

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be established in the final results of this review (except, if the rate is zero or *de minimis*, *i.e.*, less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 187.25 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: November 3, 2010.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010-28287 Filed 11-8-10; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration [C-570-915]

Light-Walled Rectangular Pipe and Tube From the People's Republic of China: Rescission of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* November 9, 2010.

FOR FURTHER INFORMATION CONTACT: Austin Redington or Patricia Tran, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-1664 and (202) 482-1503, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 2010, the U.S. Department of Commerce ("Department") published a notice of opportunity to request an administrative review of the countervailing duty order on light-walled rectangular pipe and tube from the People's Republic of China ("PRC") for the period of review January 1, 2009, through December 31, 2009. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 75 FR 45094 (August 2, 2010). On August 30, 2010, in accordance with 19 CFR 351.213(b), the Department received a timely request from Sun Group Co., Ltd. ("Sun Group") to conduct an administrative review of Sun Group. No other party requested an administrative review.

On September 29, 2010, the Department published the notice of initiation of this countervailing duty administrative review with respect to Sun Group. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 75 FR 60076, 60082 (September 29, 2010).

Rescission of Countervailing Duty Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the party who requested the administrative review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested administrative review. On October 15, 2010, Sun Group timely withdrew its

request for an administrative review, and no other party requested a review. Therefore, in response to Sun Group's withdrawal of its request for review, and pursuant to 19 CFR 351.213(d)(1), the Department hereby rescinds this administrative review.

Assessment Instructions

The Department will instruct U.S. Customs and Border Protection ("CBP") to assess countervailing duties on all appropriate entries. For the Sun Group, countervailing duties shall be assessed at rates equal to the cash deposit or bonding rate of the estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: November 1, 2010.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010-28283 Filed 11-8-10; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XZ23

Taking of Threatened or Endangered Marine Mammals Incidental to Commercial Fishing Operations

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

ACTION: Notice; request for comments.

SUMMARY: NMFS proposes to issue a permit for a period of three years to authorize the incidental, but not intentional, taking of individuals from six marine mammal stocks listed under the Endangered Species Act (ESA) by groundfish fisheries in the Bering Sea and the Gulf of Alaska. In accordance with the Marine Mammal Protection Act (MMPA), NMFS has made a preliminary determination that incidental taking from commercial fishing will have a negligible impact on the endangered Central North Pacific (CNP) stock of humpback whales, Western North Pacific (WNP) stock of humpback whales, Northeast Pacific (NEP) stock of fin whales, North Pacific stock of sperm whales, and Western U.S. stock of Steller sea lions; and on the threatened Eastern U.S. stock of Steller sea lions. NMFS has insufficient funds to complete TRPs for the two stocks of humpback whales, for the North Pacific stock of sperm whales, and for the Western U.S. stock of Steller sea lions. Take Reduction Plans (TRPs) are not required for the NEP stock of fin whales or the Eastern U.S. stock of Steller sea lions because mortality and serious injury of these stocks incidental to commercial fishing operations are at insignificant levels approaching a zero mortality and serious injury rate. Recovery plans are being prepared or have been completed for these threatened or endangered species. A monitoring plan is in place, and vessels have been registered under the MMPA for the fisheries included in this proposed permit. Accordingly, NMFS proposes to issue the required permits to participants in the Alaska-based groundfish fisheries. NMFS solicits public comments on the negligible impact determination and on the proposal to issue this permit.

DATES: Comments must be received by November 24, 2010.

ADDRESSES: A draft Negligible Impact Determination (NID) for five of the affected stocks is available on the Internet at the following address: <http://www.alaskafisheries.noaa.gov/index/analyses/analyses.asp>. The final NID for the sixth stock, CNP humpback whales, is available on the Internet at the following address: http://www.fpir.noaa.gov/PRD/prd_humpback.html. Recovery plans for these species are available on the Internet at the following address: <http://www.nmfs.noaa.gov/pr/recovery/plans.htm#mammals>.

Address all comments to Kaja Brix, Assistant Regional Administrator, Protected Resources Division, Alaska Region, NMFS, Attn: Ellen Sebastian.

Comments may be submitted by e-mail to mmpapermitAK@noaa.gov. Include in the subject line the following document identifier: 0648–XZ23 permit. E-mail comments with or without attachments are limited to 5 megabytes. Written comments should be sent to Kaja Brix, Assistant Regional Administrator, Protected Resources Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802. Comments may be hand-delivered to the Federal Building, 709 West 9th Street, Room 420A, Juneau, AK; or may be faxed to (907) 586–7557.

All comments received are a part of the public record. All Personal Identifying Information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. Comments received after the 15-day comment period may not be considered or made part of the record.

FOR FURTHER INFORMATION CONTACT: Dana J. Seagars, Protected Resources Division AKR, (907) 271–5005, or Tom Eagle, Office of Protected Resources, (301) 713–2322, ext. 105.

SUPPLEMENTARY INFORMATION: NMFS is now considering the issuance of a 3-year permit under MMPA section 101(a)(5)(E) (16 U.S.C. 1371(a)(5)(E)) to participants registered in certain Alaska-based groundfish fisheries to incidentally take individuals from five marine mammal stocks listed as endangered under the ESA: The CNP stock of humpback whales, the WNP stock of humpback whales, the NEP stock of fin whales, the North Pacific stock of sperm whales, and the Western U.S. stock of Steller sea lions, and from one stock, the Eastern U.S. stock of Steller sea lions, listed as threatened.

Taking of individuals from these threatened or endangered stocks of marine mammals would be authorized incidental to operation of the following Federal and State-parallel Category II groundfish fisheries: the AK Bering Sea/Aleutian Islands flatfish trawl, AK Bering Sea/Aleutian Island pollock trawl, AK Bering Sea sablefish pot, and AK Bering Sea/Aleutian Islands Pacific cod longline fisheries. Because other stocks of threatened or endangered marine mammals are not taken incidental to groundfish fisheries in Alaska, no other species or stocks are considered for this proposed permit. There are no Category I fisheries designated in Alaska. Participants in Category III fisheries are not required to obtain incidental take permits under MMPA section 101(a)(5)(E) but are

required to report injuries or mortalities of marine mammals incidental to their operations for the taking to be authorized after a NID has been made. NMFS will consider issuing permits at a future date for the taking of the subject threatened or endangered species by participants in State-managed fisheries other than the State-parallel groundfish fisheries. State-parallel groundfish fisheries are included in this proposed permit. The data for considering these authorizations were reviewed coincident with the preparation of the proposed 2011 MMPA List of Fisheries (LOF) (75 FR 36318, June 25, 2010), the draft 2010 marine mammal stock assessment reports (dSAR) (Allen and Angliss 2010), and other relevant sources.

MMPA section 101(a)(5)(E) requires NMFS to authorize the incidental taking of individuals from marine mammal species or stocks listed as threatened or endangered under the ESA in the course of commercial fishing operations, if NMFS determines that: (1) Incidental mortality and serious injury will have a negligible impact on the affected species or stock; (2) a recovery plan has been developed or is being developed for such species or stock under the ESA; and (3) where required under section 118 of the MMPA, a monitoring program has been established, vessels engaged in such fisheries are registered in accordance with MMPA section 118, and a TRP has been developed or is being developed for such species or stock.

Determining Negligible Impact in Fisheries

Prior to issuing a permit to take ESA-listed marine mammals incidental to commercial fishing, NMFS must determine if that mortality and serious injury incidental to commercial fisheries will have a negligible impact on the affected species or stocks of marine mammals. NMFS satisfied this requirement through completion of a NID. NMFS clarifies that incidental mortality and serious injury include only direct mortality and serious injury, such as from entanglement or hooked in fishing gear. Indirect effects, such as the effects of removing prey from habitat, are not included in this analysis. An opinion prepared under ESA section 7 considers direct and indirect effects of Federal actions and, thus, contains a broader scope of analysis than is required by MMPA section 101(a)(5)(E).

Although the MMPA does not define “negligible impact”, NMFS has issued regulations providing a qualitative definition of negligible impact (50 CFR 216.3) and, through scientific analysis,

peer review, and public notice, developed a quantified approach and a process to make such determinations. The development of the approach and process was outlined in detail in the current draft NID made available through this notice and was included in previous notices for other permits to take threatened or endangered marine mammals incidental to commercial fishing (e.g., proposed for CNP humpback whales in 75 FR 8305, February 24, 2010 and final in 75 FR 29984, May 28, 2010).

NMFS has adopted the following criteria for making a negligible impact determination relevant to incidental take permits (64 FR 28800, May 27, 1999):

(1) The threshold for initial determination will remain at 10 percent of the Potential Biological Removal level (PBR). If total human-related serious injuries and mortalities are less than 10 percent of PBR, all fisheries may be permitted.

(2) If total human-related serious injuries and mortalities are greater than PBR, and fisheries-related mortality is less than 10 percent of PBR, individual fisheries may be permitted if management measures are being taken to address non-fisheries-related serious injuries and mortalities. When fisheries-related serious injury and mortality are less than 10 percent of the total, the appropriate management action is to address components that account for the major portion of the total.

(3) If total fisheries-related serious injuries and mortalities are greater than 10 percent of PBR and less than PBR and the population is stable or increasing, fisheries may be permitted subject to individual review and certainty of data. Although the PBR level has been set up as a conservative standard that will allow recovery of a stock, there are reasons for individually reviewing fisheries if serious injuries and mortalities are above the threshold level. First, increases in permitted serious injuries and mortalities should be carefully considered. Second, as serious injuries and mortalities approach the PBR level, uncertainties in elements such as population size, reproductive rates, and fisheries-related mortalities become more important.

(4) If the population abundance of a stock is declining, the threshold level of 10 percent of PBR will continue to be used. If a population is declining despite limitations on human-related serious injuries and mortalities below the PBR level, a more conservative criterion is warranted.

(5) If total fisheries-related serious injuries and mortalities are greater than PBR, permits may not be issued.

The NID Criterion (1) is the starting point for analyses. If this criterion is satisfied, the analysis would be concluded. The remaining criteria describe alternatives under certain conditions, such as fishery mortality below the negligible threshold but other human-caused mortality above the threshold, or fishery and other human-caused mortality between the negligible threshold and PBR for a stock that is increasing or stable. If NID Criterion (1) is not satisfied, NMFS may use one of the other criteria, as appropriate.

Description of the Fisheries

The following are the Federally-authorized and State-parallel groundfish fisheries classified as Category II in the 2010 LOF which are known to seriously injure or kill ESA-listed marine mammals incidental to commercial fishing operations. Detailed descriptions of these fisheries can be found in the June 2004 Alaska Groundfish Fisheries Final Supplemental Programmatic Environmental Impact Statement (<http://alaskafisheries.noaa.gov/sustainablefisheries/seis/>) and in NMFS (2010), a draft Biological Opinion (BiOp) on the groundfish fishery management plan the fisheries addressed in the draft BiOp henceforth are collectively referred to as the "Alaska groundfish fisheries." Certain aspects of the fisheries may be altered due to reasonable and prudent alternatives included in the BiOp; however, these changes in fishing operations are not expected to result in increased levels of mortality and serious injury of marine mammals, including threatened and endangered species.

Bering Sea/Aleutian Islands Flatfish Trawl

In 2008 the Amendment 80 program allocated most of the Bering Sea and Aleutian Islands (BSAI) rock sole, flathead sole, and yellowfin sole allocations to the trawl catcher processor sectors using bottom trawl gear. Other vessel categories and gear types catch some rock sole, flathead sole, and other flatfish incidentally in other directed fisheries. In 2009, 30 vessels targeted flatfish in the BSAI. Rock sole is generally targeted during the roe season. Then these vessels shift to several different targets, notably Atka mackerel, arrowtooth flounder, flathead sole, yellowfin sole, Pacific cod, and Pacific ocean perch. Vessels also can go into the Gulf of Alaska to fish for arrowtooth, Pacific cod, flathead sole, and rex sole. In the BSAI, most of the

rock sole, flathead sole, and other flatfish fisheries occur on the continental shelf in the eastern Bering Sea in water shallower than 200 m. Some effort follows the contour of the shelf to the northwest and extends as far north as Zhemchug Canyon. Very few rock sole, flathead sole, and other flatfish are taken in the Aleutian Islands due to the limited shallow water areas present.

Bering Sea/Aleutian Islands Pollock Trawl

In 2009, 117 vessels targeted pollock in the BSAI management area. The pattern of the modern pollock fishery in the BSAI is to focus on a winter, spawning-aggregation fishery. The A season fishery is January 20 through June 10. Fishing in this season lasts about 8–10 weeks depending on the catch rates. The B season is June 10 through November 1. Fishing in the B season is typically September through October and has been conducted to a greater extent west of 170° west long, compared to the A season fishing location in the southern Bering Sea. Directed fishing is closed for pollock in all areas from November 1 to January 20. Fishing is also closed around designated rookeries and haulouts out to 20 nm and within Steller sea lion foraging areas in the BSAI. The Bering Sea pollock total allowable catch (TAC) is allocated 40 percent to the A season and 60 percent to the B season. No more than 28 percent of the annual directed fishing allowance for pollock can be taken inside the Sea Lion Conservation Area in the southern Bering Sea before April 1.

Bering Sea/Aleutian Islands Pacific Cod Longline

In 2009, 55 vessels targeted Pacific cod using hook-and-line gear. Hook-and-line harvested Pacific cod are mostly taken along the slope of the continental shelf break and along the Aleutian Islands. Harvest is seasonally apportioned to A and B seasons for vessels greater than 60 feet length overall. The A season is January 1 through June 10 and the B season is June 10 through December 31. The annual TAC is apportioned 60 percent to the A season and 40 percent to the B season.

Bering Sea Sablefish Pot

Sablefish are harvested in relatively deep water along the continental slope (100–1,000 m) and along the Aleutian Islands. From 1996 to 2007, directed fisheries for sablefish have only been open to vessels using hook-and-line and pot gear in the BSAI. In 1995, sablefish

(as well as Pacific halibut) became a closed fishery for fixed gear based on historical participation. An individual fishing quota (IFQ) program was implemented, which assigns quota shares on an annual basis to authorized fishermen (50 CFR 679(d)). The directed sablefish fishery is open only to IFQ shareholders who use fixed gear (hook-and-line or pot gear) and starting in 2008 trawl catcher processors in the Amendment 80 cooperative. In 2009, 10 pot catcher vessels were active in this fishery.

Negligible Impact Determinations

Humpback Whale, Central North Pacific Stock

A NID for the CNP humpback whale was issued recently (75 FR 29984, May 28, 2010). That analysis included incidental taking by commercial fisheries in both Alaska and Hawaii waters. At the time, permits were issued to Hawaii-based fisheries but not to Alaska fisheries. NMFS has reviewed new information available since it issued the NID and confirms the NID for CNP humpback whales.

The current CNP humpback NID estimated mortality and serious injury of CNP humpback whales incidental to commercial fishing operations in HI and AK totaled 5.4 whales per year, which is 26.5 percent of the stock's PBR level. NMFS concluded that incidental mortality and serious injury at this total rate will have a negligible impact on CNP humpback whales. The time frame for the data used in that analysis was the five-year period from 2003 through 2007, pending availability of recent data. More recent information provided in the dSAR (Allen and Angliss, 2010) for the CNP humpback whale now estimates the PBR = 61.2 animals based on updated population assessment information and an increase of the Recovery Factor (RF) used to calculate PBR to 0.3. The dSAR provides a revised estimate for mortality and serious injury of CNP humpback whales incidental to commercial fishing operations in HI and AK at 3.8 whales per year, which is 6.2 percent of the stock's PBR level. Accordingly, NMFS reiterates the conclusion reached by the CNP humpback NID: Incidental mortality and serious injury due to commercial fisheries will have a negligible impact on CNP humpback whales based on the best scientific information for the 5-year period from 2003 through 2007, with inclusion, where available, of more recent data.

Humpback Whale, Western North Pacific Stock

NMFS has evaluated the best available information in assessing the interactions between ESA-listed WNP humpback whales and Alaska fisheries (including observer data), other fisheries (using primarily stranding and sightings data), and other sources of human-caused serious injury and mortality, to determine whether the incidental mortality and serious injury from all commercial fisheries will have a negligible impact on the stock. Allen and Angliss (2010) use an annual rate of increase of 7 percent for this stock and note this rate is considered conservative for the stock. One humpback whale mortality, reported in the Bering Sea sablefish pot fishery during the 2002–2006 period, occurred in an area of overlap between the WNP and CNP humpback stocks. Because of the uncertainty of stock assignment of that take, NMFS evaluated the potential impacts of this mortality on each of the possible source stocks. If this mortality removed an individual from the WNP stock, the mean annual mortality and serious injury rate for this stock attributable to commercial fisheries is 0.2 whales per year (Table 3 in the accompanying NID). NMFS stranding data contain no reports of fisheries-related WNP humpback whale strandings or entanglements; no mortalities or serious injuries have been recorded due to ship strikes. Thus, the estimated annual total human-caused injury rate for the WNP stock of humpback whales in the U.S. Exclusive Economic Zone (EEZ) for 2002–2006 is 0.2 whales per year. The PBR for this stock is 2.0 animals per year. NMFS regulations to classify fisheries in the annual LOF state that where total serious injury and mortality across all fisheries are equal to or less than 10 percent of a stock's PBR, all fisheries interacting with this stock would be placed in Category III. NMFS intends to propose changing fishery to Category III for the 2012 LOF, based on the current level of total serious injury and mortality from this stock (equal to 10 percent of the stock's PBR) and no takes of other marine mammals that would place it in Category II.

Accordingly, total human-caused mortality and serious injury are below the PBR for this stock. Because, as described in the accompanying NID, the stock is stable or increasing and annual human-caused mortality and serious injury are equal to 10 percent of PBR, NID Criterion (3) is the appropriate criterion for consideration. Under NID Criterion (3) fishery-related mortality

and serious injury would be considered negligible if such mortality and serious injury, in combination with other human sources of mortality, do not exceed PBR, subject to individual review and certainty of data. The NID Criterion (3) is satisfied in determining that mortality and serious injuries of the WNP humpback stock incidental to commercial fishing would have a negligible impact on the WNP humpback whale stock. This determination is supported by review of mortality and serious injury incidental to U.S. commercial fishing, stable or increasing growth rate of the stock, limited potential for increases in serious injury and mortality due to the relevant fisheries, the fact that total human-caused mortality and serious injury is below the estimated PBR and is not expected to delay recovery of the stock by more than 10 percent more than recovery time if these removals did not occur. Additional information is available in the draft NID.

Fin Whale, Northeast Pacific Stock

NMFS evaluated the best available information in assessing the interactions between ESA-listed NEP fin whales and Alaska fisheries (including observer data), other fisheries (using primarily stranding and sightings data), and other sources of human-caused serious injury and mortality, in order to determine whether the incidental mortality and serious injury from all commercial fisheries will have a negligible impact on the stock. Allen and Angliss (2010) reported an annual rate of increase of 4.8 percent and a PBR of 11.4 for this stock. Mortality of one NEP fin whale was reported in the Bering Sea/Aleutian Islands pollock trawl fishery during the 2002–2006 period, and the mean annual mortality and serious injury rate incidental to commercial fisheries is 0.23 whales per year (Table 10 in the accompanying NID). NMFS stranding data contain no reports of fisheries-related NEP fin whale strandings or entanglements in the EEZ offshore of Alaska. Based on the one mortality reported and investigated during 2002–2006, the minimum mean annual mortality/serious injury from ship strikes is 0.20 fin whales per year in Alaska. The estimated minimum annual total human-caused mortality and serious injury rate for the NEP stock of fin whales in the U.S. EEZ for 2002–2006 is 0.43 whales per year. Accordingly, total human-caused mortality and serious injury is below 10 percent of PBR (1.14) for this stock, and evaluation by NID Criterion (1) applies. Because all total human-related serious injuries and mortalities are less than 0.1

PBR, NMFS has determined that mortality and serious injury incidental to commercial fisheries will have a negligible impact on the NEP fin whale stock. Additional information is available in the accompanying draft NID.

Sperm Whale, North Pacific Stock

NMFS has not conducted a complete survey for sperm whales in waters off Alaska, and the abundance of the stock is unknown; therefore, a PBR for this stock is not available. Allen and Angliss (2010) noted that although key elements in understanding the biology and status of the population are currently unavailable, current levels of human-caused mortality and serious injury seem minimal for this stock. Criterion (1) in the 1999 guidelines indicates that total human-caused mortality and serious injury of the stock that is less than 10 percent of the stock's PBR would have a negligible impact on the affected stock. Allen and Angliss (2010) estimate that the Gulf of Alaska groundfish fishery takes (by serious injury and mortality) an annual mean of 3.5 sperm whales. No other mortality or serious injury of sperm whales is reported or observed incidental to commercial fisheries in Alaska. No other sources of human-caused mortality and serious injury of sperm whales are reported in Alaska. The draft 2010 Pacific SAR for sperm whales in California, Oregon and Washington reports an annual rate of 0.2 human-caused deaths of sperm whales per year. Therefore, human-cause mortality and serious injury of sperm whales in the North Pacific stock may be estimated as 3.7.

The formula for calculating PBR of North Pacific sperm whales can be rearranged to estimate the minimum number of sperm whales that would be required for 3.7 to be 10 percent or less of the stock's PBR. Rearranging the formula and solving for the minimum abundance estimate results in a minimum abundance of 18,500 sperm whales. Citing multiple sources, the draft BiOp (NMFS, 2010) states that practical working estimates of sperm whale abundance for the entire North Pacific range from 100,000 to 200,000 and that the number of sperm whales in the eastern North Pacific has been estimated to be 39,200.

The best available information (as reported in the draft BiOp and Allen and Angliss, 2010) indicates that there are sufficient sperm whales in the eastern North Pacific Ocean so that human-caused mortality and serious injury are less than 10 percent of a PBR for sperm whales in the eastern North

Pacific Ocean. Accordingly, the mortality and serious injury of North Pacific sperm whales incidental to commercial fishing would not cause more than a 10 percent delay in the time for the stock to recover. Therefore, NMFS has determined that mortality and serious injury incidental to commercial fishing will have a negligible impact on the North Pacific stock of sperm whales.

Steller Sea Lion, Western U.S. Stock

NMFS has evaluated the best available information to assess population status and trend and to evaluate the effect of interactions between Western U.S. stock of Steller sea lions and commercial fisheries in Alaska (including observer data), other fisheries (based on the scientific literature), and other sources of human-caused serious injury and mortality (surveys, anecdotal reports, and stranding and sightings data), to determine whether the incidental mortality and serious injury from all commercial fisheries will have a negligible impact on the stock. Recent exhaustive reviews of population status and trend have been completed by NMFS as part of the draft BiOp on the Alaska groundfish fisheries (NMFS 2010) and the stock assessment reports (SARs; Allen and Angliss 2010). Although the stock continues to decrease in the Western and Central Aleutians, it has, since 2004, been increasing in the Eastern Aleutians. The recent trend in the Gulf of Alaska has been one of short-term fluctuation in the central and western portions with a possible increase in the eastern portion likely related to a seasonal migration of individuals from the Eastern U.S. stock of Steller sea lions. The draft BiOp indicates that the overall population of the Western U.S. stock of Steller sea lions is stable and may be increasing at an annual rate of 1.5 percent (not statistically significant) (NMFS 2010).

The estimated minimum mean mortality and serious injury rate incidental to commercial fisheries over the 2002–2006 period is 26.2 Western U.S. stock Steller sea lions per year (Table 5 in the accompanying NID); 0.25 for the Bering Sea/Aleutian Islands Atka mackerel trawl, 3.01 for the Bering Sea/Aleutian Islands flatfish trawl, 0.85 for the Bering Sea/Aleutian Islands Pacific cod trawl, 3.83 for the Bering Sea/Aleutian Islands pollock trawl, 1.33 for the Gulf of Alaska pollock trawl, 1.98 for the Bering Sea/Aleutian Islands Pacific cod longline and 14.5 in the Prince William Sound salmon drift gillnet. The total is greater than 10 percent of PBR (25.4 animals) and less

than this stock's PBR (254 animals). The mean annual Alaska native subsistence take from this stock is estimated to be 197 Western U.S. stock Steller sea lions per year. NMFS calculates there is an average of 0.6 Steller sea lion mortalities per year due to permitted research activities. Based on available data, the estimated total human-caused mortality and serious injury (223.8) are less than the PBR (254) for this stock. Data available for estimating human caused mortality and serious injury in commercial fisheries for this permit are largely based on extensive and ongoing fisheries observer programs designed to address those fisheries known or believed most likely to interact with this stock. In some cases mortality data include opportunistic reports (e.g., strandings, subsistence harvest) or old observations (e.g., observation of the PWS drift gillnet salmon fishery in the early 1990s).

Because fishery-related mortality and serious injury slightly exceed 10 percent of PBR, the stock is stable or increasing, and total annual human-caused mortality and serious injury are less than PBR, NID Criterion (3) is the appropriate criterion for consideration. The NID Criterion 3 is satisfied in determining that mortality and serious injuries of Western U.S. stock Steller sea lions incidental to commercial fishing will have a negligible impact on the stock because population growth is stable or increasing, the fishery-related mortalities and serious injuries (26.2) are less than PBR (254). This determination is supported by review of mortality and serious injury incidental to U.S. commercial fishing and other human related mortality and serious injury, a stable or increasing population trend, limited potential for increases in serious injury and mortality due to the relevant fisheries, the fact that total human-caused mortality and serious injury is below the estimated PBR and are not expected to delay recovery of the stock by more than 10 percent more than recovery time if these removals did not occur. Additional information is available in the draft NID.

Steller Sea Lion, Eastern U.S. Stock

NMFS evaluated the best available information to assess population status and trend and in evaluating the effect of interactions between the ESA-listed Eastern U.S. stock of Steller sea lions and commercial fisheries in Alaska (including observer data), other fisheries (based on the scientific literature), and other sources of human-caused serious injury and mortality (surveys, reports, and stranding and sightings data), to determine whether the incidental

mortality and serious injury from all commercial fisheries will have a negligible impact on the stock. Recent reviews of population status and trends have been completed by NMFS as part of the (draft) BiOp on the Alaska groundfish fisheries (NMFS, 2010) and the SARs (Allen and Angliss, 2010). These reviews indicate the stock is increasing at minimum of 3.1 per cent per year. The minimum estimated mortality and serious injury rate incidental to commercial fisheries (both U.S. and Canadian) is 25.6 Eastern U.S. stock Steller sea lions per year, (Tables 8 and 9 in the accompanying NID); 0.8 for the WA/OR/CA groundfish trawl and 24.8 in the Alaska salmon troll fishery. The total estimated annual mortality due to commercial fishing is less than 10 percent of this stock's PBR (2,378 animals).

The mean annual Alaska native subsistence take from this stock is estimated to be 11.9 Steller sea lions per year. NMFS calculates there is an average of 0.8 mortalities per year due to illegal shooting of Steller sea lions from the Eastern U.S. stock, an average of 0.6 "other non-fishery human-related" mortalities in Oregon and Washington, and an average of 1.8 Eastern U.S. stock of Steller sea lion mortalities per year due to permitted research activities. Based on available data, the estimated total human-caused mortality and serious injury (40.7) are less than 10 percent of the stock's PBR (237.8). Data available for estimating human-caused mortality and serious injury in commercial fisheries are largely based on both historic and ongoing fisheries observer programs designed to address those fisheries known or believed most likely to interact with this stock. NMFS is aware that, in some cases, mortality data are based on opportunistic reports (e.g. strandings, subsistence harvest) or on observations where it is impossible to determine with certainty if the mortality and serious injury occurred as a result of the recreational or commercial parts of the fishery due to the similarity of the gear used in these southeast Alaska salmon troll fisheries.

Because total human-caused mortality and serious injury is below 10 percent of PBR for this stock, NID Criterion 1 is satisfied. NMFS has determined that the annual mortality and serious injury incidental to commercial fisheries will have a negligible impact on the Eastern U.S. stock of Steller sea lions. Additional information is available in the accompanying draft NID.

Conclusions for Proposed Permit

Based on the above assessment and as described in the accompanying NID,

NMFS concludes that the incidental mortality and serious injury from commercial fishing will have a negligible impact on the CNP stock of humpback whales, the WNP stock of humpback whales, the NEP stock of fin whales, the North Pacific stock of sperm whales, the Western U.S. stock of Steller sea lions, and the Eastern U.S. stock of Steller sea lions. The impacts on the human environment of continuing and modifying the Alaska groundfish fisheries, including the taking of threatened and endangered species of marine mammals, were analyzed in Alaska Groundfish Fisheries Final Supplemental Programmatic Environmental Impact Statement (June 2004; <http://www.fakr.noaa.gov/sustainablefisheries/seis/>), the Biological Assessment of the Alaska Groundfish Fisheries and NMFS Managed Endangered Species Act Listed Marine Mammals and Sea Turtles (NMFS 2006; http://stellersealions.noaa.gov/sustainablefisheries/sslmc/agency_documents/BA4-6-06.pdf) pursuant to the National Environmental Policy Act (NEPA) (42 U.S.C. 4231 *et seq.*), and in the draft BiOp prepared for the Alaska groundfish fisheries (NMFS, 2010) pursuant to the ESA. Issuing the proposed permit would have no additional impact to the human environment or effects on threatened or endangered species beyond those analyzed in these documents. NMFS now reviews the remaining requirements to issue a permit to take the subject listed species incidental to the Alaska groundfish fisheries.

Recovery Plans

Recovery Plans for humpback whales and Steller sea lions of the subject listed species have been completed. Recovery plans for fin and sperm whales have been drafted and are being completed. These draft and final recovery plans are available on the Internet (*see ADDRESSES*). Accordingly, the requirement to have recovery plans in place or being developed is satisfied.

Vessel Registration

MMPA section 118(c)(5)(A) provides that registration of vessels in fisheries should, after appropriate consultations, be integrated and coordinated to the maximum extent feasible with existing fisher licenses, registrations, and related programs. Participants in the Alaska groundfish fisheries are required to hold a permit under 50 CFR 665.21. The MMPA registration program has been integrated in this permitting system for the Alaska-based groundfish fisheries. Accordingly, vessels in the fisheries are

registered in accordance with MMPA section 118.

Monitoring Program

As noted above, Federally-permitted commercial fisheries in Alaska have been observed since the early 1990s. Levels of observer coverage vary over years but are adequate to produce reliable estimates of mortality and serious injury of listed species (e.g., during the 2002–2006 period, coverage ranged from 58.4–68.3 percent in the Bering Sea/Aleutian Islands flatfish trawl, 73.0–82.2 percent in the Bering Sea/Aleutian Islands pollock trawl, 23.8–29.6 percent for the Bering Sea/Aleutian Islands Pacific cod longline, and 21.7–40.6 percent in the Alaska Bering Sea sablefish pot fishery). Accordingly, as required by MMPA section 118, a monitoring program is in place.

Take Reduction Plans (TRP)

Subject to available funding, MMPA section 118 requires a TRP in cases where a strategic stock interacts with a Category I or II fishery. The stocks considered for this permit are designated as strategic stocks under the MMPA because they are listed as threatened or endangered under the ESA. These strategic stocks interact with the Category II fisheries described above, and no TRPs have been developed for them. The short- and long-term goals of a TRP are to reduce mortality and serious injury of marine mammals incidental to commercial fishing to levels below PBR and to a zero mortality rate goal (indicated by meeting the threshold for placement in the annual LOF Category III), respectively. However, the obligations to develop and implement a TRP are subject to the availability of funding. MMPA section 118(f)(3) (16 U.S.C. 1387(f)(3)) contains specific priorities for developing TRPs.

NMFS has insufficient funding available to simultaneously develop and implement TRPs for all stocks that interact with Category I or Category II fisheries. Most recently in March 2009, NMFS considered multiple quantitative and qualitative factors to identify its priorities for establishing take reduction teams (TRTs) and collecting data. As provided in MMPA section 118(f)(6)(A) and (f)(7), NMFS used the most recent SARs and LOF as the basis to determine its priorities for establishing TRTs and developing TRPs. Through this process, NMFS evaluated the WNP and CNP stocks of humpback whale, the North Pacific stock of sperm whales, and the Western U.S. stock of Steller sea lions as "low" priorities for establishing TRTs,

based on population trends of each stock and mortality and serious injury levels incidental to commercial fisheries that are below the stocks' PBRs.

Accordingly, given these factors and NMFS' prioritization process, TRPs will be deferred under section 118 as other stocks have a higher priority for any available funding for establishing new TRPs.

Mortality and serious injury of Steller sea lions, Eastern U.S. stock, and NEP fin whales incidental to commercial fisheries are at insignificant levels, approaching a zero mortality and serious injury rate (Allen and Angliss, 2010). MMPA section 118(b)(2) states that fisheries maintaining such mortality and serious injury levels are not required to further reduce their mortality and serious injury rates. Because the goals of TRPs are to reduce mortality and serious injury of marine mammals incidental to commercial fishing operations, no TRPs are required for either of these stocks.

As noted in the summary above, all of the requirements to issue a permit to the following Federally-authorized and State-parallel Category II groundfish fisheries have been satisfied: the AK Bering Sea/Aleutian Islands flatfish trawl, AK Bering Sea/Aleutian Islands pollock trawl, AK Bering Sea sablefish pot, and AK Bering Sea/Aleutian Islands Pacific cod longline fisheries. Accordingly, NMFS proposes to issue a permit to participants in these Category II fisheries for the taking of CNP humpback whales, WNP humpback whales, NEP fin whales, North Pacific sperm whales, Steller sea lions (Western U.S. stock), and the Steller sea lions (Eastern U.S. stock) incidental to the fisheries' operations. As noted under MMPA section 101(a)(5)(E)(ii), no permit is required for vessels in Category III fishery. For incidental taking of marine mammals to be authorized in Category III fisheries, any injuries or mortalities must be reported to NMFS. NMFS solicits public comments on the proposed permit and the preliminary determinations supporting the permit.

References

Allen, B.M., and R.P. Angliss (eds.). 2010. (Draft) Alaska Marine Mammal Stock Assessments, 2010. NMFS, National Marine Mammal Laboratory, Seattle WA.

NMFS. 2010. Draft Biological Opinion for Authorization of Groundfish Fisheries under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Island Management Area, Authorization of Groundfish Fisheries under the Fishery

Management Plan for Groundfish of the Gulf of Alaska, and the State of Alaska Parallel Groundfish Fisheries. NMFS, Alaska Region, Juneau, AK. (<http://stellersealions.noaa.gov/protectedresources/stellers/esa/biop/draft/0810.htm>.)

Dated: November 4, 2010.

Helen M. Golde,

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

[FR Doc. 2010-28280 Filed 11-8-10; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the U.S. Naval Academy Board of Visitors

AGENCY: Department of the Navy, DoD.

ACTION: Notice of partially closed meeting.

SUMMARY: The U.S. Naval Academy Board of Visitors will meet to make such inquiry, as the Board shall deem necessary, into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. The executive session of this meeting from 11 a.m. to 12 p.m. on December 6, 2010, will include discussions of disciplinary matters, law enforcement investigations into allegations of criminal activity, and personnel issues at the Naval Academy, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. For this reason, the executive session of this meeting will be closed to the public.

DATES: The open session of the meeting will be held on December 6th, 2010, from 8 a.m. to 11 a.m. The closed session of this meeting will be the executive session held from 11 a.m. to 12 p.m.

ADDRESSES: The meeting will be held in the Bo Coppedge Room of Alumni Hall, U.S. Naval Academy, Annapolis, Maryland. The meeting will be handicap accessible.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander David S. Forman, USN, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402-5000, 410-293-1503.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act, as amended (5 U.S.C. App.). The executive session of the meeting from 11 a.m. to

12 p.m. on December 6, 2010, will consist of discussions of law enforcement investigations into allegations of criminal activity, new and pending administrative/minor disciplinary infractions and nonjudicial punishments involving the Midshipmen attending the Naval Academy to include but not limited to individual honor/conduct violations within the Brigade, and personnel issues. The discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public.

Accordingly, the Secretary of the Navy has determined in writing that the meeting shall be partially closed to the public because the discussions during the executive session from 11 a.m. to 12 p.m. will be concerned with matters coming under sections 552b(c) (5), (6), and (7) of title 5, United States Code.

Dated: November 2, 2010.

D.J. Werner,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2010-28270 Filed 11-8-10; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Ocean Research and Resources Advisory Panel

AGENCY: Department of the Navy, DoD.

ACTION: Notice of Open Meeting.

SUMMARY: The Ocean Research and Resources Advisory Panel will hold a regularly scheduled meeting. The meeting will be open to the public.

DATES: The meeting will be held on Wednesday, December 8, 2010, from 8:30 a.m. to 5:30 p.m. and Thursday, December 9, 2010, from 8:30 a.m. to 2 p.m. Members of the public should submit their comments in advance of the meeting to the meeting point of contact.

ADDRESSES: The meeting will be held at the Consortium for Ocean Leadership, 1201 New York Avenue, NW., 4th Floor, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Dr. Charles L. Vincent, Office of Naval Research, 875 North Randolph Street, Suite 1425, Arlington, VA 22203-1995, telephone 703-696-4118.

SUPPLEMENTARY INFORMATION: This notice of open meeting is provided in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2). The meeting will include discussions on