



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XD810]

Marine Mammals; Pinniped Removal Authority

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

ACTION: Notice; request for comments.

SUMMARY: On August 21, 2024, NMFS received an application pursuant to section 120(f) of the Marine Mammal Protection Act (MMPA) from the Oregon Department of Fish and Wildlife, the Washington Department of Fish and Wildlife, the Idaho Department of Fish and Game, on behalf of their respective states; the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, the Confederated Tribes and Bands of the Yakama Nation; and the Willamette Committee (hereafter “eligible entities”). In their application, the eligible entities requested that NMFS renew their August 14, 2020, MMPA section 120(f) permit (which expires on August 14, 2025) for an additional five years to intentionally take, by lethal methods, individually identifiable California sea lions (CSL) (*Zalophus californianus*) and Steller sea lions (SSL) (*Eumetopias jubatus*: Eastern stock) that are located in the main stem of the Columbia River between river mile 112 (I-205 bridge) and McNary Dam (river mile 292), or in any tributary to the Columbia River that includes spawning habitat of threatened or endangered salmon or steelhead (*Onchorynchus* spp.) (hereafter “geographic area”). The eligible entities seek no changes to the terms and conditions in the August 14, 2020, permit, other than to renew the existing permit for a five-year period that would begin on the date of issuance of the permit.

DATES: Comments must be received by [INSERT DATE 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2024-0100, by any of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2024-0100 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Mail: National Marine Fisheries Service, 1201 NE Lloyd Blvd, Suite 1100, Portland, OR 97232 ATTN: Protected Resources Division, NOAA-NMFS-2024-0100.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields, if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Robert Anderson, NMFS West Coast Region, (503) 231-2226.

SUPPLEMENTARY INFORMATION:

Electronic Access

The application is available via the Internet at the following address:
<https://www.fisheries.noaa.gov/west-coast/marine-mammal-protection/marine-mammal-protection-act-section-120-pinniped-removal>.

Statutory Authority

Section 120(b)(1) of the MMPA (16 U.S.C. 1361, *et seq.*) allows the Secretary of

Commerce, acting through the Assistant Administrator for Fisheries, and the West Coast Regional Administrator of NMFS, to authorize the intentional lethal taking by states of individually identifiable pinnipeds that are having a significant negative impact on the decline or recovery of salmonid fishery stocks which have been listed as threatened or endangered species under the Endangered Species Act of 1973 (ESA), are approaching threatened species or endangered species status (as those terms are defined in that Act), or migrate through the Ballard Locks at Seattle, Washington.

Section 120(b)(2) requires that any such application shall include a means of identifying the individual pinniped or pinnipeds, and shall include a detailed description of the problem interaction and expected benefits of the taking.

Section 120(c)(1) requires the Secretary to determine whether an application has produced sufficient evidence to warrant establishing a Pinniped-Fishery Interaction Task Force (hereafter “Task Force”) to address the situation described in the application. The Task Force makes recommendations to the Secretary, including whether to approve or deny the application. The Secretary considers the recommendations of the Task Force along with the factors outlined in section 120(d) in determining whether to approve or deny an application.

The Endangered Salmon Predation Prevention Act of 2018 (Public Law 115-329) amended section 120(f) of the MMPA to provide authority for NMFS to issue permits to specific entities allowing the intentional lethal taking of individually identifiable sea lions for the purpose of protecting species of lamprey or sturgeon that are not listed as endangered or threatened but are listed as a species of concern by the state of Oregon (Oregon Administrative Rule 635-100-0400) (hereafter collectively referred to “at-risk fish species”) in the Columbia River basin. Under section 120(f)(7) and section 120(f)(8), sea lions¹ are deemed to be

¹ Prospective authorizations apply only to sea lions that are not listed under the ESA, or designated as a depleted or strategic stock under the MMPA. California and Steller sea lions (Eastern stock) are not listed under the ESA nor are they designated as a depleted or

individually identifiable and having a significant negative impact on fish species when located in defined areas within the Columbia River basin. Under section 120(f) of the MMPA, these areas include the mainstem of the Columbia River between river mile 112 (I-205 bridge) and river mile 292 (McNary Dam), and any tributary to the Columbia River that includes spawning habitat of threatened or endangered salmon or steelhead. Section 120(f) defines the eligible entities² that may apply for authorization to intentionally take, by lethal methods, sea lions present that are located in the main stem of the Columbia River between river mile 112 (I-205 bridge) and McNary Dam (river mile 292), or in any tributary to the Columbia River that includes spawning habitat of threatened or endangered salmon or steelhead.

Background

On June 13, 2019, NMFS received an application pursuant to section 120(f) from the eligible entities requesting authorization to intentionally take, by lethal methods, individually identifiable CSL and SSL that are located in the mainstem of the Columbia River between river mile 112 (I-205 bridge) and McNary Dam (river mile 292), or in any tributary to the Columbia River that includes spawning habitat of threatened or endangered salmon or steelhead to reduce or eliminate sea lion predation on at-risk fish species. The June 13, 2019, application provided: detailed information that documents sea lion population trends; a detailed description of the problem interaction, including estimates of the numbers of sea lions present within the geographic area (see Summary); numbers of salmonids consumed and the proportion of all salmonids that have been taken by sea lions at Bonneville Dam and Willamette Falls (a subarea of the geographic area);

strategic stock under the MMPA.

² The State of Washington, the State of Oregon, the State of Idaho Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, the Confederated Tribes and Bands of the Yakama Nation; and the Willamette Committee as defined in Section 120(f)(6)(D) of the MMPA.

past efforts to nonlethally deter sea lions; methods for capturing, handling and euthanizing sea lions; and a detailed description of the expected benefits of the taking of sea lions.

On June 18, 2019, NMFS provided the above-mentioned eligible entities a letter, consistent with section 120(c)(1) of the MMPA, acknowledging receipt of their application and a determination that the application produced sufficient evidence of the problem interaction to warrant establishing a Task Force. On August 30, 2019, NMFS published a notice in the **Federal Register** (84 FR 45730) requesting public comment on the application and any additional information NMFS should consider in making its decision.

On May 12, 2020, NMFS established and convened a Task Force to provide NMFS with a recommendation to either approve or deny the eligible entities' June 13, 2019, application. In establishing the Task Force, NMFS also provided the Task Force a copy of the public comments it received on the eligible entities' June 13, 2019, application in making a recommendation to the Secretary whether to approve or deny the proposed intentional lethal taking of the pinniped or pinnipeds. The Task Force recommended approving, with certain terms and conditions, the eligible entities' application requesting authorization for lethal removal.

On August 14, 2020, NMFS, approved the eligible entities' application to intentionally take, by lethal methods, individually identifiable CSL and SSL that are located in the mainstem of the Columbia River between river mile 112 (I-205 bridge) and river mile 292 (McNary Dam), or in any tributary to the Columbia River that includes spawning habitat of threatened or endangered salmon or steelhead for a five-year period beginning on that date.

On March 7, 2024, NMFS convened the Task Force to evaluate the effectiveness of the MMPA section 120(f) removal program over the past 42-month period. This

program evaluation is consistent with section 120(c)(5) of the MMPA, which requires, after implementation of an approved application, the Task Force to evaluate the effectiveness of the permitted intentional lethal taking. At this meeting, the Task Force was presented with information on the pinniped removal operations within the geographic area; sea lion-salmonid interactions; an overview of key population parameters for at-risk fish species by means of a population viability analysis or equivalent method to estimate the effectiveness of permanent removal of predatory sea lions at reducing or eliminate mortality of at-risk fish species and reducing extinction risk; a review of the Task Force recommendations, as specified in the August 14, 2020, permit including a benefits analysis of the removal program; and a summary of the Army Corps of Engineers' pinniped monitoring and evaluation program at Bonneville Dam. The Task Force did not recommend any additional actions to improve the eligible entities' effectiveness in eliminating the problem interaction through the permitted intentional lethal taking of individually identifiable CSL and SSL that are located in the mainstem of the Columbia River between river mile 112 (I-205 bridge) and river mile 292 (McNary Dam), or in any tributary to the Columbia River that includes spawning habitat of threatened or endangered salmon or steelhead.

On August 21, 2024, NMFS received an application pursuant to section 120(f) from the eligible entities requesting NMFS renew their MMPA section 120(f) permit for a five-year period that would begin on the date of issuance of the permit. According to the information in the application, sea lion predation within the geographic area continues to have a significant negative impact on the recovery on species of salmon, steelhead, and eulachon that are listed as endangered or threatened species under the ESA; and species of lamprey or sturgeon that are listed as at-risk fish species).

On September 3, 2024, NMFS provided the above-mentioned eligible entities a letter, consistent with section 120(c)(1) of the MMPA, acknowledging receipt of their

application and a determination that the application produced sufficient evidence of the problem interaction to warrant convening the Task Force to provide a recommendation to the Secretary whether to approve or deny the eligible entities' application. The eligible entities are requesting authorization to intentionally take, by lethal methods, individually identifiable CSL and SSL that are located in the mainstem of the Columbia River between river mile 112 (I-205 bridge) and McNary Dam (river mile 292), or in any tributary to the Columbia River that includes spawning habitat of threatened or endangered salmon or steelhead (*Onchorynchus* spp.) to reduce or eliminate sea lion predation on the following fish species that are listed as threatened or endangered under the ESA: Lower Columbia River Chinook salmon (*O. tshawytscha*), Snake River Fall-run Chinook salmon, Snake River Spring/Summer-run Chinook salmon, Upper Columbia River Spring-run Chinook salmon, Upper Willamette River Chinook salmon, Lower Columbia River steelhead, Middle Columbia River steelhead (*O. mykiss*), Snake River Basin steelhead, Upper Columbia River steelhead, Upper Willamette River steelhead, Columbia River chum salmon (*O. keta*), Lower Columbia River coho salmon (*O. kisutch*), Snake River sockeye salmon (*O. nerka*), and Southern Distinct Population Segment of eulachon (*Thaleichthys pacificus*); and species of lamprey and sturgeon that lamprey or sturgeon that are not listed as endangered or threatened but are listed as a species of concern by the state of Oregon.

The August 14, 2020, permit authorized the eligible entities to remove up to 540 CSL and 176 SSL in the geographic area.

For the purpose of the request to renew the existing MMPA section 120(f) permit for an additional five years, NMFS will consider the August 21, 2024, application and any relevant additional information, including the eligible entities' July 13, 2019, application.

Based on the information in the August 21, 2024, application, the eligible

entities have removed 60 CSL (11.1 percent of authorized take) and 78 SSL (44.3 percent of authorized take) in the in the geographic area³. The eligible entities anticipate continuing to implement the pinniped removal program over the next five years without the need for NMFS to authorize an additional number of CSL and SSL that were authorized in the August 14, 2020, permit based on the annual average rate (39 animals) of pinniped removals during this 42-month period.

Despite removing only 11.1 percent and 44.3 percent of the authorized take of CSL and SSL, respectively, in the first 42 months of permit implementation, the eligible entities estimated that the removal of these sea lions has saved (fish that otherwise would have been lost to sea lion predation) an estimated 16,211 to 44,974 adult salmonids.

Nonetheless, according to the information at the March 7, 2024, program review and in the application, within the geographic area, sea lion predation continues to have a significant negative impact on the recovery of salmon, steelhead, and eulachon that are listed as endangered species or threatened species under the ESA; and species of lamprey and sturgeon that are not so listed as endangered or threatened but are listed as a species of concern by the state of Oregon.

Thus, to continue to manage CSL and SSL predation on ESA-listed species in the Columbia River basin, the eligible entities, consistent with section 120(f)(2)(D) of the MMPA, ask NMFS to consider their request to renew the duration of their August 14, 2020, permit for an additional five years. Additionally, the application states that removal of sea lions is also intended to protect species of lamprey or sturgeon that may not be listed as endangered or threatened but are listed as a species of concern by the

³ The number of sea lions removed in the eligible entities' August 21, 2024, permit is based on the eligible entities reporting period, which does not necessarily account for all sea lions that have been removed to date. Annually, the eligible entities are required to submit a monitoring report to NMFS by December 1st. As such, the reporting period covers management activities from July 1 through June 30 annually.

state of Oregon.

The number of sea lions NMFS authorized for removal in the eligible entities' August 14, 2020, permit is 540 CSL and 176 SSL. If NMFS approves the eligible entities' request to renew the duration their MMPA section 120(f) permit for an additional five years, the eligible entities would be authorized to remove the remaining balance of sea lions originally authorized for removal in their August 14, 2020, permit from the date of issuance of the renewed permit.

In convening the Task Force, NMFS will ask the Task Force to consider the information in the eligible entities' August 21, 2024, application; the information presented to the Task force at the March 7, 2024, program evaluation; public comments received on the proposed action; and any relevant additional information, e.g., the eligible entities July 13, 2019, MMPA section 120(f) application, in making a recommendation to the Secretary whether to approve or deny the eligible entities' request to renew the duration of their August 14, 2020, MMPA section 120(f) permit for an additional five years to intentionally take, by lethal methods, individually identifiable CSL and SSL that are located in the main stem of the Columbia River between river mile 112 (I-205 bridge) and McNary Dam (river mile 292), or in any tributary to the Columbia River that includes spawning habitat of threatened or endangered salmon or steelhead.

Request for Comments and Other Information

NMFS solicits public comments on the eligible entities' application to renew their MMPA section 120(f) permit for an additional five years, and any relevant additional information that should be considered by the Task Force in making its recommendation, or by NMFS in making its determination whether to approve or deny the eligible entities' application. NMFS is particularly interested in receiving additional information on the impact of sea lion predation within the geographic area on the above-

mentioned ESA-listed fish species and species of concern.

NMFS requests that comments be specific. In particular, we request information regarding: (1) observations of sea lion predation activity on salmonids, eulachon, lamprey, and sturgeon within the geographic area; (2) information on areas where sea lions are concentrated within the geographic area, including number of sea lions, and resting/haul out sites where sea lions have been repeatedly observed taking salmonids, eulachon, sturgeon, and lamprey; and (3) dates when sea lions have been observed within the geographic area.

Dated: March 18, 2025.

Kim Damon-Randall,

Director, Office of Protected Resources,

National Marine Fisheries Service.

[FR Doc. 2025-05406 Filed: 3/27/2025 8:45 am; Publication Date: 3/28/2025]