

and develop a cycle for submission and processing of applications for permits.

Some commenters indicated that the ANPR was too general to allow for meaningful comment. Others provided suggestions for modifications or expressed support for or opposition to changes proposed in the ANPR. Based on comments received, and an internal scoping process, NMFS has developed more specific proposed revisions, additions, and restructuring to form the basis of one or more alternatives to be evaluated in an EA for a Proposed Rule to revise NMFS marine mammal permit application procedures and permit requirements. This internal scoping summary document contains proposed regulatory language but does not represent a preferred alternative. Rather, it indicates where NMFS believes changes to the permit regulations are needed. The internal scoping summary document and comments on the ANPR are available at [https://www.nmfs.noaa.gov/pr/permits/mmpa\\_regulations.htm](https://www.nmfs.noaa.gov/pr/permits/mmpa_regulations.htm).

NMFS is preparing an EA to evaluate the potential environmental impacts of promulgating revised regulations governing permit application submission, review, and decision procedures including issuance criteria, penalties and permit sanctions, and permit conditions related to reporting, permit modifications, and restrictions. The purpose of the proposed revisions to the regulations is to improve their utility by clarifying, reorganizing, and updating the regulatory language. These improvements are needed to enhance readability, compliance, and enforcement.

This notice initiates a public scoping period that will inform the structure of alternatives and relevant information considered in the EA. The number and structure of the alternatives analyzed in the EA will be determined based on information gathered during scoping. NMFS is seeking public comments on the following:

(1) *New and revised definitions.* NMFS is considering a number of new definitions and revision of some existing definitions to clarify terms related to permit application submission, review, and decision procedures and permit terms and conditions.

(2) *Restructuring and re-ordering some sections.* NMFS is considering consolidating some sections of Subparts B (Prohibitions), C (General Exceptions), and D (Special Exceptions) of the regulations, reordering the regulations to parallel the structure of the MMPA, and adding sections on the Marine Mammal Inventory, public display, and

photography permits. For example, NMFS proposes consolidation of all marine mammal parts collection and transfer regulations into sections within subpart C, rather than the current distribution across multiple subparts.

(3) *Revisions and additions to application and permit requirements.* NMFS is considering substantial revisions and additions to the sections specific to permits for scientific research and enhancement, commercial and educational photography, and public display. For example, NMFS proposes insertions describing permit requirements for educational and commercial photography, which do not have specific regulations and are currently processed according to regulations for scientific research and enhancement.

(4) *Factors to consider in evaluating significance of impacts.* NMFS seeks comment from persons affected by or otherwise interested in the marine mammal permitting process related to how proposed regulatory changes may affect marine mammals and their environment, as well as on potential impacts on the regulated public.

NMFS will consider all comments received during the comment period. All hardcopy submissions must be unbound, on paper no larger than 8 1/2 by 11 inches (216 by 279 mm), and suitable for copying and electronic scanning. NMFS requests that you include in your comments: (1) Your name and address; and (2) Any background documents to support your comments, as you feel necessary. A draft EA will be made available for public review concurrent with publication of a notice of proposed rulemaking.

Dated: March 4, 2010.

**P. Michael Payne,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XR52**

#### Marine Mammals; File No. 14534

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

**ACTION:** Notice; receipt of amended application.

**SUMMARY:** Notice is hereby given that Ned Cyr, Director, NOAA Office of Science and Technology, Silver Spring, MD, has submitted a revised application for a permit to conduct research on marine mammals in the Pacific Ocean.

**DATES:** Written, telefaxed, or e-mail comments must be received on or before April 9, 2010.

**ADDRESSES:** The application and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species (APPS) home page, <https://apps.nmfs.noaa.gov>, and then selecting File No. 14534 from the list of available applications.

These documents are also available upon written request or by appointment in the following office(s):

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) 713-0376; and Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; phone (562) 980-4001; fax (562) 980-4018.

Written comments on this application should be submitted to the Chief, Permits, Conservation and Education Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713-0376, or by e-mail to [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov). Please include the File No. in the subject line of the e-mail comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits, Conservation and Education Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Tammy Adams or Carrie Hubard, (301) 713-2289.

**SUPPLEMENTARY INFORMATION:** On September 11, 2009, notice was published (74 FR 46745) of a request for a permit under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222-226).

The original application is a request for a five-year permit to conduct a research program involving studies of sound production, diving and other

behavior, and responses to sound of marine mammals, including endangered species. The results would be integrated with related studies and directly contribute to conservation management for sound producers and regulatory agencies by identifying characteristics of target species that are critical for passive monitoring, detection, and/or density estimation and by demonstrating how specific sounds, including simulated military sonar, may evoke behavioral responses in marine mammals. The experimental design involves temporarily attaching individual recording tags to measure vocalization, behavior, and physiological parameters as well as sound exposure. Behavior will be measured before, during, and after carefully controlled exposures of sound in conventional playback experiments. Tagged subjects will be exposed to received sound levels up to 180 dB re: 1 $\mu$ Pa. This study will involve various activities that could take animals by harassment, including close approaches, attachment of tags, and sound exposure. Small fragments of sloughed skin, which often remain attached to retrieved tags, would be used for genetic analyses. Target species include beaked whales and other odontocetes, key baleen whales, and pinniped species for whom such data have not been previously obtained; other marine species may be incidentally impacted. Please refer to the tables in the application for the numbers of marine mammals, by species and stock, that are proposed for this permit. The research will be focused in the waters within the U.S. Navy's Southern California Range Complex, and primarily near the vicinity of San Clemente Island.

The applicant has revised the application to (1) increase the number of Risso's dolphins (*Grampus griseus*), bottlenose dolphins (*Tursiops truncatus*), Pacific white-sided dolphins (*Lagenorhynchus obliquidens*), and northern elephant seals (*Mirounga angustirostris*) that may be harassed by close approach, focal follow, tag attachment, and sound exposure, to include these species as focal animals in the overall objectives; (2) increase the number of requested "tagless" playbacks for some cetacean species, such as blue whales (*Balaenoptera musculus*) and fin whales (*B. physalus*) and the social pelagic delphinids, but not for the more solitary and deep-diving beaked whale species, to increase data obtained on behavioral responses; (3) modify the proposed action area slightly northward to 35° 0' N; the longitude boundaries remain as before (from 116° 0' to 127°

0' W); and (4) clarify tagging and playback protocols and mitigation for when dependent calves are present.

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

Dated: March 3, 2010.

**Tammy C. Adams,**

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

[FR Doc. 2010-5014 Filed 3-9-10; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XU85

#### Marine Mammals; File No. 15261

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

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that Paul Ponganis, Ph.D., University of California at San Diego, La Jolla, CA 92093, has applied in due form for a permit to conduct research on leopard seals (*Hydrurga leptonyx*) in Antarctica.

**DATES:** Written, telefaxed, or e-mail comments must be received on or before April 9, 2010.

**ADDRESSES:** The application and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species (APPS) home page, <https://apps.nmfs.noaa.gov>, and then selecting File No. 15261 from the list of available applications.

These documents are also available upon written request or by appointment in the following office(s):

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) 713-0376; and

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

Written comments on this application should be submitted to the Chief, Permits, Conservation and Education Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713-0376, or by email

to [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov). Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits, Conservation and Education Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Kate Swails or Amy Sloan, (301) 713-2289.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Dr. Ponganis proposes to study the foraging behavior of leopard seals at Cape Washington, Antarctica. Backpack digital cameras and time depth recorders would be deployed on up to five leopard seals annually over five years (no more than ten seals total) to document diving and foraging behavior near the emperor penguin colony, and, for the first time, construct time-activity budgets and prey intake rates of these seals. The action could result in the incidental harassment of one leopard seal annually. The applicant requested incidental mortality of up to one leopard seal over a five-year period.

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 the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 4, 2010.

**P. Michael Payne,**

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

[FR Doc. 2010-5148 Filed 3-9-10; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XT21

#### Marine Mammals; File No. 555-1870

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