The applicant requests authorization to (1) import and export parts and cell lines worldwide; and (2) add USFWS species to the permit, including walrus (*Odobenus rosmarus*), polar bear (*Ursus maritmus*), northern sea otter (*Enhydra lutris lutris*), southern sea otter (*Enhydra lutris nereis*), marine otter (*Lontra felina*), dugong (*Dugong dugon*), West Indian manatee (*Trichechus manatus*), Amazonian manatee (*Trichechus inunguis*), and West African manatee (*Trichechus senegalensis*). The applicant requests a 5–year amendment.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Documents may be reviewed in the following locations:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 427–2521;

Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206) 526–6150; fax (206) 526–6426;

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7221; fax (907) 586–7249;

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018;

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808) 973–2935; fax (808) 973–2941;

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978) 281–9200; fax (978) 281–9371;

Southeast Region, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; phone (727) 824–5312; fax (727) 824–5309; and

U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, VA 22203 (1–800–358–2104).

Dated: June 14, 2005.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

Dated: June 14, 2005.

Charlie R. Chandler,

Chief, Branch of Permits, Division of Management Authority, U.S. Fish and Wildlife Service.

[FR Doc. 05–12107 Filed 6–17–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040705B]

Notice of Availability of Final Stock Assessment Reports

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

ACTION: Notice of availability; response to comments.

SUMMARY: NMFS has incorporated public comments into revisions of marine mammal stock assessment reports (SARs) and the guidelines for preparing marine mammal stock assessment reports. The 2004 final SARs and the revised guidelines are now complete and available to the public.

ADDRESSES: Send requests for copies of reports or revised guidelines to: Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226, Attn: Stock Assessments. Copies of the Pacific Regional SARs may be requested from Cathy Campbell, Southwest Regional Office, NMFS, 501 West Ocean Boulevard, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Tom Eagle, Office of Protected Resources, 301–713–2322, ext. 105, e-mail *Tom.Eagle@noaa.gov* or Cathy Campbell, 562–980–4060, email *Cathy.E.Campbell@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

Stock assessment reports and the revised guidelines for preparing them are available via the Internet at *http://www.nmfs.noaa.gov/pr/PR2/Stock__Assessment__Program/sars.html*.

Background

Section 117 of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare stock assessments for each stock of marine mammals occurring in waters under the jurisdiction of the United States. These reports must contain information regarding the distribution and abundance of the stock, population growth rates and trends, estimates of annual human-caused mortality and serious injury from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial reports were completed in 1995.

The MMPA requires NMFS and FWS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available, and at least once every 3 years for non-strategic stocks. NMFS and the FWS are required to revise a SAR if the status of the stock has changed or can be more accurately determined. NMFS, in conjunction with the Alaska, Atlantic, and Pacific Scientific Review Groups (SRGs), reviewed the status of marine mammal stocks as required and revised reports in the Pacific region.

The SARs in the Alaska and Atlantic regions were reviewed along with new information on these stocks of marine mammals. Although new abundance or mortality estimates were available for some stocks in these regions, the status of no stocks in these regions would be changed. Furthermore, NMFS could not determine the status of marine mammal stocks in the Alaska or Atlantic regions with substantially improved accuracy. Completion of the draft 2004 reports was delayed due to several factors, and the draft 2005 reports are now being completed. Therefore, the reports in these two regions were not revised, and updated information will be included in the 2005 reports.

NMFS convened a workshop in June 1994, including representatives from NMFS, FWS, and the Marine Mammal Commission (Commission), to prepare draft guidelines for preparing SARs. The report of this workshop (Barlow et al., 1995) included the guidelines for preparing SARs and a summary of the discussions upon which the guidelines were based. The draft guidelines were made available, along with the initial draft SARs, for public review and comment (59 FR 40527, August 9, 1995).

In 1996, NMFS convened a second workshop to review the guidelines and to recommend changes, if appropriate, to them. Workshop participants included representatives from NMFS,

FWS, the Commission, and the three regional SRGs. The report of that workshop (Wade and Angliss, 1997) summarized the discussion at the workshop and contained revised guidelines. The revised guidelines represented minor changes from the initial version. The revised guidelines were made available for public review and comment along with revised stock assessment reports on January 21, 1997 (62 FR 3005).

In September 2003, NMFS again convened a workshop to review guidelines for SARs and again has proposed minor changes to the guidelines. Participants at the workshop included representatives of NMFS, FWS, the Commission, and the regional SRGs. Changes to the guidelines resulting from the 2003 workshop were directed primarily toward identifying population stocks and estimating PBR for declining stocks of marine mammals.

Comments and Responses

The draft 2004 SARs and the proposed revisions to guidelines were available for public review (69 FR 67541, November 18, 2004) for a 90–day comment period, which ended on February 16, 2005. NMFS received five letters (two from the Commission, one each from the Center for Biological Diversity and the Ocean Conservancy, and one from a marine mammal scientist) with substantive comments on the Pacific SARs or on the proposed revisions of guidelines for preparing stock assessment reports. Two letters addressed Pacific SARs, and three addressed the proposed revisions to the guidelines.

Unless otherwise noted, comments suggesting editorial or clarifying changes were included in the reports. Such editorial comments and responses to them are not included in the summary of comments and responses below.

Alaska and Atlantic Regional Reports

Comment 1: We are disappointed that NMFS is declining to follow the mandates of the MMPA and prepare new stock assessment reports for the Alaska and Atlantic/Gulf regions. The MMPA explicitly requires that NMFS review and, if necessary, revise the stock assessments at least once annually for stocks which are specified as strategic stocks; at least annually for stocks for which significant new information is available; and at least once every 3 years for all other stocks. Given that we are already well into 2005, it seems too late for NMFS to prepare new draft 2004 SARs for the Atlantic and Alaska regions. However, we hope that this will not become a pattern and that NMFS will promptly finalize the 2004 Pacific SARs and shortly issue proposed 2005 SARs for all three regions.

Response: NMFS followed the mandates of the MMPA in reviewing and revising reports for the Alaska and Atlantic regions, as well as the Pacific region. As the comment notes, the MMPA explicitly requires NMFS to review reports on a specific schedule. If the results of a review indicate that a change is necessary, then NMFS must revise the reports. The conditions for revising the reports are that the status of a stock has changed or that its status could be more accurately determined. No Alaska or Atlantic stocks would have changed status, and no status could be determined with improved accuracy; therefore, NMFS did not update the Alaska and Atlantic regional reports.

In the past, NMFS has updated reports to include the latest information whether or not this information changed the status or allowed the status to be determined with improved accuracy. Because the 2004 reports were updated so late in 2004, NMFS limited its updates to the reports in the Pacific region where significant new information (the results of the first comprehensive cetacean survey in the Hawaii Exclusive Economic Zone) was available. NMFS has updated reports in all three regions in its 2005 reports and will soon have the draft reports available for public review and comment.

Comment 2: Stock assessment reports were not updated in 2004 for the Atlantic and Alaska regions. The proffered reason was that the stocks in this region did not change status or the status could not be determined more accurately. For the Alaska region, however, fishery interactions changed for more than 20 stocks due to the delineation of Alaskan fisheries described in the 2004 List of Fisheries: six major fisheries were split into 25 smaller fisheries based on target species and geographic location, with resulting accounting changes for fishery-specific interactions. As noted in the Commission's comments on the proposed 2005 List of Fisheries, the tally of stocks interacting with the original six fisheries is greater than the tally of stocks killed or seriously injured incidental to the newly-identified 25 fisheries. Revising the reports for Alaska stocks in 2004 may have highlighted this error.

Response: Although NMFS reviewed all reports as required, no stocks changed status, and the status of no stocks could be determined with improved accuracy in the Alaska and Atlantic regions; therefore, NMFS was not required to revise the reports. NMFS could have, as in the past, updated the reports to include the latest information. However, NMFS determined that leaving the Alaska and Atlantic reports until the 2005 cycle would increase efficiency in the preparation an review of the most recent information for updating the reports (see Comment 3).

Total fishery mortality for each stock of Alaska marine mammals did not change because NMFS split existing fisheries on the basis of target species and location of operation. Rather, the total mortality is partitioned differently; thus, the status of the stocks would not have changed. NMFS will respond to comments on the draft 2005 List of Fisheries in a separate notice in the **Federal Register**.

Comment 3: In its comments on NMFS' 2003 SARs, the Commission noted that the draft 2003 reports were submitted for public review and comment while the regional SRGs were reviewing the draft 2004 reports and expressed concern that the information in the draft 2003 reports would soon be outdated. The fact that NMFS did not update the Atlantic and Alaska stock assessments may have been due to efforts to provide more timely draft reports incorporating the most current data for review and comment.

Response: In its response to the Commission's comment on the draft 2003 reports, NMFS noted that the 2004 draft reports were already late and that 2005 represented the first opportunity to return to its schedule (69 FR 54262, September 8, 2004). NMFS did not update the Alaska and Atlantic SARs in 2004 as a mechanism to get back on its schedule for annual reports in 2005 and to incorporate the latest information available in SARs.

Stock Identification and Definition

Comment 4: We agree that when data indicate a different stock structure or stock boundaries, it is appropriate to include this information as ''prospective stocks'' within the SARs. We also agree that the SARs should include descriptions of prospective stocks, the evidence for the new stocks, calculations of the prospective PBR and mortality estimates, by source, for each new stock. NMFS should make every effort to secure additional information to make a final determination of the stock structure of prospective stocks. The guidance related to demographic isolation as the basis for identifying stocks of marine mammals and the addition of prospective stocks provide a

conservative and scientifically sound interpretation and approach toward the identification of new stocks and are consistent with the goals and objectives of the MMPA.

Response: NMFS agrees.

Comment 5: We are concerned that by identifying prospective stocks rather than by simply re-designating new stock boundaries, NMFS may delay proper reclassification of these stocks in the SARs. A prospective stock cannot be formally designated as depleted or strategic and would, thus, not gain the statutory protections of the MMPA that a properly designated stock would. It took FWS over 4 years to designate multiple stocks of sea otters in Alaska, and NMFS has long known that harbor seals in the Gulf of Alaska constitute more than one stock but has not designated them as such.

Response: There is nothing simple about re-designating a stock boundary, which requires substantial information to distinguish between adjacent stocks accurately. Therefore, the amount of information required to change a stock boundary is much greater than the amount of information required to indicate that actual population structure is different, generally smaller, than the structure currently identified. In this regard, it was relatively easy for NMFS to obtain data indicating that there may be more than on stock of harbor seals in the Gulf of Alaska; however, identifying new stock boundaries requires more information. A review of the genetics information supporting a revision of Alaska harbor seal stocks has only recently been completed, and NMFS is working with its co-management partners to evaluate the science and other information in revising harbor seal stock structure.

NMFS realizes the limitations of prospective stock identities for management purposes. However, NMFS maintains that identifying prospective stocks has conservation value by showing areas where mortality may be higher than the local aggregation of marine mammals can sustain or where abundance trends indicate the potential for localized depletions. Thus, prospective stocks would be included in SARs as an interim measure during the period when additional information supporting a change in stock identity can be collected, analyzed, and interpreted.

Comment 6: The Commission supports the revised definition of stock (a management unit that identifies a demographically isolated biological population where animals are considered to be demographically isolated if the population dynamics of the affected group are more a consequence of births and deaths within the group (internal dynamics) rather than by immigration or emigration (external dynamics).) The revisions arguably are in keeping with the definition of stock in the MMPA and the goals of the MMPA; however, we believe that a more rigorous analysis of how the proposed distinctions tie into the applicable statutory definition is needed.

Response: NMFS notes that identifying demographically isolated groups of marine mammals as population stocks is not new with these proposed changes to the guidelines. The original guidelines for preparing stock assessments (Barlow et al., 1995) included stock identities based upon demographic isolation. The initial guidelines did not specifically mention demographic isolation; however, the background information discussed at the first PBR workshop, summarized in Barlow et al. (1995), clearly describes demographic isolation as the basis for stock identity. The first PBR workshop included representatives from NMFS, FWS, and the Commission. The initial guidelines were reviewed by the three regional SRGs when the SRGs were first convened in October 1994 and were made available for public review and comment.

In 1996, NMFS evaluated its initial guidelines in a workshop, including representatives from NMFS, FWS, the Commission, and the regional SRGs, and changed them to explicitly include demographic isolation as a basis for stock identity. Again, the proposed guidelines were made available for public review and comment. Thus, the concept of demographic isolation as the basis for stock identity has been in existence since NMFS and FWS initially complied with MMPA section 117.

The statutory text related to distinct population segments in the Endangered Species Act (ESA) is similar to the MMPA's definition of population stock. NMFS and FWS implement these concepts differently based upon the purposes and policies of the two statutes and on Congressional reports (see responses to Comments 7 and 8).

Comment 7: The Commission believes NMFS should develop criteria for applying the modified guidelines to determine when a population is demographically isolated to an extent that it is a discrete group that warrants recognition as a separate stock and would welcome the opportunity to assist in the development of these criteria.

Response: NMFS is in the process of evaluating how it identifies management or conservation units under each of its major statutes (the MMPA, the ESA, and the Magnuson-Stevens Fishery Conservation and Management Act). In the preliminary stages of this evaluation, it is becoming apparent that there is wide variation in the degree of structuring or demographic isolation among populations. A key question in the evaluation will be just what degree of isolation or structuring is necessary for groups of marine mammals to be separate stocks. The evaluation will address, among other things, if the approaches NMFS uses are consistent with the language of the statutes, statutory purposes and policies, and pragmatic considerations in implementing its stewardship obligations. If the evaluation suggests improvement in articulating its policies related to marine mammal population structure are warranted, NMFS would use the same steps as were used in the initial development and revision of its guidelines for marine mammal stock assessment. That is, the revision would include close coordination with the Commission, FWS, and the three regional SRGs, and it would include an opportunity for public review and comment before implementing a policy revision.

The comments received on these proposed changes to the guidelines are sufficient to question the proposed interpretation of ''interbreed when mature''. Therefore, NMFS has removed that statement, and its example related to humpback whales, from the final revised guidelines.

Comment 8: The Commission suggests NMFS carefully consider the relationship of the term ''population stock'' under the MMPA (''...a group of marine mammals of the same species or smaller taxa in a common spatial arrangement that interbreed when mature.'') and the term ''species'' under the ESA (''...any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'') To the maximum extent practical, the agencies implementing these statutes should adopt compatible definitions of these terms or clearly explain why they are treating them differently. The changes proposed to the definition of stock in the stock assessment guidelines could lead to further distinction of the applicable management unit under the two acts, exacerbating differences in their interpretation and implementation.

Response: NMFS is aware that the definition of ''population stock'' under the MMPA is very similar to the term

''distinct population segment'' within the definition of ''species'' under the ESA. NMFS and FWS have cooperated in their implementation of these terms in management under the two statutes.

FWS and NMFS jointly developed a policy to identify distinct population segments under the ESA (61 FR 4722, February 7, 1996). The agencies, in consultation with the Commission, also jointly developed its policies for identifying population stocks under the MMPA. These policies were developed with careful consideration of the specific wording of pertinent definitions within the statutes, the purposes and policies of the statutes, and appropriate legislative history.

As noted in Barlow *et al.* (1995) and Wade and Angliss (1977), NMFS and FWS relied heavily upon the purposes and policies of the MMPA, particularly reference to maintaining marine mammal population stocks as functioning elements of their ecosystems, in the policies for identifying population stocks. Consequently, the agencies developed guidelines for identifying population stocks to minimize the potential for localized depletions and concluded that demographic isolation was a key consideration in stock identity. As aggregations of marine mammals become discrete from one another, with evidence for discreteness available from any of several lines of evidence, the groups are recognized as separate population stocks.

As noted in their final policy statement, FWS and NMFS also included a discreteness criterion to identify distinct population segments under the ESA. However, the purposes of the ESA are different from those of the MMPA, and the agencies added a second criterion, significance, to their consideration. Thus, to be considered a distinct population segment, a group of vertebrates would have to be discrete from other aggregations of the same species or subspecies, and it would have to be important (or significant) in an evolutionary sense to the species or subspecies. The significance criterion was based somewhat upon Congressional guidance to list distinct populations segments sparingly and only when the biological evidence indicates that such action is warranted (Senate Report 151, 96th Congress, 1st session). The policy for identifying distinct population segments under the ESA has been legally challenged and has withstood judicial review.

PBR Elements, Mortality, and Status of Stocks

Comment 9: We disagree with NMFS' proposal to label the PBR for declining stocks as ''undefined'', including the interpretation, ''...a PBR of zero may not reflect the concept of PBR included in the narrative definition. Furthermore, a PBR of zero would be inconsistent with Congress' concerns about the need to establish a procedure that allows for occasional taking of threatened or endangered species incidental to commercial fishing.≥

Response: The narrative definition of PBR suggests that if human-caused mortality is less than PBR and the population is below its carrying capacity, the population would grow. In some cases, such population growth is not realized. For example, human-caused mortalities of Hawaiian monk seals and northern fur seals are below the stocks' PBR levels; yet both populations are declining. Even if human-caused mortality were completely eliminated, these stocks would continue to decline; therefore, a calculated value for PBR would conflict with the narrative definition of PBR in the MMPA.

However, the MMPA defines PBR explicitly; therefore, the use of ''undefined'' is in conflict with wording of the statute. In some cases, a calculated maximum number of marine mammals that may be removed from the stock while allowing the stock to achieve or maintain its OSP cannot be determined; therefore, NMFS has altered the final guidelines to use the term ''undetermined'' rather than the proposed term ''undefined''. NMFS maintains its position that the ''undetermined'' label for PBR of declining stocks is appropriate in some cases and will include it in the final guidelines. The use of an undetermined PBR will be evaluated on a case-by-case basis and explained in the affected SAR. NMFS agrees that the statement quoted in the comment may be misleading or confusing and removed it from the final guidelines.

Comment 10: We believe that the undefined PBR proposal would undermine rather than further Congressional intent in enacting the MMPA. The purpose of PBR is to establish a scientifically conservative level of mortality and serious injury whereby ''the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population''. If a stock is declining, allowing any level of take would likely exacerbate that decline, further preventing that stock from achieving its optimum sustainable population (OSP). An undefined PBR does nothing to promote the recovery of that stock; whereas, a PBR of zero makes it clear that the stock cannot sustain any mortality or serious injury.

Response: In the hypothetical sense, the comment is correct that any additional mortality could exacerbate the trend of a declining stock. In a more realistic sense, a low level of human-caused mortality in a declining stock could not be detected from natural variability in mortality.

Establishing a PBR of zero for all declining stocks of marine mammals could have adverse consequences for marine mammal conservation as well as for commercial, defense-related, or recreational activities within marine ecosystems. On one hand, a PBR of zero would highlight even a minor level of incidental mortality as a substantial conservation issue and would, therefore, have the potential to take resources away from other, more immediate, factors affecting the stock. On the other hand, a PBR of zero for all declining stocks of marine mammals would mean that even a very small level of incidental mortality and serious injury could not be authorized under the MMPA. Thus, commercial or recreational opportunity could be diminished with little or no benefit to the affected marine mammal stock or stocks. NMFS, therefore, will maintain the ability to label PBR as undetermined in a limited number of cases, and, when such a label occurs, NMFS will include a justification for it in the affected SAR.

Comment 11: An undefined PBR would undermine and make unworkable the provision of the MMPA that allows the incidental take of threatened and endangered marine mammals. While Congress intended that there be a procedure that would allow for the incidental take by fishermen of small numbers of threatened and endangered marine mammals, that procedure only allows take when it would have a negligible impact on the stock. Because NMFS uses a function of PBR (10 percent of PBR) as a benchmark for negligible impact, an undefined PBR would prevent NMFS from determining what level of take meets this standard.

Response: NMFS has used 10 percent of a stock's PBR as a quantitative approach to estimate a level of mortality and serious injury that would be consistent with the qualitative definition of negligible impact. NMFS traced the use of this approach and described the reasons for deviating from it in previous documents (see 65 FR

35904). Briefly, NMFS determined that mortality limited to 10 percent of a stock's PBR would meet another performance criterion recommended by the Commission for negligible impact determinations (delaying recovery of a depleted stock of marine mammals by no more than 10 percent of the recovery period if the mortality were not occurring).

NMFS has not investigated the limits of mortality or serious injury that would have a negligible impact on a declining stock. However, such an investigation is necessary to establish a policy on levels of mortality of declining stocks that can be authorized. NMFS is initiating research to identify and evaluate the consequences to populations of options for a negligible impact threshold for declining populations and will use a notice-and-comment process in implementing an approach when the initial research is complete.

Comment 12: We believe that in cases where a stock is declining, especially in those cases where the stock may be threatened or endangered, NMFS must establish some level of PBR, and in some cases, a PBR of zero may be most appropriate.

Response: NMFS agrees that in some cases, the appropriate PBR will be zero. The PBR of Western North Atlantic right whales was changed to zero in 2000 to reflect the view that any human-caused mortality would inhibit their potential for recovery. In other cases where populations are declining, a low level of mortality would not necessarily inhibit the stock's potential for recovery, and NMFS has used a number greater than zero as the PBR. For a few cases, it is not known what maximum number of human-related deaths or serious injuries would allow a currently declining population to recover to its OSP. For these few unknown situations, the PBR would be undetermined.

Comment 13: We believe all stocks should have a defined PBR level so human-related mortality can be compared to PBR. In circumstances where a decline is not apparently the result of direct human-related mortality, as with Hawaiian monk seals, the PBR should not be set as ''undefined'', which would potentially allow high levels of fishery-related mortality to occur. The PBR should instead be set to zero. An undefined PBR could be interpreted as a blank check for fisheries-related mortality, and such a result is incompatible with the purposes of the MMPA.

Response: As noted in responses to other comments, a PBR of zero for declining stocks may be inappropriate for some situations and appropriate for others. However, an undetermined PBR does not necessarily mean that NMFS could authorize any level of taking for the affected stocks. To authorize the take of threatened or endangered stocks of marine mammals, NMFS would have to determine that incidental mortality and serious injury would have a negligible impact on the stock. When the relatively simple approach of comparing expected mortality and serious injury to a proportion of PBR would not be available because PBR was undetermined, NMFS would include an explanation of why the level of mortality and serious injury expected for the upcoming 3–year period (as allowed under MMPA section 101(a)(5)(E)) would have a negligible impact.

Comment 14: The guidelines for recovery factors in the PBR calculation allow the use of a recovery factor above default levels in certain circumstances. The Commission recommended that default recovery factors be used until such time as NMFS has reviewed situations in which the recovery factor might be raised for stocks of unknown status and has developed evidence-based criteria that ensure such stocks are not further disadvantaged by human-caused mortality.

Response: The guidelines strictly limit the situations in which recovery factors higher than default values can be used. One situation includes cases where estimates of human-caused mortality are relatively unbiased due to high observer coverage. The guidelines also state that recovery factors of 1.0 for stocks of unknown status should be reserved for cases where there is assurance that abundance, net productivity, and mortality are unbiased and where the stock structure is unequivocal.

The other situation occurs when mortality estimates are higher than a PBR calculated with the default recovery factor and the population is increasing (for stocks for which the principal mortality factor is subsistence harvest, the population is not known to be decreasing). For this situation, the guidelines state, ''Values other than the defaults for any stock should usually not be used without the approval of the regional [SRG], and scientific justification for the change should be provided in the Report''. The current guidelines provide reasonable assurances related to increasing recovery factors from default values in only a few limited situations; therefore, NMFS does not plan to change them at this time.

Comment 15: Regarding NMFS' proposal to assign mortality when dead animals are observed or reported where stocks are mixed and there is insufficient information to identify which stock dead animals belonged, the Commission recommends that NMFS reconsider its options for attributing deaths to stocks and develop alternatives that do not pose disproportionately larger risks to small, vulnerable stocks.

Response: NMFS agrees that assigning mortality proportional to stock size may cause disproportionate risk for small stocks and, in some cases, will maintain the option to evaluate the impact of the estimated mortality as if all deaths were assigned to a single stock. Consequently, NMFS modified the guidelines to require a discussion of the potential for bias in stock-specific mortality in each affected report.

Comment 16: The Commission reiterated a recommendation from a previous set of comments that 10 percent of a stock's PBR (using northern fur seals, with its PBR of about 12,500, as an example) does not seem to be insignificant and approaching zero, particularly in a case where recent evidence indicates the stock is declining.

Response: The Commission points out one of the difficulties of using a simple calculation to quantify a difficult concept. Although more than 1,000 deaths may seem like a large number, the impact of such a level of mortality would be insignificant to the stock (if it were 10 percent of the stock's PBR). Furthermore, the MMPA uses the term, ''zero rate'', rather than ''zero''. In the case of a pinniped stock with default values used for maximum net productivity rate and the recovery factor (0.5 for a stock that is threatened, depleted, or of unknown status), 10 percent of PBR represents 3 animals per 1,000 in the population. Such a rate (3/1,000) is sufficiently small as to be ''approaching zero''.

Comment 17: In the status of stocks section, the default decision seems to be that stocks are not strategic until information is available, as suggested by the current draft assessments for stocks in the Pacific in which all stocks without population trend and mortality estimates were considered non-strategic, except for those stocks listed as endangered. The Commission recommended NMFS follow its own guidelines and take a more precautionary approach when designating status for stocks for which essential information is lacking.

Response: The guidelines state, ''If abundance or human-related mortality levels are truly unknown (or if the fishery-related mortality level is only

available from logbook data), some judgement will be required to make this determination. If the human-caused mortality is believed to be small relative to the stock size based on the best scientific judgement, the stock could be considered as non-strategic. If human-caused mortality is likely to be significant relative to stock size (e.g., greater than the annual production increment) the stock could be considered strategic. In the complete absence of any information on sources of mortality, and without guidance from the Scientific Review Groups, the precautionary principle should be followed and the default stock status should be strategic until information is available to demonstrate otherwise.'' In some cases, NMFS scientists must make a recommendation for the status of a stock based upon the scientists' best judgement because there is insufficient information available to provide an estimate of abundance or mortality, and the MMPA does not provide for a status of ''unknown'' when determining whether the stock is strategic or not strategic. In each case, the judgement is reviewed by, and is often discussed with, the affected regional SRG. Therefore, NMFS is following its own guidance.

Pacific Regional Reports

Comment 18: The distribution maps of Hawaiian cetaceans largely reflect the distribution of animals detected during a large-scale vessel survey of Hawaiian waters in 2002 (Barlow, 2003), and sighting data from nearshore surveys might be included to give the reader a better idea of the distribution of some of these species.

Response: An effort will be made to incorporate more comprehensive distribution maps in the next revision of Hawaii stock assessment reports.

Comment 19: The Commission recommended that the agency develop a way of assessing potential interactions between Hawaiian monk seals and the bottomfish fishery because logbook information does not include information on protected species interactions.

Response: An observer program was initiated in this fishery in late 2003 with 33 percent observer coverage. No interactions with monk seals were observed. This information was not available at the time the 2004 draft report was prepared and will be included in the draft 2005 monk seal assessment. The MMPA and implementing regulations require commercial fishers to report all injuries to NMFS within 48 hours of the injury or return from the fishing trip.

Comment 20: Evidence of vessel collision in the form of propeller scars should be mentioned as a possible source of mortality for short-finned pilot whales (Hawaii stock). Photographic ID efforts are being used to determine movements of these animals among the main Hawaiian Islands.

Response: A ship-strike section which describes such vessel interactions has been added to this stock assessment report. Photo-ID information has also been added to this SAR.

Comment 21: There is new genetic and photo-ID data available on the stock structure of bottlenose dolphins around the Hawaiian Islands.

Response: This information was reviewed in January 2005 by the Pacific SRG and was not available at the time the draft 2004 reports were prepared. When genetic analyses are complete, this information will be incorporated into the next stock assessment revision for this stock.

Comment 22: There is information available on the stock structure of rough-tooth dolphins (Hawaii stock) from genetic samples (Formica *et al.*, 2003) and additional information from photographic identification of individuals.

Response: The Formica et al. abstract reviewed preliminary information on distinct geographic variation among animals from the Pacific Ocean, Atlantic Ocean, and the Gulf of Mexico, without addressing smaller-scale stock issues around the Hawaiian Islands. The draft 2004 SAR stated that there was currently no information available on stock identity within the north Pacific. Information on the photo-identification catalog of individuals from the main Hawaiian Islands has been added to the Stock Definition and Geographic Range section of this stock assessment report.

Comment 23: The abundance of dwarf sperm whales in Hawaiian waters may be underestimated because of their deep-diving habits, cryptic behavior, small size, and the difficulty in identifying this species beyond the genus level.

Response: Additional text reflecting potential bias in estimating abundance has been added to this SAR.

Comment 24: Beaked whales have been involved in mass stranding events linked to military active sonars, and these types of military activities occur frequently around the Hawaiian Islands.

Response: The Mortality section of the beaked whale SARs contain a discussion of potential mortality or injury related to anthropogenic noise. These discussions have been expanded slightly to include activities using sonar.

Comment 25: A commenter provided additional information on photo-ID work on Blainville's beaked whales around the Hawaiian Islands and noted that this is one species that is sensitive to active military sonar activities.

Response: Information on recent photo-ID work has been included in this SAR.

Comment 26: The Commission recommended updating mortality estimates and ZMRG information related to set gillnets for all harbor porpoise stocks in California, following the closure of that fishery in 2002.

Response: Mortality estimates were updated for the Morro Bay and Monterey Bay stocks through 2002. The San Francisco-Russian River and Northern CA/Southern OR stocks occur outside of the region where the set gillnet fishery has been allowed to operate. Further updates on fishery mortality related to the set gillnet closure will be added in the next revisions of the harbor porpoise stock assessments.

Comment 27: The Commission recommended describing the previous levels of takes of harbor porpoise (Morro Bay stock) in the white seabass set gillnet fishery to allow readers to determine if the current lack of mortality estimates for this fishery warrant concern.

Response: The reference to takes of harbor porpoise in the white seabass gillnet fishery near Morro Bay are for animals taken late in the 1950s (Norris and Prescott, 1961). These takes were documented in 15 fathoms (27 m) of water. Current regulations prohibit gillnets from being fished in waters more shallow than 110 meter, and harbor porpoise in this region are found primarily in waters shallower than 60 meters (Carretta *et al.*, 2001). Because of these depth restrictions, it is expected that harbor porpoise interactions with the white seabass fishery would be near zero. The SAR was modified to reflect this information.

Comment 28: The Commission recommended that the Fisheries Information section of the humpback whale, (Eastern North Pacific stock) be revised to indicate which interactions were considered serious injuries and which of these are reported in Table 1. There was also a recommendation to move the 1997 incident to the Fishery Information section and remove the incident from Table 1 because it does not qualify as a serious injury.

Response: Table 1 of this report summarizes injuries related to line/gear entanglement, even if these are not immediately deemed ''serious injuries'' at the time the whale was sighted. The

nature of these trailing-gear interactions may result in serous injuries long after the whale is initially sighted. It is unclear at this point whether to classify these as serious injuries or not, but by including them in Table 1, the injuries are effectively tallied as a ''take'', which is more conservative than excluding them for lack of classification. The 1997 incident of a humpback whale swimming away with a salmon hook and many feet of monofilament falls in this category and is retained in Table 1.

Comment 29: The Commission suggested adding a figure showing population trend data of blue whales (Eastern North Pacific stock) to allow the reader to evaluate the apparent decline suggested under Current Population Trend.

Response: A figure showing line-transect abundance estimates from 1991–2001 in California waters has been added to this SAR to indicate trend.

Dated: June 14, 2005.

James H. Lecky,

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

[FR Doc. 05–12106 Filed 6–17–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 20, 2005.

Title and OMB Number: Survey to Determine Economic Costs and Impact to Employers of Mobilized Reserve Component Members; OMB Control Number 0704–TBE.

Type of Request: New.

Number of Respondents: 2,745.

Responses per Respondent: 1.

Annual Responses: 1,699.

Average Burden per Response: .72.

Annual Burden Hours: 1,223.

Needs and Uses: As the duration and frequency of reliance on Reserve members increases, the number of employers operating with reduced work forces for longer periods is also increasing. Understanding how employer operations are impacted, the adjustments they make to sustain operations, and the cost to make these adjustments is the focus of this research. The self-administered survey will be mailed to a nationally representative sample of United States employers of Guard and Reserve members mobilized since 2002. Collected information will be used to identify unmet needs, to evaluate the economic effects of DoD policy on the civilian economy, and to guide development of or revisions to policy and program initiatives.

Affected Public: Business or other for-profit; not-for-profit institutions; State, local or tribal government.

Frequency: One Time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Lewis Oleinick.

Written comments and recommendations on the proposed information collection should be sent to Mr. Oleinick at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings, WHS/ESD Information Management Division, 1225 South Clark Street, Suite 504, Arlington, VA 22202–4326.

Dated: June 7, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–12069 Filed 6–17–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 05–27]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 dated July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/OPS–ADMIN, (703) 604–6575.

The following is a copy of a letter to the Speaaker of the House of Representatives, Transmittal 05–27 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: June 14, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M