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

**ACTION:** Notice.

**SUMMARY:** NMFS announces partial approval of an application from the States of Oregon, Washington, and Idaho to intentionally take, by lethal methods, individually identifiable California sea lions (*Zalophus californianus*) that prey on Pacific salmon and steelhead (*Oncorhynchus* spp.) listed as threatened or endangered under the Endangered Species Act (ESA) in the Columbia River in Washington and Oregon. This authorization is pursuant to the Marine Mammal Protection Act (MMPA). NMFS also announces availability of an Environmental Assessment (EA) under the National Environmental Policy Act (NEPA) that analyzes impacts on the human environment from NMFS' authorization to the States to lethally remove California sea lions.

**ADDRESSES:** Documents and information on this topic are available at: <http://www.nwr.noaa.gov/Marine-Mammals/Seals-and-Sea-Lions> or by making a request to Garth Griffin, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232.

**FOR FURTHER INFORMATION CONTACT:** Garth Griffin, (503) 231–2005, or Tom Eagle, (301) 713–2322, ext. 105.

**SUPPLEMENTARY INFORMATION:**

## Background

Section 120 of the MMPA (16 U.S.C. 1361 *et seq.*), as amended in 1994, provides the Secretary of Commerce, acting through the Assistant Administrator for Fisheries, NMFS, the discretion to authorize the intentional lethal taking of individually identifiable pinnipeds that are having a significant negative impact on salmonids that are either: (1) listed under the 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 submitting an application that provides a detailed description of the interaction, the means of identifying the individual pinnipeds, and expected benefits of the taking. Within 15 days of receiving an application, NMFS 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 that the application addresses,
- (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** document, the Task Force is to recommend to NMFS approval or denial of the state's application along with recommendations of 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.

On December 5, 2006, NMFS received an application from the Idaho Department of Fish and Game, Oregon Department of Fish and Wildlife (ODFW) and the Washington Department of Fish and Wildlife (WDFW) (collectively referred to as the States), to authorize the intentional lethal taking of individually identifiable California sea lions that prey on ESA listed salmon and steelhead (salmonids) in the Columbia River below Bonneville Dam (Oregon and Washington Border, river mile 146).

NMFS, determined that the States' application provided sufficient evidence to warrant establishing a Task Force. On January 30, 2007 (72 FR 4239), NMFS announced receipt of the States' application and solicited public comments on the application and any additional information that should be considered. On August 9, 2007 (72 FR 44833), NMFS announced establishment of the Task Force and provided information about its first public meeting. Convened in September 2007, the Task Force held three two-day meetings, which were open to the public, and during which it reviewed the States' application, public comments on the application, and other information related to sea lion predation on salmonids at Bonneville Dam. The Task Force completed and submitted its report to NMFS on November 5, 2007. Of the 18 Task Force members, all recommended that non-lethal sea lion deterrence measures continue. Seventeen of the eighteen members supported lethal removal of California sea lions while one member opposed the States' application and any lethal removal. Details of the Task Force recommendations are discussed in detail in the EA and their full report is available on NMFS's web page (see **ADDRESSES**).

After receiving and reviewing the Task Force recommendations, NMFS developed a proposed action and a range of reasonable alternatives and evaluated the environmental impacts of the proposed action and alternatives in a draft EA under NEPA. The draft EA was made available for public comment for a 30-day public comment period.

More than 3,500 comments were received during the comment period, including comments from several Task Force member organizations (e.g., States, Tribes, Humane Society of the United States) and others including the Marine Mammal Commission and the Congressional office of Representative Doc Hastings.

#### Discussion

In considering a state's request to lethally remove pinnipeds, NMFS is required, pursuant to section 120(b)(1), to determine that individually identifiable pinnipeds are having a significant negative impact on the decline or recovery of at-risk salmonid fishery stocks. The discussion that follows addresses NMFS' application of this standard to the facts at Bonneville Dam.

#### *Significant Negative Impact*

Section 120 provides for the lethal removal of "individually identifiable pinnipeds which are having a significant negative impact on the decline or recovery" of at-risk salmonids. In its comments on the Task Force report, the Marine Mammal Commission recommended a two-part test in which we would first determine whether pinnipeds collectively are having a significant negative impact on listed salmonids and next determine which pinnipeds are significant contributors to that impact and therefore may be authorized for removal. The application of this two-step test is reasonable in light of the statute's ambiguity and the specific facts and circumstances surrounding the proposal to lethally remove pinnipeds at Bonneville Dam. The subordinate clause "which are having a significant negative impact" modifies the plural noun "pinnipeds," supporting the proposition that our inquiry is whether pinnipeds (plural) are having the described impact, not whether a specific individual is having the described impact. With that interpretation, once there is a finding that pinnipeds are having a significant negative impact, the task becomes one of identifying which of the individual pinnipeds are contributing to the impact (discussed below).

In their application the States contend that pinniped predation at Bonneville Dam is significant for two reasons. First, "it is a new, growing, and unmanageable source of mortality, while other sources of in-river mortality are actively managed and are stable or decreasing (e.g., through harvest reductions, fish passage and habitat improvements, and hatchery reform)." Second, "the hydromodification of the

river has altered the natural predator-prey relationship to artificially favor predatory California sea lions." The States' section 120 application specifies that they do not contend "that California sea lion predation is more significant than other sources of mortality to Columbia River ESA-listed salmonids, but simply that it is significant, and that it must be dealt with as are other sources of mortality."

The Task Force also considered whether pinniped predation at Bonneville Dam was having a significant negative impact. The Task Force was unable to agree on quantitative criteria to assist NMFS in defining "significant negative impact," but 17 of the 18 members agreed on the following set of factors for NMFS to consider:

1. Whether pinnipeds are present at the same time that ESA listed salmonids are migrating;
2. Whether data indicate that predation has increased beyond historic levels;
3. Whether the problem is likely to persist over time if the impact remains unchecked; and
4. Whether the mortality resulting from pinniped predation is comparable to other forms of in-river mortality that are currently being managed

The Task Force outlined additional considerations for taking action:

1. There is a comprehensive salmon recovery framework in place that includes multiple actions, monitoring, and evaluation;
2. California sea lion predation should be addressed and its impacts evaluated in the context of other limiting factors (i.e., not on their own);
3. Non-lethal hazing has been ineffective at reducing predation;
4. The proposed level of lethal removal will have no long term negative impact on California sea lion populations;
5. California sea lion abundance is within the range of OSP and at or near carrying capacity; and
6. The problem is related to/resulting from human caused factors.

Applying these factors and considerations, all but one member of the Task Force concluded that California sea lions are having a significant negative impact on the decline or recovery of Columbia Basin threatened and endangered salmonids. The dissenting member maintained that the level of pinniped predation at Bonneville Dam is not significant when considered in the context of other sources of mortality such as hydropower operations and harvest.

NMFS agrees with the States and the majority of the Task Force members that collectively California sea lions at Bonneville Dam are having a significant negative impact on ESA listed salmon and steelhead species, based on information in the record and in particular on the following factors:

1. The predation is measurable, growing, and could continue to increase if not addressed;

2. The level of adult salmonid mortality is sufficiently large to have a measurable effect on the numbers of listed adult salmonids contributing to the productivity of the affected ESUs/DPSs; and

3. The mortality rate for listed salmonids is comparable to mortality rates from other sources that have led to corrective action under the ESA.

The number of listed and non-listed adult salmonids observed taken by California sea lions in the Bonneville Dam tailrace increased from 2002 to 2007. The percentage of run taken in any given year varied due to run size. California sea lions took approximately 1,000 returning adult salmonids in 2002 (0.4 percent of that year's return) and 3,900 in 2007 (4.2 percent of that year's return).

The actual number of salmonids consumed is certainly larger than the numbers actually observed, since not all sea lions are observed nor are all predation events. NMFS calculated the potential consumption of salmonids based on the average number of California sea lions actually observed (86) and their bioenergetic needs. The calculation shows that 86 California sea lions at the dam can consume up to 17,458 salmonids annually. Of these, up to 6,003 salmonids would be listed spring Chinook and up to 611 would be listed steelhead. Using the observed minimum rate of predation averaged over 2005–2007, and the estimated maximum potential predation rate, yields predation rates ranging from 3.6 percent to 12.6 percent for listed spring Chinook and 3.6 percent to 22.1 percent for listed steelhead.

In addition to salmonids actually observed being consumed or estimated as being consumed, observations of adult salmonids in the Bonneville Dam fishways reveal that a large proportion of salmonids are being injured by pinnipeds. The proportion of salmonids with pinniped scarring rose from 11 percent in 1999 to 37 percent in 2005. It is unknown how many of these injuries occurred at Bonneville Dam, or how many salmonids die from their injuries before spawning. These data nevertheless reveal a high rate of

interaction between adult salmonids and pinnipeds generally.

Available information suggests that pinniped predation could continue to increase at Bonneville Dam if not checked. The numbers of salmonids consumed increased by more than three times from 2002 to 2007, in spite of non-lethal deterrence efforts. While these efforts may have slowed the rate of increase, an increase nevertheless occurred. The experience at Ballard Locks in Washington suggests that where human caused conditions cause adult salmonids to congregate and delay, California sea lions can effectively consume a majority of the salmonids present. While the area at Bonneville is larger than the area at Ballard Locks, the observed increase in predation over recent years suggests that predation can continue to increase in spite of non-lethal deterrence efforts.

Both the observed and estimated mortality rates described above represent levels of mortality that can have a significant effect on the survival and recovery of the listed stocks. In preparing its biological opinion on the federal Columbia River power system, NMFS estimated the current survival rates for each of the listed salmonid ESUs/DPSs, and the survival improvements required to achieve a low likelihood of extinction. For Snake River spring/summer Chinook, needed survival improvements for different populations within the ESU range from no improvement to a fivefold improvement. Survival impacts on the order of those observed can measurably affect the survival improvements needed for many of these populations.

The estimated mortality rates for listed salmonids from pinnipeds at Bonneville Dam are comparable to mortality rates from other sources that have led to corrective action under the ESA. Because the listed salmonids are subject to mortality from a variety of sources, NMFS has imposed reductions on all sources of mortality under section 7(a)(2) of the ESA, allocating those reductions based on the action's contribution to the historic decline of the species, the current magnitude of the mortality, the impact to other values (particularly the exercise of Indian treaty rights), and the feasibility of achieving the reduction. As an example, although harvest rates on Snake River and upper Columbia River spring Chinook were already restricted prior to ESA listing (from historical highs in excess of 40 percent to an average of 8 percent prior to listing), NMFS nevertheless required a harvest schedule that ensured harvest rates would remain low when the run size was depressed.

At the time of listing harvest rates were limited to 4.1 percent for non-treaty fisheries and 7 percent in tribal fisheries. Following listing, through a sequence of ESA section 7 consultations, harvest impacts in non-treaty fisheries were reduced to a range of 1 percent to 3 percent depending on run size. Tribal fisheries continued to be subject to a 7 percent limit largely in an effort to accommodate, to the degree possible, the tribes' treaty right to fish. In 2001, the parties to *U.S. v. Oregon* developed a more comprehensive abundance based harvest rate schedule that restricted fisheries further when the runs were particularly depressed, and allowed modest increases in harvest when run size was substantially higher.

That harvest rate schedule is still in place and allows harvest to vary between 5.5 percent and 17 percent. Since 2001 when this harvest rate schedule was first implemented, the harvest rate has averaged 10.3 percent reflecting the higher abundance observed particularly in the first part of this decade. Abundance has generally been lower since 2005, and accordingly harvest as been reduced to just over 8 percent over the last three years. In contrast to a managed harvest regime, which can reduce mortality in response to decreased run sizes, pinniped predation has the potential to increase even when run sizes are depressed, magnifying the impact. This was the case from 2006 to 2007, when observed pinniped predation increased from 3,023 salmonids to 3,859, even as the run size decreased from 105,063 to 88,474.

Another example is the survival improvements sought from the federal Columbia River power system. In its draft biological opinion on operation of the hydropower system, NMFS included as a reasonable and prudent alternative a program to reduce northern pikeminnow predation on Snake River spring/summer Chinook sufficient to increase survival by a relative 1 percentage point and bird predation by 2 percentage points (NMFS 2007). The overall proportional survival improvement of 8 percent that NMFS is seeking from the hydropower system is made up of myriad actions that contribute fractions to the overall percentage. No single one of these mortality reductions will by itself recover listed salmonids. Rather, as with other actions, NMFS' approach is to seek reductions in all sources of mortality, with the goal of reducing overall mortality to the point that the species can survive and recover. In the draft biological opinion on the FCRPS, NMFS concludes that the accumulation

of proposed mortality reductions will measurably improve the chances of survival and recovery of all five of the ESUs/DPSs considered here.

NMFS has placed a cap on the number of California sea lions that may be lethally removed either 1 percent of PBR or the number required to reduce the observed predation rate to 1 percent of the salmonid run at Bonneville Dam, whichever is lower. This criterion is not equivalent to a finding that a one percent predation rate represents a quantitative level of salmonid predation that is "significant" under section 120, and that less than one percent would no longer be significant. Rather, it is an independent limit on the numbers of sea lions that can be lethally removed to address the predation problem and is intended to balance the policy value of protecting all pinnipeds, as expressed in the MMPA, against the policy value of recovering threatened and endangered species, as expressed in the ESA. Similarly, limiting the numbers of California sea lions that may be removed to 1 percent of PBR, as requested by the States, is intended to emphasize that the removal authority is for a small fraction of animals that can safely be taken from the population.

The limited authorization given to the States will not eliminate pinniped predation in the lower Columbia River or at Bonneville Dam, but that is not a requirement of section 120 or of prudent wildlife management. The authorization to the States to remove a limited number of predatory California sea lions under carefully controlled circumstances will create an additional tool in our efforts to control a significant source of mortality for threatened and endangered Columbia River salmonids.

#### *Individually Identifiable Pinnipeds Which are Having the Impact*

NMFS' authorization extends only to predatory animals with physical features distinguishing them from other pinnipeds (natural features, brands, or other applied marks), thus meeting the requirement that they be "individually identifiable." To be considered predatory, an animal must (1) have been observed eating salmonids in the observation area below Bonneville Dam between January 1 and May 31 of any year, (2) have been observed in the observation area below Bonneville Dam on a total of any 5 days (consecutive days, days within a single season, or days over multiple years) between January 1 and May 31 of any year, and (3) be sighted in the observation area below Bonneville Dam after having been subjected to active non-lethal deterrence.

An animal meeting all of these criteria has learned that the area contains a preferred prey item and is successful in pursuing it in that area (criterion 1), is persistent in pursuing that prey item (criteria 2 and 3), and is not likely to be deterred from pursuing that prey item by non-lethal means (criterion 3). Given its success at obtaining prey in the area and its resistance to non-lethal deterrence efforts, such an animal has shown itself to be making a significant contribution to the pinniped predation problem at Bonneville Dam, and is not a naive animal that can be driven away from the area through non-lethal means. A list of animals presently identified as meeting these criteria is attached to the letter of authorization to the States, and the letter describes the process by which additional animals may be included on the list.

#### **Consideration of Other Factors**

In considering whether to approve the States' application, NMFS and the Task Force are to consider several factors, enumerated above under "MMPA Section 120" and discussed individually below.

#### *Populations Trends and Feeding Habits of the Pinnipeds; Location, Timing and Manner of the Interaction; and Number of Pinnipeds Involved*

The United States stock of California sea lions is currently at or near carrying capacity with a population of about 238,000 animals. California sea lions are opportunistic feeders, feeding on a variety of fishes that are locally and seasonally abundant. In the Columbia River, California sea lions follow migrating salmonids as far as Bonneville Dam, where the fish concentrate prior to entering the fish ladders. For the period 2002 to 2007, almost 80 percent of the fish observed being eaten below Bonneville Dam were salmonids. Pinniped predation on salmonids occurs from mid-February through May 31.

It is likely that more pinnipeds are present than are observed, since observations are recorded only from observation stations at the dam, observations do not occur at all hours, and only sea lions with distinguishing features are counted. The observation areas are large and poor weather conditions, murky and turbulent water, and heavy debris can make it difficult to identify animals that might only surface for seconds. Because of these limitations, the exact number of California sea lions arriving in the area each season is uncertain. For purposes of calculating the potential benefits to salmonid survival from removing California sea lions, NMFS used a

conservative estimate that only 30 sea lions would be removed, given the limitations of the authorization (particularly the location of animals that may be removed) (NMFS 2008). At the same time, to ensure the analysis was adequately protective of the California sea lion population, NMFS evaluated impacts on the population of removing the full number authorized (1 percent of PBR, or 85 sea lions at current population abundance) (NMFS 2008).

#### *Past Non-lethal Deterrence Efforts and Whether the Applicant Has Demonstrated That No Feasible and Prudent Alternatives Exist and That past Efforts Have Been Unsuccessful*

In 2006 and 2007 the Corps, NMFS, and the states of Oregon and Washington attempted to deter pinniped predation at Bonneville Dam using non-lethal methods. These included physical barriers and acoustic devices to keep sea lions out of fishways, and vessel chasing, underwater firecrackers, aerial pyrotechnics, and rubber bullets to chase sea lions away from the tailrace area immediately below the dam. Based on experience with non-lethal deterrence measures in 2006 and 2007, NMFS has concluded that non-lethal methods may have reduced pinniped presence in the fishways but did not reduce pinniped predation on salmonids. This is reflected in the increased numbers of salmonids observed being eaten by sea lions below the dam in 2007 compared with 2006, notwithstanding the fact that fewer sea lions were observed. NMFS' conclusion is shared by the states and the Task Force. Non-lethal deterrence measures are currently not a feasible alternative to lethal removal. Although several of those who commented on the EA recommended that additional non-lethal methods be attempted instead of lethal removal, there are no additional known methods beyond those already tried. One manufacturer has proposed an electrified field to deter pinnipeds, but the technology is untested.

#### *Extent to Which Such Pinnipeds Are Causing Undue Injury or Impact, or Imbalance With, Other Species in the Ecosystem, Including Fish Populations*

California sea lions are opportunistic feeders and consume many species other than salmonids. While salmonids are by far their primary prey at Bonneville Dam, California sea lions have also been observed consuming lamprey and shad. From 2002 through 2007, between 2.5 percent and 25.1 percent of all observed California sea lion takes were of lamprey. There is presently not enough evidence to

support a conclusion that this level of consumption represents undue injury or impact to lamprey at Bonneville Dam.

For Steller sea lions, the primary prey item is sturgeon. The states have not requested authority to lethally remove Steller sea lions, which are listed as threatened under the ESA. Harbor seals are present in small numbers and the states have not requested authority to lethally remove these pinnipeds.

*Extent to Which the Pinniped Behavior Presents an Ongoing Threat to Public Safety*

There is no evidence that pinnipeds in the area immediately below Bonneville Dam present a threat to public safety.

**Terms and Conditions**

In accordance with section 120 of the MMPA, NMFS has approved the lethal taking of individually identifiable California sea lions preying on at-risk salmonid stocks below Bonneville Dam and sent the States a letter of authorization stipulating the conditions on the authorization for lethal removal. Lethal removal is authorized only if the States are in compliance with the following terms and conditions.

1. The States may lethally remove individually identifiable predatory California sea lions that are having a significant negative impact on ESA-listed salmonids. NMFS considers California sea lions to be individually identifiable predatory California sea lions that are having a significant negative impact on ESA-listed salmonids if they display natural or applied features that allow them to be individually distinguished from other California sea lions and:

a. have been observed eating salmonids in the "observation area" below Bonneville Dam between January 1 and May 31 of any year; and

b. have been observed in the observation area below Bonneville Dam on a total of any 5 days (consecutive days, days within a single season, or days over multiple years) between January 1 and May 31 of any year; and

c. are sighted in the observation area below Bonneville Dam after they have been subjected to active non-lethal deterrence.

2. The California sea lions currently identified as meeting the description in paragraph 1 are included in an appendix to the letter of authorization. In consultation with the states, the NMFS Northwest Regional Administrator may periodically amend the list appended to the Letter of Authorization to accurately report those individuals that meet the description in

paragraph 1 and, thus, are authorized for removal. Such amendments shall be in writing.

3. The States may not lethally remove more than 1 percent of the potential biological removal level (PBR) annually. The current PBR for this population of California sea lions is 8,511. NMFS periodically revises the PBR of California sea lions as new information becomes available. Any revised PBR calculations would be reported in annual marine mammal stock assessment reports.

4. The States shall appoint a standing Animal Care Committee (ACC), to be approved by NMFS, composed of qualified veterinarians and biologists to advise the States on protocols for capturing, holding, and euthanizing predatory sea lions.

5. The States, in consultation with NMFS, will assume the lead role for the capture of predatory sea lions. Individually identifiable predatory sea lions that are captured in a trap must be held in a temporary holding facility approved by the ACC for at least 48 hours prior to being euthanized, pending a determination of the availability of NMFS pre-approved permanent holding facilities. Such sea lions may, in coordination with NMFS, be transferred to a NMFS pre-approved holding facility (research, zoo, aquarium) to be maintained in permanent captivity. If no pre-approved research, zoo, or aquarium facility is willing to accept an animal within 48 hours of its capture, the States may euthanize it. The method of euthanizing captured predatory sea lions must be approved by the ACC.

6. Free-ranging individually identifiable predatory sea lions may be shot by a qualified marksman when hauled out on the concrete apron along the North side of Cascade Island, on the flow deflectors along the base of the dam's spillway, or in the water within 50 feet of the concrete apron or the face of the dam at power houses one and two. In all cases the marksman must shoot from land, the dam, or other shoreline structures. Potential options for lethal removal using firearms are: (1) the marksman may shoot sea lions at close range (less than 25 yards) using a shotgun loaded with a slug or 00 buckshot, when the animal is on shore; or (2) the marksman may shoot sea lions from the powerhouse deck or other shoreline area at ranges greater than 25 yards using a hunting rifle with a minimum caliber of .240, when the animal is on shore or in the water as described above. Ammunition shall not contain lead.

7. The States shall make all reasonable efforts to retrieve carcasses of animals that have been shot. The States shall monitor nearby downstream areas for stranded animals that have been shot but not retrieved immediately.

8. Safety and security during lethal removal activities shall be provided by the States of Oregon and Washington in coordination with the Columbia Basin Law Enforcement Council. The States shall establish an Incident Command Center (ICC) during lethal removal activities. The ICC shall direct safety and security and provide a media interface. The ICC shall coordinate security and safety activities with the Corps of Engineers, the Coast Guard, and other agencies as necessary.

9. The States shall notify the Corps of Engineers, Portland District, and the Project Manager at Bonneville Locks and Dam, prior to lethal removal operations. The ICC shall consult with the Corps regarding road closures or changes to visitation on Corps of Engineers property/dam facilities.

10. The States shall ensure that the transfer or disposal of any carcasses is in accordance with applicable law. At NMFS' request and to the extent practicable the States shall make the carcasses, or tissues from them, of sea lions killed pursuant to this authorization available for use in scientific research or for educational purposes.

11. The States shall report any permanent removals of predatory sea lions (either transferred to permanent captivity or lethally) to the Regional Administrator, NMFS Northwest Region, within 3 days following removal.

12. The States shall develop and implement a monitoring plan to evaluate (1) the impacts of predation, (2) the effectiveness of non-lethal deterrence, and (3) the effectiveness of permanent removal of individually identifiable predatory sea lions as a method to reduce adult salmonid mortality. To the extent practicable the States shall use data collected by the Corps or other agencies to help fulfill the monitoring requirement, avoid duplication of effort, and ensure data consistency across programs.

13. The States shall submit monitoring reports to the Regional Administrator, NMFS Northwest Region, annually, on or before November 1. The reports shall include a summary of actions taken to reduce predation (non-lethal and lethal), the States' compliance with the terms and conditions of this authorization, and plans for future actions in compliance with this authorization.

14. The States shall periodically review observation data collected by the Corps Fisheries Field Unit to determine if additional individually identifiable California sea lions qualify as predatory (as defined in paragraph 1) and notify the NMFS Northwest Regional Administrator if any additional sea lions are identified. NMFS may amend the Appendix, as described in paragraph 2.

15. After the third year of sea lion removals (in June of 2010), the States and NMFS shall review whether the average observed salmonid predation rate has fallen below 1 percent of the observed fish passage at the dam. If the Regional Administrator, NMFS Northwest Region determines that such predation rate has fallen below 1 percent, no lethal removal is authorized for the following year.

16. This authorization may be modified or revoked by NMFS at any time with 72 hours notice.

17. This authorization is valid until June 30, 2012, at which time it may be extended for an additional period of five years.

Pursuant to MMPA section 120(c)(5), and after receipt of reports from the States covering the first three years of authorized activity, NMFS will reconvene the Task Force to evaluate the States' reports and the effectiveness of the actions and any lethal take. NMFS will consider the reports, the Task Force recommendations, and the issues set out in section 120(c) of the MMPA, and may modify the authorization and conditions for the coming year(s), or revoke the authorization for lethal take.

NMFS requests that the States continue to cooperate in the pursuit of alternative technologies or methods to reduce California sea lion predation on salmonids in order to reduce the number of permanent removals of sea lions to the extent practicable. Additionally, if resources are available, the States are encouraged to monitor pinniped impacts on salmonids elsewhere in the lower Columbia River.

#### **National Environmental Policy Act (NEPA)**

NEPA requires that Federal agencies conduct an environmental analysis of their actions to determine if the actions may affect the environment. Depending on the action and whether the impacts to the environment would be significant, Federal agencies may prepare and EA or environmental impact statement. When NMFS announced its intention to convene a Task Force, it advised the public that it would conduct the necessary analysis under NEPA. Prior to convening the first Task Force meeting, NMFS conducted

internal scoping under NEPA. Based on information in the States' application and public comments received on that application, NMFS concluded the appropriate level of analysis was an EA. After receiving and reviewing the Task Force recommendations, NMFS developed a proposed action, a range of reasonable alternatives and evaluated the environmental impacts of the proposed action in a draft EA. The proposed action, which NMFS has determined is the agency's preferred alternative is the partial approval of the States' section 120 application for lethal removal of California sea lions at Bonneville Dam, under certain conditions.

The draft EA was made available for public comment for 30 days. More than 3,500 comments were received during the public comment period, including comments from several Task Force member organizations (e.g., States, Tribes, Humane Society of the United States) and others including the Marine Mammal Commission, and Congressional office of Representative Doc Hastings.

After reviewing public comments on the draft EA, NMFS has completed its evaluation of the environmental consequences of the proposed action and concluded that it will not result in any significant impacts on the human environment and, therefore, has made a finding of no significant impact (FONSI). The draft EA, EA and FONSI were prepared in accordance with NEPA and implementing regulations at 40 CFR parts 1500 through 1508 and NOAA Administrative Order 216-6.

#### **Magnuson-Stevens Fishery Conservation and Management Act**

Pursuant to section 305(b) of the Magnuson-Stevens Act, NMFS conducted an essential fish habitat consultation on its decision to partially approve the States' application. NMFS determined that lethal removal activities would not result in adverse effects to freshwater EFH for Chinook and coho salmon.

Dated: March 17, 2008.

**James H. Lecky,**

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

[FR Doc. E8-5902 Filed 3-21-08; 8:45 am]

**BILLING CODE 3510-22-S**

#### **DEPARTMENT OF COMMERCE**

##### **National Oceanic and Atmospheric Administration**

**RIN 0648-XG21**

##### **Gulf of Mexico Fishery Management Council; Public Meetings**

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

**ACTION:** Notice of cancellation of public meetings.

**SUMMARY:** The Gulf of Mexico Fishery Management Council has canceled its Shrimp Advisory Panel (AP) meeting via conference call.

**DATES:** The Shrimp AP conference call will not be held March 31, 2008 at 10 a.m. e.s.t.

**ADDRESSES:** *Meeting address:* The meeting was to be held via conference call and listening stations are no longer available. For specific locations see **SUPPLEMENTARY INFORMATION.**

*Council address:* Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, Florida, 33607.

**FOR FURTHER INFORMATION CONTACT:** Rick Leard, Deputy Director, Gulf of Mexico Fishery Management Council; telephone: 813-348-1630.

**SUPPLEMENTARY INFORMATION:** The Gulf Council has canceled the conference call meeting of the Shrimp AP. The meeting published at 73 FR 13211, March 12, 2008, and it will not be rescheduled.

Dated: March 19, 2008.

**Tracey L. Thompson,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E8-5864 Filed 3-21-08; 8:45 am]

**BILLING CODE 3510-22-S**

#### **DEPARTMENT OF COMMERCE**

##### **National Oceanic and Atmospheric Administration**

**RIN: 0648-XG55**

##### **Fisheries of the South Atlantic and Gulf of Mexico; South Atlantic Fishery Management Council (SAFMC); Public Meeting**

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) will