

Dated: March 30, 2012.

**Willie E. May,**

Associate Director for Laboratory Programs.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XB094

#### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Sturgeon Research in the Gulf of Mexico

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

**ACTION:** Notice; receipt of application for letter of authorization; request for comments and information.

**SUMMARY:** NMFS has received a request from the U.S. Fish and Wildlife Service (USFWS) for authorization to take small numbers of marine mammals incidental to conducting sturgeon research in the Gulf of Mexico, over the course of 5 years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of USFWS's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on USFWS's application and request.

**DATES:** Comments and information must be received no later than May 10, 2012.

**ADDRESSES:** Comments on the application should be addressed to Tammy Adams, Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. The mailbox address for providing email comments is [ITP.Laws@noaa.gov](mailto:ITP.Laws@noaa.gov). Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

**FOR FURTHER INFORMATION CONTACT:** Ben Laws, Office of Protected Resources, NMFS, (301) 427-8401.

#### SUPPLEMENTARY INFORMATION:

##### Availability

A copy of USFWS's application may be obtained by writing to the address specified above (see **ADDRESSES**), telephoning the contact listed above (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: <http://>

[www.nmfs.noaa.gov/pr/permits/incidental.htm#applications](http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications).

#### Background

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

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

NMFS has defined 'negligible impact' in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival." Except with respect to certain activities not pertinent here, the MMPA defines 'harassment' as: "any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment]."

#### Summary of Request

On January 27, 2012, NMFS received a complete application from USFWS requesting authorization for take of four species of marine mammals incidental to sturgeon research conducted by and in collaboration with USFWS. The requested regulations would be valid for 5 years from the date of issuance. As a result of this research, it is possible that marine mammals may be entangled in gill nets, resulting in injury, serious injury, or mortality. Because the specified activities have the potential to take marine mammals present within the action area, USFWS requests authorization to take bottlenose dolphins (*Tursiops truncatus*), Atlantic spotted dolphins (*Stenella frontalis*), pantropical spotted dolphins (*S.*

*attenuata*), and striped dolphins (*S. coeruleoalba*).

#### Specified Activities

The USFWS is working with NMFS, the U.S. Geological Survey, and other partners on several wide-ranging projects across inshore waters of the Gulf of Mexico in designated critical habitat areas for the Gulf sturgeon (*Acipenser oxyrinchus desotoi*). The Gulf sturgeon was listed in 1991 as threatened under the Endangered Species Act. Sturgeon research projects include: (1) A Natural Resource Damage Assessment (NRDA) project entitled "Mississippi Canyon 252 Assessment Plan for the Collection of Data to Determine Potential Exposure and Injuries of Threatened Gulf Sturgeon"; (2) an annual summer and fall census; and (3) fine-scale movement and habitat assessment within and nearby Choctawhatchee Bay, FL. Sampling locations will occur in Florida, Mississippi, and Louisiana, throughout the Pearl, Pascagoula, Escambia, Yellow, Blackwater, Choctawhatchee, Apalachicola, and Suwannee rivers and their associated bays near the river mouths.

These research projects involve the use of gill nets to capture sturgeon in order to assess physical condition, implant telemetry transmitters, and collect census information, among other objectives. The USFWS recorded two deaths of bottlenose dolphins in 2011 as a result of entanglement and subsequent asphyxiation in gill nets deployed for sturgeon research—the only two records of interactions with marine mammals in 26 years of USFWS survey effort. Since that incident, USFWS has begun implementing avoidance measures designed in consultation with NMFS. Although entanglement of marine mammals in gill nets deployed for sturgeon research is extremely rare, and the likelihood of such an event is further reduced by the use of avoidance measures, the possibility remains that USFWS could incidentally take marine mammals in the course of conducting future sturgeon research.

A more detailed description of the sturgeon research conducted by USFWS may be found in USFWS' application, which is available at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

#### Information Sought

Interested persons may submit information, suggestions, and comments concerning USFWS's request (see **ADDRESSES**). All information, suggestions, and comments related to USFWS's request and NMFS' potential

development and implementation of regulations governing the incidental taking of marine mammals by USFWS will be considered by NMFS in developing, if appropriate, regulations governing the issuance of letters of authorization.

Dated: April 4, 2012.

**Helen M. Golde,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XA967

#### Whaling Provisions; Aboriginal Subsistence Whaling Quotas

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

**ACTION:** Notice; notification of quota for bowhead whales.

**SUMMARY:** NMFS notifies the public of the aboriginal subsistence whaling quota for bowhead whales that it has assigned to the Alaska Eskimo Whaling Commission (AEWC), and of limitations on the use of the quota deriving from regulations adopted at the 59th Annual Meeting of the International Whaling Commission (IWC). For 2012, the quota is 75 bowhead whales struck. This quota and other applicable limitations govern the harvest of bowhead whales by members of the AEWC.

**DATES:** Effective April 10, 2012.

**ADDRESSES:** Office of International Affairs, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Melissa Andersen, (301) 427-8385.

**SUPPLEMENTARY INFORMATION:** Aboriginal subsistence whaling in the United States is governed by the Whaling Convention Act (16 U.S.C. 916 *et seq.*). Regulations that implement the Act, found at 50 CFR 230.6, require the Secretary of Commerce (Secretary) to publish, at least annually, aboriginal subsistence whaling quotas and any other limitations on aboriginal subsistence whaling deriving from regulations of the IWC.

At the 59th Annual Meeting of the IWC, the Commission set catch limits for aboriginal subsistence use of bowhead whales from the Bering-Chukchi-Beaufort Seas stock. The

bowhead catch limits were based on a joint request by the United States and the Russian Federation, accompanied by documentation concerning the needs of two Native groups: Alaska Eskimos and Chukotka Natives in the Russian Far East.

The IWC set a 5-year block quota of 280 bowhead whales landed. For each of the years 2008 through 2012, the number of bowhead whales struck may not exceed 67, except that any unused portion of a strike quota from any prior year, including 15 unused strikes from the 2003 through 2007 quota, may be carried forward. No more than 15 strikes may be added to the strike quota for any one year. At the end of the 2011 harvest, there were 15 unused strikes available for carry-forward, so the combined strike quota set by the IWC for 2012 is 82 (67 + 15).

An arrangement between the United States and the Russian Federation ensures that the total quota of bowhead whales landed and struck in 2012 will not exceed the limits set by the IWC. Under this arrangement, the Russian natives may use no more than seven strikes, and the Alaska Eskimos may use no more than 75 strikes.

Through its cooperative agreement with the AEWC, NOAA has assigned 75 strikes to the Alaska Eskimos. The AEWC will in turn allocate these strikes among the 11 villages whose cultural and subsistence needs have been documented, and will ensure that its hunters use no more than 75 strikes.

#### Other Limitations

The IWC regulations, as well as the NOAA regulation at 50 CFR 230.4(c), forbid the taking of calves or any whale accompanied by a calf.

NOAA regulations (at 50 CFR 230.4) contain a number of other prohibitions relating to aboriginal subsistence whaling, some of which are summarized here:

- Only licensed whaling captains or crew under the control of those captains may engage in whaling.
- Captains and crew must follow the provisions of the relevant cooperative agreement between NOAA and a Native American whaling organization.
- The aboriginal hunters must have adequate crew, supplies, and equipment to engage in an efficient operation.
- Crew may not receive money for participating in the hunt.
- No person may sell or offer for sale whale products from whales taken in the hunt, except for authentic articles of Native American handicrafts.
- Captains may not continue to whale after the relevant quota is taken, after the season has been closed, or if their

licenses have been suspended. They may not engage in whaling in a wasteful manner.

Dated: April 5, 2012.

**Rebecca J. Lent,**

*Director, Office of International Affairs,  
National Marine Fisheries Service.*

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## DEPARTMENT OF EDUCATION

### Notice of Submission for OMB Review; Federal Student Aid; Comprehensive Transition Programs (CTP) for Students With Intellectual Disabilities Expenditure Report

**SUMMARY:** The Higher Education Opportunity Act, Public Law 110-315, added provisions for the Higher Education Act, as amended in section 750 and 766 that enable eligible students with intellectual disabilities to receive Federal Pell Grant, Supplemental Educational Opportunity Grant, and Federal Work Study funds if they are enrolled in an approved program. The CTP Expenditure Report is the tool for reporting the use of these specific funds.

**DATES:** Interested persons are invited to submit comments on or before May 10, 2012.

**ADDRESSES:** Written comments regarding burden and/or the collection activity requirements should be electronically mailed to [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov) or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202-4537. Copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 04770. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202-4537. Requests may also be electronically mailed to [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov) or faxed to 202-401-0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires