



**BILLING CODE: 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**[RTID 0648-XA129]**

**Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Fisheries Research**

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

**ACTION:** Notice; receipt of application for Letters of Authorization; request for comments and information.

**SUMMARY:** NMFS' Office of Protected Resources (OPR) has received a request from the NMFS Southwest Fisheries Science Center (SWFSC) for authorization to take small numbers of marine mammals incidental to conducting fisheries research, over the course of five years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), OPR is announcing receipt of the SWFSC's request for the development and implementation of regulations governing the incidental taking of marine mammals. OPR invites the public to provide information, suggestions, and comments on the SWFSC's application and request.

**DATES:** Comments and information must be received no later than [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

**ADDRESSES:** Comments on the applications should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West

Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Laws@noaa.gov*.

*Instructions:* OPR is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities* without change. 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.

**FOR FURTHER INFORMATION CONTACT:** Ben Laws, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities*. In case of problems accessing these documents, please call the contact listed above.

**SUPPLEMENTARY INFORMATION:**

**Background**

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) 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) within a specified geographical

region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall 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 taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth.

### **Summary of Request**

On April 30, 2020, we received a complete and adequate application from SWFSC requesting authorization for take of marine mammals incidental to fisheries research conducted by SWFSC. The requested regulations would be valid for five years, from October 30, 2020, through October 29, 2025. The SWFSC plans to conduct fisheries research surveys in the California Current Research Area (off the U.S. west coast) and the Antarctic Research Area (in the Antarctic Scotia Sea). It is possible that marine mammals may interact with fishing gear (*e.g.*, trawl nets, longlines) used in SWFSC’s research, resulting in injury, serious injury, or mortality. In addition, the SWFSC operates active acoustic devices that have the potential to disturb marine mammals. Because the specified activities have the potential to take marine mammals

present within these action areas, SWFSC requests authorization to take multiple species of marine mammal that may occur in these areas.

The requested regulations would be the second incidental take regulations issued to SWFSC, following regulations in place from 2015-2020. SWFSC has complied with all requirements of the previously issued Letters of Authorization and has not exceeded the authorized take numbers. Monitoring reports submitted by SWFSC are available online at: [www.fisheries.noaa.gov/action/incidental-take-authorization-noaa-fisheries-swpsc-fisheries-and-ecosystem-research](http://www.fisheries.noaa.gov/action/incidental-take-authorization-noaa-fisheries-swpsc-fisheries-and-ecosystem-research).

### **Specified Activities**

The Federal Government has a responsibility to conserve and protect living marine resources in U.S. Federal waters and has also entered into a number of international agreements and treaties related to the management of living marine resources in international waters outside the United States. NOAA has the primary responsibility for managing marine fin and shellfish species and their habitats, with that responsibility delegated within NOAA to NMFS.

In order to direct and coordinate the collection of scientific information needed to make informed management decisions, Congress created six Regional Fisheries Science Centers, each a distinct organizational entity and the scientific focal point within NMFS for region-based Federal fisheries-related research. This research is aimed at monitoring fish stock recruitment, abundance, survival and biological rates, geographic distribution of species and stocks, ecosystem process changes, and marine ecological research. The SWFSC is the research arm of NMFS in the Southwest Region. The SWFSC conducts research and provides scientific advice to manage fisheries and conserve protected species in three geographic research areas: the California Current Research Area (along

the U.S. West Coast), the Eastern Tropical Pacific Research Area (ETPRA) (throughout the Eastern Tropical Pacific Ocean), and the Antarctic Research Area (in the Scotia Sea area off Antarctica). However, no research activity is planned for the ETPRA during the next five years, and this research area is not included in the scope of SWFSC's current request. The SWFSC provides scientific information to support the Pacific Fishery Management Council and numerous other domestic and international fisheries management organizations.

The SWFSC collects a wide array of information necessary to evaluate the status of exploited fishery resources and the marine environment. SWFSC scientists conduct fishery-independent research onboard NOAA-owned and operated vessels or on chartered vessels. A few surveys are conducted onboard commercial fishing vessels, but the SWFSC designs and executes the studies and funds vessel time. The gear types used fall into several categories: pelagic trawl gear used at various levels in the water column, pelagic longlines with multiple hooks, seine nets, and other gear. Of research gear used by SWFSC, only pelagic trawl, hook and line gear (including longline gears), and seine nets are likely to interact with marine mammals. The majority of these surveys also use active acoustic devices.

### **Information Solicited**

Interested persons may submit information, suggestions, and comments concerning the SWFSC's request (see **ADDRESSES**). NMFS will consider all

information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by the SWFSC, if appropriate.

Dated: May 5, 2020.

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Donna S. Wieting,  
Director,  
Office of Protected Resources,  
National Marine Fisheries Service.

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