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New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

June 10, 2008

Ms. Patricia A. Kurkul
Regional Administrator
NMFS, Northeast Regional Office
One Blackburn Drive
Gloucester, MA 01930

RE: Comments on the Dredge Twine Top EFP Proposal

Dear Pat:

The New England Fishery Management Council has no objection to the exempted fishery permit for the above-mentioned study submitted by Coonamessett Farm as described in the *Federal Register* Vol. 73, No. 101 dated May 23, 2008.

If you have any question please contact me.

Sincerely,

A handwritten signature in black ink that reads "Paul J. Howard". The signature is written in a cursive style.

Paul J. Howard
Executive Director

numbers 0348-0043, 0348-0044, 0348-0040, and 0348-0046.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirement of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866: This notice has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism): It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/Regulatory Flexibility Act: Prior notice and opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comments are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: May 20, 2008.

John E. Potts,

Acting Associate Assistant Administrator for Management and CFO/CAO, NOS, National Oceanic and Atmospheric Administration.

[FR Doc. E8-11677 Filed 5-22-08; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XH94

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit

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

ACTION: Notification of a proposal to conduct exempted fishing; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that the subject exempted fishing permit (EFP) application, which would exempt

Atlantic sea scallop (scallop) vessels participating in a modified scallop dredge twine top (twine top) study from minimum twine top mesh sizes, Closed Area I Access Area (CAI) and Closed Area II Access Area (CAII) closures, and fish possession restrictions, should be issued for public comment. The Assistant Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Atlantic Sea Scallop Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made.

DATES: Comments on this document must be received on or before June 9, 2008.

ADDRESSES: Comments may be submitted by e-mail. The mailbox address for providing e-mail comments is scallop.efp@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: "Comments on dredge twine top EFP." Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on dredge twine top EFP." Comments may also be sent via facsimile (fax) to (978) 281-9135.

FOR FURTHER INFORMATION CONTACT: Ryan Silva, Cooperative Research Program Specialist, phone: 978-281-9326, fax: 978-281-9135.

SUPPLEMENTARY INFORMATION:

Coonamessett Farm submitted this EFP application for research activities that would assess a modified scallop dredge twine top (twine top) designed to reduce finfish bycatch while improving the retention of scallops. The subject EFP would exempt vessels from the following regulations: Ten-inch (25.4-cm) minimum twine top mesh size specified at 50 CFR 648.51(b)(2); CAI and CAII scallop vessel trip restrictions specified at § 648.59(b)(5) and (c)(5), respectively; and temporary exemptions from scallop, Northeast multispecies, monkfish, summer flounder, black sea bass, scup, spiny dogfish, and skate possession restrictions specified throughout 50 CFR part 648.

The applicant states that previous twine top selectivity research found that the aft portion of the twine top is where most scallop escapement occurs and the forward portion of the twine top is where most finfish escapement occurs. The applicant postulates that by decreasing the mesh size to 6 in (15.2

cm) in the aft portion of the twine top while increasing the mesh size to 12 in (30.5 cm) in the forward portion of the twine top that both scallop retention and finfish escapement would increase. The experimental twine top would also have lower hanging ratio beyond that of a traditionally hung twine top, with the hypothesis that this may further reduce finfish bycatch.

The applicant states that to effectively test the modified twine top, field trials must occur in areas of high finfish bycatch such as those found in CAI and CAII. However, both CAI and CAII are closed to scallop fishing for the 2008 fishing year (March 1, 2008-February 28, 2009). The applicant requests they be allowed up to three 7-day trips between September and November of 2008, in CAI and/or CAII. On these trips, the applicant would compare identical dredge frames fitted with a standard twine top and a modified twine top. All scallops and finfish caught during these trips would be processed for morphological data and then returned to the sea as soon as possible. Yellowtail flounder, as part of a separate research experiment assessing yellowtail flounder mortality in the scallop dredge fishery, would be tagged and released.

In addition to testing the twine top in CAI and CAII, the applicant requests authorization to test the modified twine top on up to three fishing trips to the Nantucket Lightship Access Area (NLCA) and/or Elephant Trunk Access Area (ETAA). Both the NLCA and ETAA are open to scallop fishing in the 2008 fishing year. The applicant submitted a proposal to conduct this research with funding through the 2008 Atlantic Sea Scallop Research Set-Aside (RSA) Program. The 2008 Scallop RSA Program proposals are currently under review. If this project is funded through the 2008 Scallop RSA Program, the NLCA and ETAA trips that employed the modified twine top would be compensation fishing trips. If it is not funded, the NLCA and ETAA trips would be normal commercial scallop fishing trips. This preliminary determination to issue an EFP for this research in no way implies that the proposal submitted for funding through the 2008 Scallop RSA Program will be, or has been, favorably reviewed.

Exemption from scallop, Northeast multispecies, monkfish, summer flounder, black sea bass, scup, spiny dogfish, and skate possession restrictions would authorize project investigators to temporarily possess finfish for scientific data collection purposes prior to returning all finfish to the sea.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs. The applicant may place requests for minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and minimal so as not to change the scope or impact of the initially approved EFP request.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 19, 2008.

Emily H. Menashes

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

[FR Doc. E8-11524 Filed 5-22-08; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XH65

Incidental Takes of Marine Mammals During Specified Activities; Shallow Hazard and Site Clearance Surveys in the Chukchi Sea in 2008

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

ACTION: Notice; proposed incidental take authorization; request for comments.

SUMMARY: NMFS has received an application from ConocoPhillips Alaska, Inc. (CPAI) for an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by harassment, incidental to conducting shallow hazard and site clearance surveys using acoustic equipment and small airguns in the Chukchi Sea between August and October 2008. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposed IHA for these activities.

DATES: Comments and information must be received no later than June 23, 2008.

ADDRESSES: Comments on the application should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. The mailbox address for providing email comments is *PR1.0648-*

XH65@noaa.gov. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 713-2289, ext 137.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct 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 either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for certain subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "...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."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On April 30, 2008, NMFS received an application from CPAI for the taking, by Level B harassment, of several species of marine mammals incidental to conducting shallow hazard and site clearance surveys using acoustic equipment and small airguns in the Chukchi Sea for up to 30 - 45 days from approximately August 1, 2008 until October 31, 2008. The geographic region of the proposed activities includes two areas spaced about 60 km (37 mi) apart and a path for sampling conditions along a potential pipeline route. Each area is about 2,000 km² (772.5 mi²) with dimensions about 72 km (45 mi) by 62 km (38.5 mi). The two areas are about 111 km (69 mi) off the Alaska coast, generally west from the village of Wainwright. The marine surveys will be performed from a seismic vessel.

Description of the Specified Activity

CPAI is planning to conduct site clearance and shallow hazard surveys of potential exploratory drilling sites in the Chukchi Sea during the 2008 open water season. Site clearance and shallow hazard surveys would begin in August, after completing mobilization in July. CPAI anticipates shooting approximately 5,300 linear km (3,294 mi). The operation will be active 24 hours per day and use a single vessel to collect the geophysical data.

Site clearance and shallow hazard surveys will be completed to confirm the seafloor has soil and surface characteristics that will support the safe set-down of a drill rig, and long term occupation of the site by a vessel. Acoustic instrumentation to be used for the proposed survey is designed to characterize the seabed topography, bathymetry, potential geohazards, and other seafloor features (e.g., boulders) using seafloor imaging, water depth measurements, and high-resolution