

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Experimental Fishing Permits

I. STATUS

Permit requests

The Council has received the following notifications of new permit requests since the last Council meeting:

1. University of Maryland Eastern Shore (UMES) Monkfish EFP
2. Wallace and Associates Georges Bank PSP Closed Area Exemption EFP

The comment periods for all the EFP requests ended before this Council meeting so staff reviewed the proposals for any potentially negative impacts on Council FMPs and provided comments on behalf of the Council. The staff submitted a letter stating that the Council had “no objection” to each of the EFP requests.

II. COUNCIL ACTION

None

III. INFORMATION

1. December 12, 2008 letter and *Federal Register* on the UMES Monkfish Fishery EFP request
2. January 5, 2009 letter and *Federal Register* on the Wallace and Associates Georges Bank PSP Closed Area Exemption EFP request

#1



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*

December 12, 2008

Ms. Patricia A. Kurkul
Regional Administrator
NMFS, Northeast Regional Office
55 Great Republic Drive
Gloucester, MA 01930

RE: Comments on the Revised UMES Monkfish EFP Proposal

Dear Pat:

The New England Fishery Management Council has no objection to the exempted fishery permit for the above-mentioned study as described in the *Federal Register* Vol. 73, No. 240 dated December 12, 2008.

If you have any question please contact me.

Sincerely,

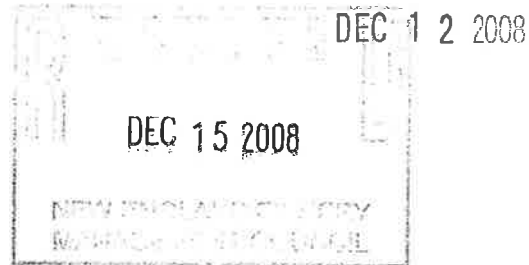
A handwritten signature in black ink that reads "Paul J. Howard". The signature is written in a cursive, flowing style.

Paul J. Howard
Executive Director



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

Paul J. Howard, Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950



Re: Experimental Fishery Proposal

Dear Paul:

The regulations on exempted experimental fishing activities at 50 CFR 600.745(b)(3) require that the Regional Administrator forward copies of an application for experimental fisheries to the Regional Fishery Management Council(s), the U.S. Coast Guard, and the appropriate fishery management agencies of affected states, accompanied by the following information: (A) The effect of the proposed Exempted Fishing Permit (EFP) on the target and incidental species, including the effect on any Total Allowable Catch; (B) a citation of the regulation or regulations that, without the EFP, would prohibit the proposed activity; and (C) biological information relevant to the proposal, including appropriate statements of environmental impacts, including impacts on marine mammals and threatened or endangered species. Therefore, we have attached the Federal Register notice that describes the activities proposed in the application submitted by the University of Maryland Eastern Shore, to amend a previously issued EFP for one vessel to conduct monkfish research funded through the monkfish Research Set-Aside Program. The reissued EFP would allow this vessel to be exempt from the Gulf of Maine Rolling Closure Area (RCA) I rather than RCA III and would continue to exempt the vessel from Northeast multispecies effort control measures, as in the original EFP.

Please respond to the following contact person with any comments you have on the experimental fishing proposal on or before **DEC 29 2008**.

CONTACT PERSON: Emily Bryant
Fishery Management Specialist
Sustainable Fisheries, Northeast Region
National Marine Fisheries Service
One Blackburn Drive
Gloucester, MA 01930
Phone: (978) 281-9244
FAX: (978) 281-9135

Thank you for your cooperation.

Sincerely,

George H. Darcy
Assistant Regional Administrator for Sustainable Fisheries

Enclosure



Department”) to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h) of the Act, and to publish an annual list and quarterly updates to the type and amount of those subsidies. We hereby provide the Department’s quarterly update of subsidies on articles of cheese that were imported during the period July 1, 2008 through September 30, 2008.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies

(as defined in section 702(h) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available. The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which

benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: December 5, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

APPENDIX

SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross Subsidy (\$/lb)	Net Subsidy (\$/lb)
27 European Union Member States	European Union Restitution Payments	\$ 0.00	\$0.00
Canada	Export Assistance on Certain Types of Cheese	\$ 0.33	\$ 0.33
Norway	Indirect (Milk) Subsidy	\$ 0.00	\$ 0.00
.....	Consumer Subsidy	\$ 0.00	\$ 0.00
.....	Total	\$ 0.00	\$ 0.00
Switzerland	Deficiency Payments	\$ 0.00	\$ 0.00

[FR Doc. E8-29532 Filed 12-11-08; 8:45 am]
BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XM08

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

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an amendment to an Exempted Fishing Permit (EFP) application submitted by the University of Maryland Eastern Shore (UMES) contains all of the required information and warrants further consideration. The Assistant Regional Administrator has made a preliminary determination that the adjusted activities authorized under this amended EFP would be consistent with the goals and objectives of the Northeast (NE) Multispecies and Monkfish Fishery Management Plans (FMPs). However, further review and consultation may be

necessary before a final determination is made to reissue the EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be reissued that would allow one commercial fishing vessel to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. This EFP, which would continue to enable researchers to study the effects of climate on the distribution and catch rates of monkfish, would adjust the exemptions from the NE multispecies regulations as follows: Gulf of Maine (GOM) Rolling Closure Area (RCA) I, rather than RCA III. The exemption from NE multispecies effort control measures will remain the same as with the original EFP. 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.

DATES: Comments must be received on or before December 29, 2008.

ADDRESSES: You may submit written comments by any of the following methods:

- Email: DA8-272@noaa.gov. Include in the subject line “Comments on Revised UMES Monkfish EFP .”

- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, NE Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the

envelope “Comments on UMES monkfish EFP, DA8-272.”

- Fax: (978) 281-9135.

FOR FURTHER INFORMATION CONTACT:

Emily Bryant, Fishery Management Specialist, 978-281-9244.

SUPPLEMENTARY INFORMATION: An application for an EFP amendment was submitted on October 15, 2008, by Andrea K. Johnson, Ph.D., Research Assistant Professor at UMES, for a project funded under the New England and Mid-Atlantic Fishery Management Councils’ Monkfish Research Set-Aside (RSA) Program. The primary goal of this study is to investigate the influence of temperature on monkfish distribution and abundance, as well as determine age and growth patterns, spawning frequency, feeding rates, and cannibalism. This information will provide information on the biology of monkfish that could be used to enhance the management of this species.

The original EFP granted an exemption for one vessel to fish for monkfish using gillnets inside the GOM RCA III during May 2008. The vessel originally issued the EFP later decided not to participate in this project and a new vessel was issued the EFP on October 14, 2008. With this change to a new vessel, the research area was revised to reflect the new vessel owner’s familiarity with monkfish fishing grounds. This EFP revision would grant an exemption for the new vessel to fish in 30-minute square number 122, rather than 137, inside the GOM RCA I during

March 2009. Fishing activity is currently taking place through December 2008 and researchers would like to continue in March 2009, but will need this revised exemption to do so. It is expected that this location, within the RCA, would provide access to large monkfish and would avoid gear interactions between the research gillnet gear and trawl gear. The need to switch RCA exemptions is due to the change in location and vessel from the original research proposal. Allowing an exemption in RCA I rather than RCA III will provide consistency with the rest of the research that is being conducted in that area and will avoid further delays in the project.

The applicant may request 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 have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: December 5, 2008.

Emily H. Menashes

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. E8-29441 Filed 12-11-08; 8:45 am]
BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XM13

U.S. Climate Change Science Program Draft Unified Synthesis Product: Global Climate Change Impacts in the United States

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of revision of the production schedule for the U.S. Climate Change Science Program Unified Synthesis Product.

SUMMARY: The National Oceanic and Atmospheric Administration publish this notice to announce plans to add a second public comment period for the U.S. Climate Change Science Program Unified Synthesis Product (USP). The peer review and first public comment period that ended on August 14, 2008 produced a large number of suggestions for improvements in the scientific

completeness and readability of the USP. These comments have resulted in substantial revisions to the document, and a second draft is now being prepared for release in January 2009 for a 45-day public comment period. Another **Federal Register** Notice will be published announcing the start of the public comment period and will provide detailed instructions for accessing the revised document and submitting comments.

SUPPLEMENTARY INFORMATION: The CCSP was established by the President in 2002 to coordinate and integrate scientific research on global change and climate change sponsored by 13 participating departments and agencies of the U.S. Government. The CCSP is charged with preparing information resources that promote climate-related discussions and decisions, including scientific synthesis and assessment analyses that support evaluation of important policy issues.

Dated: December 8, 2008.

William J. Brennan,

Acting Under Secretary of Commerce for Oceans and Atmosphere, and Director, Climate Change Science Program.

[FR Doc. E8-29495 Filed 12-11-08; 8:45 am]

BILLING CODE 3510-12-S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning the proposed renewal of its Volunteer Service Hour Tracking Tool (Record of Service). The Record of Service was

established in 2002 as a tool to help Americans answer President Bush's call to service and keep track of their volunteer service hours.

Copies of the information collection requests can be obtained by contacting the office listed in the address section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by February 10, 2009.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By Mail sent to:* Corporation for National and Community Service; Attention Shannon Maynard, Executive Director President's Council on Service and Civic Participation; 1201 New York Avenue, NW., Washington, DC 20525.

(2) *By hand delivery or by courier to the Corporation's mailroom at Room 8100 at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.*

(3) *By fax to:* (202) 606-3460, Attention Shannon Maynard, Executive Director President's Council on Service and Civic Participation.

(4) *Electronically through the Corporation's e-mail address system: smaynard@cns.gov.*

FOR FURTHER INFORMATION CONTACT: Shannon Maynard, (202) 606-6713, or by e-mail at smaynard@cns.gov.

SUPPLEMENTARY INFORMATION: The Corporation is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are expected to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submissions of responses).

Background

In January of 2002, in his State of the Union Address, President Bush called

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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*

January 5, 2009

Ms. Patricia A. Kurkul
Regional Administrator
NMFS, Northeast Regional Office
55 Great Republic Drive
Gloucester, MA 01930

RE: Comments on the GB PSP Closed Area Exemption EFP Proposal

Dear Pat:

The New England Fishery Management Council has no objection to the exempted fishery permit for the above-mentioned study as described in the *Federal Register* Vol. 73, No. 246 dated December 22, 2008.

If you have any question please contact me.

Sincerely,

Paul J. Howard
Executive Director

an IHA to L-DEO for conducting a marine geophysical survey in Southeast Asia from March-July, 2009, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: December 15, 2008.

James H. Lecky,

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

[FR Doc. E8-30365 Filed 12-19-08; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XL46

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

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

ACTION: Notification of a proposal for an EFP to conduct experimental 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 EFP application submitted by Wallace and Associates contains all the required information and warrants further consideration. The proposed EFP would extend the previously authorized EFP for an additional year to continue testing the safety and efficacy of harvesting surfclams and ocean quahogs from the Atlantic surfclam and ocean quahog Georges Bank (GB) Closure Area using a harvesting protocol developed by state and Federal regulatory agencies and endorsed by the U.S. Food and Drug Administration (FDA). 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 Surfclam and Ocean Quahog regulations and Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow one commercial fishing vessel to conduct fishing operations that are otherwise restricted by the regulations

governing the fisheries of the Northeastern United States. The EFP would allow for an exemption from the Atlantic surfclam and ocean quahog GB Closure Area. 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.

DATES: Comments on this document must be received on or before January 6, 2009.

ADDRESSES: Comments on this notice may be submitted by e-mail.

The mailbox address for providing e-mail comments is DA8278@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: "Comments on GB PSP Closed Area Exemption." Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on GB PSP Closed Area Exemption." Comments may also be sent via facsimile (fax) to (978) 281-9135.

Copies of supporting documents referenced in this notice are available from Timothy Cardiasmenos, Fishery Policy Analyst, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930, and are available via the Internet at <http://www.nero.noaa.gov/sfd/clams>.

FOR FURTHER INFORMATION CONTACT: Timothy Cardiasmenos, Fishery Policy Analyst, phone 978-281-9204.

SUPPLEMENTARY INFORMATION: Truex Enterprises of New Bedford, MA, first submitted an application for an EFP on March 30, 2006, and public comment was solicited via the **Federal Register** on June 19, 2006 (71 FR 35254). On October 2, 2006, the applicant submitted additional information seeking to add states where the product harvested under the EFP could be landed. Comments for the revised EFP were published on November 14, 2006 (71 FR 66311). At that time, due to lack of concurrence on the Protocol for Onboard Screening and Dockside Testing for PSP Toxins in Molluscan Shellfish (Protocol) from the state of landing, the EFP was not issued. The applicant subsequently received concurrence from the state of landing and the state where the product is to be processed for the Protocol and EFP, and an EFP was authorized through the end of calendar year 2008.

The current applicant, Wallace & Associates, of Cambridge, MD, request

an extension of the previously authorized EFP to allow the catch and retention for sale of Atlantic surfclams and ocean quahogs from within the Atlantic surfclam and ocean quahog GB Closure Area. This area, located east of 69°00' W. long. and south of 42°20' N. lat., has been closed since May 25, 1990. This closure was implemented based on advice from the FDA after samples of surfclams from the area tested positive for the toxins (saxotoxins) that cause Paralytic Shellfish Poisoning (PSP). These toxins are produced by the alga *Alexandrium fundyense*, which can form blooms commonly referred to as red tides. Red tide blooms, also known as harmful algal blooms (HABs), can produce toxins that accumulate in filter-feeding shellfish. Shellfish contaminated with the saxotoxin, if eaten in large enough quantity, can cause illness or death from PSP. Due, in part, to the inability to test and monitor this area for the presence of PSP, this closure was made permanent through Amendment 12 to the FMP in 1999.

The primary goal of the proposed study is to test the efficacy of the Protocol that was developed by state and Federal regulatory agencies to test for presence of saxotoxins in shellfish, and which has been in a trial period through previous EFP's since 2006. This protocol would facilitate the harvest of shellfish from waters susceptible to HABs, which produce the saxotoxins, but that are not currently under rigorous water quality monitoring programs by either state or Federal management agencies. The Protocol details procedures and reporting for harvesting, testing, and landing of shellfish harvested from areas that are susceptible to HABs prior to the shellfish from entering commerce. A copy of the Protocol is available from the NMFS Northeast Region website: <http://www.nero.noaa.gov/sfd/clams>.

The proposed project would conduct a trial for the sampling protocol in an exemption zone within the larger 1990 GB Closure Area with the F/V Sea Watcher I (Federal permit #410565, O.N. 1160720). The exemption zone would not include any Northeast multispecies or essential fish habitat year-round closure areas. This proposed exempted fishing activity would occur during the 2009 calendar year, using surfclam and ocean quahog quota allocated to Truex Enterprises under the Federal individual transferable quota (ITQ) program. The applicant has estimated a harvest of 176,000 bushels (9,370,240 L) of surfclams and 80,000 bushels (4,259,200 L) of ocean quahogs from the exemption area. The exemption area has been tested in cooperation with the FDA

from 2006 to the present. No samples collected during that time were above acceptable levels for saxotoxins (80µg toxin/100g of shellfish).

The applicant has obtained endorsements for the EFP and the Protocol from the States of New Jersey and Delaware, the states in which it intends to land and process the product harvested under the EFP, respectively. Each state is responsible for regulating the molluscan shellfish industry within its jurisdiction and ensuring the safety of shellfish harvested within or entering its borders. This EFP would allow for an exemption from the Atlantic surfclam and ocean quahog GB Closure Area specified at 50 CFR 648.73(a)(4). The Protocol and the pilot project that would be authorized by this EFP have also since been endorsed by the executive board of the Interstate Shellfish Sanitation Conference.

The applicants may request minor modifications and extensions to the EFP throughout the course of research. EFP modifications and extensions may be granted without further public notice if they are deemed essential to facilitate completion of the proposed research and result in only a minimal change in the scope or impacts of the initially approved EFP request.

In accordance with NAO Administrative Order 216-6, a Categorical Exclusion or other appropriate NEPA document would be completed prior to the issuance of the EFP. Further review and consultation may be necessary before a final determination is made to issue the EFP. After publication of this document in the **Federal Register**, the EFP, if approved, may become effective following the public comment period.

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

Dated: December 16, 2008.

Emily H. Menashes,

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

[FR Doc. E8-30336 Filed 12-19-08; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XM10

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Conducting Air-to-Surface Gunnery Missions in the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to conducting air-to-surface (A-S) gunnery missions in the Gulf of Mexico (GOM), a military readiness activity, has been issued to Eglin Air Force Base (Eglin AFB) for a period of 1 year.

DATES: Effective from December 11, 2008, through December 10, 2009.

ADDRESSES: The authorization, Eglin AFB's application containing a list of the references used in this document, and NMFS' Environmental Assessment (EA) may be obtained by writing 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 20910-3226. A copy of Eglin's original 2003 application and its December, 2006 letter updating its request may be obtained by writing to this address, by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) and is also available at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>. A copy of the Final Programmatic EA (Final PEA) is available by writing to the Department of the Air Force, AAC/EMSN, Natural Resources Branch, 501 DeLeon St., Suite 101, Eglin AFB, FL 32542-5133.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, NMFS, 301-713-2289, ext 128.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and 101(a)(5)(D) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*)(MMPA) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the affected species or stock(s), will not (where relevant)

have an unmitigable adverse impact on the availability of the species or stock(s) for 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 marine mammals by harassment. The National Defense Authorization Act of 2004 (NDAA) (P.L. 108-136) removed the "small numbers" and "specified geographical region" limitations and amended the definition of harassment as it applies to "military readiness activities" to read as follows:

(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B harassment].

Summary of Request

Eglin AFB originally petitioned NMFS on February 13, 2003, for an authorization under section 101(a)(5)(D) of the MMPA for the taking, by Level B harassment, of several species of marine mammals incidental to programmatic mission activities within the Eglin Gulf Test and Training Range (EGTTR). The EGTTR is described as the airspace over the GOM that is controlled by Eglin AFB. A notice of receipt of Eglin's application and proposed IHA and request for 30-day public comment was published on January 23, 2006 (71 FR 3474). A 1-year IHA was subsequently issued to Eglin AFB for this activity on May 3, 2006 (71 FR 27695, May 12, 2006).

On January 29, 2007, NMFS received a request from Eglin AFB for a renewal of its IHA, which expired on May 2, 2007. This application addendum requested revisions to three components of the IHA requirements: protected species surveys, ramp-up procedures, and sea state restrictions. A **Federal Register** notice of receipt of the application and proposed IHA published on May 30, 2007 (72 FR 29974). These proposed modifications