2010 ANNUAL MEETING—REPORT ON PROPOSALS—Continued

[P = Partial revision; W = Withdrawal; R = Reconfirmation; N = New; C = Complete revision]

NFPA 654	Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids.	P
NFPA 780	Standard for the Installation of Lightning Protection Systems	P
NFPA 1000	Standard for Fire Service Professional Qualifications Accreditation and Certification Systems	P
NFPA 1071	Standard for Emergency Vehicle Technician Professional Qualifications	C
NFPA 1126	Standard for the Use of Pyrotechnics Before a Proximate Audience	P
NFPA 1145	Guide for the Use of Class A Foams in Manual Structural Fire Fighting	P

Dated: May 4, 2009.

Patrick Gallagher,

Deputy Director.

[FR Doc. E9–10766 Filed 5–7–09; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XP04

Notice of Intent To Prepare an Environmental Impact Statement for Sea Turtle Conservation and Recovery in Relation to the Atlantic Ocean and Gulf of Mexico Trawl Fisheries and To Conduct Public Scoping Meetings

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

ACTION: Notice of intent to prepare an Environmental Impact Statement and conduct public scoping meetings.

SUMMARY: NMFS intends to prepare an Environmental Impact Statement (EIS) and to conduct public scoping meetings to comply with the National Environmental Policy Act (NEPA) by assessing potential impacts resulting from the proposed implementation of new sea turtle regulations in the Atlantic and Gulf of Mexico trawl fisheries. These requirements are proposed to protect threatened and endangered sea turtles in the western Atlantic Ocean and Gulf of Mexico from incidental capture, and would be implemented under the Endangered Species Act (ESA). NMFS announced consideration of rulemaking for these new sea turtle regulations February 15, 2007 in an Advance Notice of Public Rulemaking.

DATES: The public scoping period starts May 8, 2009 and will continue until July 10, 2009. NMFS will consider all written comments received or postmarked by July 10, 2009, in defining the scope of the EIS. Comments received or postmarked after that date will be considered to the extent practicable. Verbal comments will be accepted at the NMFS scoping meetings as specified below.

ADDRESSES: NMFS will hold public scoping meetings to provide the public with an opportunity to present verbal comments on the scope of the EIS and to learn more about the proposed action from NMFS officials. Where practical, NMFS will hold scoping meetings in conjunction with Council/Commission meetings. Scoping meetings will be held at the following locations:

1. Silver Spring—NOAA Science Center, 1301 East West Highway, Silver Spring, MD 20910.

2. New York—Mid-Atlantic Fishery Management Council meeting, Radisson Martinique on Broadway, 49 West 32nd Street, New York, NY 10001.

3. Brunswick—Georgia Department of Natural Resources Coastal Division Headquarters, Conservation Way, Brunswick, GA 31520.

4. Manteo—Roanoke Festival Park, Small Auditorium, One Festival Park, Manteo, NC 27954.

5. Portland—New England Fishery Management Council meeting, Holiday Inn by the Bay, 88 Spring Street, Portland, ME 04101.

The meeting dates are:

1. May 15, 2009, 10 a.m. to 12 p.m., Silver Spring, MD.

2. June 9, 2009, 7 p.m. to 9 p.m., New York, NY.

3. June 15, 2009, 7 p.m. to 9 p.m., Brunswick, GA.

4. June 20, 2009, 2 p.m. to 4 p.m., Manteo, NC.

5. June 23, 2009, 7 p.m. to 4 p.m., Portland, ME.

In addition to the five scoping meetings, NMFS will also present the Scoping document to the four Atlantic Regional Fishery Management Councils (FMCs) (New England, Mid-Atlantic, South Atlantic and Gulf of Mexico FMCs) and the Atlantic States Marine Fisheries Commissions. Please see the Councils' and Commission's May and June meeting notices for agenda, dates, times and locations.

Written comments on the scope of the EIS should be sent to *Alexis.Gutierrez@noaa.gov*, 1315 East West Highway, Silver Spring, MD 20910; 301–713–2322 or fax 301–713–4060. Additional information, including the Scoping document, can be found at: *http://www.nmfs.noaa.gov/pr/species/turtles/regulations.htm*.

All comments, whether offered verbally in person at the scoping meetings or in writing as described above, will be considered.

FOR FURTHER INFORMATION CONTACT: Dennis Klemm (ph. 727–824–5312, fax 727–824–5309, email *Dennis.Klemm@noaa.gov*), Pasquale Scida (ph. 978–281–9208, fax 978–281–9394, email *Pasquale.Scida@noaa.gov*), Alexis Gutierrez (ph. 301–713–2322, fax 301–713–4060, email *Alexis.Gutierrez@noaa.gov*).

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered. Due to the inability to distinguish these green turtle populations away from the nesting beach, green turtles are considered endangered wherever they occur in United States waters. Incidental capture (bycatch) of sea turtles in fisheries is a primary factor hampering the recovery of sea turtles in the Atlantic Ocean and the Gulf of Mexico.

To address this factor comprehensively, NMFS initiated a Strategy for Sea Turtle Conservation and Recovery in Relation to Atlantic Ocean and Gulf of Mexico Fisheries (Strategy). The Strategy is a gear-based approach to addressing sea turtle bycatch. Certain types of fishing gear are more prone to incidentally capture sea turtles than others, depending on the design of the gear, the way the gear is fished, and/or the time and area within which it is fished. The Strategy provides a framework to evaluate sea turtle

interactions by gear type in order to have a more comprehensive assessment of fishery impacts across fishing sectors as well as across state, federal, and regional boundaries. Through this Strategy, NMFS seeks to address sea turtle bycatch across jurisdictional boundaries and fisheries for gear types that have the greatest impact on sea turtle populations.

Based on documented sea turtle-fishery interactions, NMFS has identified several gear types that need to be addressed to reduce incidental capture of sea turtles. These gear types include, but are not limited to: gillnets, longlines, trap/pot and trawl gear. Trawl gear has been identified as a priority for addressing sea turtle bycatch, given our knowledge of the level of bycatch in this gear and the availability of technology that is effective at excluding sea turtles from capture in trawl gear.

Trawling is a method of fishing that involves actively pushing or towing a net through the water. Because trawl gear is pushed or towed, it has the capability to incidentally capture sea turtles and other species that are not the intended target of the fishery. The likelihood of incidental capture is inherent in the basic design of trawls, regardless of the target species. Trawl fisheries with documented observer coverage or historical bycatch information that occur in known areas and times of sea turtle distribution have consistently been shown to capture sea turtles. In fact, trawling is often used as a means to capture sea turtles for research, distribution studies, and relocation because of the effectiveness of this method. Without an avenue for escape, sea turtles captured in trawl gear may drown due to forced submergence. Even when drowning does not occur, the stress of forced submergence has been shown to result in various negative physiological consequences that can make the turtles susceptible to delayed mortality, predation, boat strike or other sources of injury and mortality (including potentially higher mortality if repeated capture occurs).

NMFS is now working to develop and implement bycatch reduction regulations for trawl fisheries in the Atlantic and Gulf of Mexico when and where sea turtle bycatch has occurred or where gear, time, location, fishing method, and other similarities exist between a particular trawl fishery and a trawl fishery where sea turtle bycatch has occurred. Turtle Excluder Devices (TEDs) have been proven to be an effective method to minimize adverse effects related to sea turtle bycatch in the shrimp trawl fishery, summer flounder trawl fishery, several state trawl fisheries, and certain other trawl fisheries around the world. TEDs have an escape opening, usually covered by a webbing flap that allows sea turtles to escape from trawl nets. While TEDs have potential as a bycatch reduction device for all trawl fisheries, differences in trawl designs and fishing methods may necessitate modifications or adjustments to the design of existing TEDs before they can be applied in other trawl fisheries. Testing is necessary to ensure that feasible TED designs for specific fisheries still accomplish the desired sea turtle bycatch reduction goals and to determine the TEDs' impact on target catch retention. It is possible that TEDs may not be feasible for some trawl fisheries. In the event that TEDs are not a viable option, other regulations, e.g., tow time restrictions and time/area closures, may need to be considered. NMFS anticipates a phased approach to the implementation of regulations to reduce sea turtle bycatch in trawl fisheries as the information needed to support and properly analyze regulations in various trawl type becomes available. The ANPR specified those trawl fisheries for which the first phase of establishment of conservation measures via regulation are being considered.

Under the Strategy, there is a proposed three-phase approach to regulating trawl fisheries. The first phase, ''Trawl Phase I,'' will include the following fisheries summer flounder, Atlantic sea scallop, whelk, calico scallop and the flynet fisheries for croaker and weakfish. The second phase, ''Trawl Phase II,'' will likely include sheepshead/black drum/king whiting, porgy, skimmer, Spanish sardine/scad/ladyfish/ butterfish, trynet, squid/mackerel/butterfish, and multispecies (large and small mesh) trawl fisheries. Phase three, ''Trawl Phase III,'' will likely include the skate, horseshoe crab, monkfish, bluefish, spiny dogfish, and the herring trawl fisheries. Given that NMFS is still in the process of developing and testing the appropriate TED technology for phases two and three fisheries, it is possible that some fisheries in Phase II may move to Phase III or vice versa. Additional trawl fisheries that may exist or develop but have not been identified above would also be considered in Phase II and/or Phase III as information becomes available on those fisheries. For some of these fisheries, TEDs may not be effective given the configuration of the gear or the size of the target species. For those fisheries in which TEDs are not effective, other mitigation measures, such as time and area closures or tow time restrictions, may be considered. This EIS will provide background on the overall Strategy but, due to the state of the current knowledge on Phase II and Phase III, the EIS analyses will focus on fisheries that were identified for Trawl – Phase I.

As mentioned previously, the incidental capture of sea turtles in certain trawl fisheries has been documented in the Gulf of Mexico and the northwest Atlantic. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 223.206. The incidental taking of threatened sea turtles during shrimp or summer flounder trawling is exempted from the taking prohibition of section 9 of the ESA if the conservation measures specified in the sea turtle conservation regulations (50 CFR 223.206(d)) are followed. The conservation regulations require most shrimp trawlers and summer flounder trawlers operating in the southeastern United States (Atlantic Area and Gulf of Mexico Area) to have a NMFS-approved TED installed in each net that is rigged for fishing to provide for the escape of sea turtles. Under 50 CFR 222.102, a shrimp trawler is defined as any vessel that is equipped with one or more trawl nets and that is capable of, or used for, fishing for shrimp, or whose on-board or landed catch of shrimp is more than 1 percent, by weight, of all fish comprising its on-board or landed catch.

TEDs are devices with an escape opening, usually covered by a webbing flap, that when installed in trawl nets allows sea turtles to escape and avoid drowning or serious injury. There are a variety of different TED designs approved by NMFS for use in various trawl fisheries depending on trawl type, target catch, and fisherman preference. The list of approved TEDs and detailed descriptions of their construction and measurements are contained in 50 CFR 223.207. To be approved for use by NMFS, a TED design must be shown to be at least 97 percent effective in excluding sea turtles during experimental TED testing. TEDs must meet generic criteria based upon certain parameters of TED design, configuration, and installation, including height and width dimensions of the TED opening through which the turtles escape.

To allow the release of leatherback and large loggerhead sea turtles, NMFS required the use of large escape openings in the shrimp fishery in February 2003 (68 FR 8456; February 21, 2003). The February 2003 regulations required the use of either the

double cover flap TED, which is a TED with a minimum opening of 71-inch (180 cm) straight-line stretched mesh, or the Parker soft TED with a minimum 96-inch (244-cm) opening in offshore waters (from the seaward from the U.S. Coast Guard demarcated lines provided under the International Regulations for Preventing Collisions at Sea [COLREGS demarcation lines, 33 CFR part 80] line seaward) and in all inshore waters off of Georgia and South Carolina; and required a TED with a minimum opening of 44-inch (112 cm) straight-line stretched mesh with a 20-inch (51 cm) vertical taut height in all inshore waters (from the COLREGS demarcation line landward) except for the inshore waters of Georgia and South Carolina. At this time, the large-opening TED is only required in the shrimp trawl fishery.

Summer Flounder Fishery

Since 1992, all vessels using bottom trawls to fish for summer flounder in specific times and areas off Virginia and North Carolina have been required to use NMFS-approved TEDs in their nets (57 FR 57358, December 4, 1992; 50 CFR 223.206(d)(2)(iii)). Currently, the escape opening requirements for the flounder TED are ≥35 inches (≥89 cm) in width and ≥12 inches (≥31 cm) in height (50 CFR 223.207(b)(1)). Although the February 21, 2003 final rule (68 FR 8456) to require the larger opening in the shrimp trawl fishery did not require vessels in the summer flounder trawl fishery to use the larger escape opening sizes, the rule stated NMFS was evaluating the need for such restrictions in this fishery. The smaller opening currently used in this fishery is insufficient to allow the escapement of leatherback sea turtles and larger loggerhead and green sea turtles. The larger opening TEDs have passed the NMFS testing criteria for turtle escapement, and NMFS has conducted testing of the larger opening in the Mid-Atlantic summer flounder trawl fishery since 2003.

As part of this first phase of rulemaking, NMFS is considering modifying TED regulations in the summer flounder trawl fishery to require a larger escape opening. The larger escape opening would have a 142-inch (361-cm) circumference with a corresponding 71-inch (180-cm) straight-line stretched measurement. This is expected to decrease escape times for all turtles and allow for the release of leatherbacks and all larger loggerhead and green sea turtles. The larger opening would be consistent with sea turtle regulations currently in place in the shrimp trawl fishery. Additionally, the northern component of the summer flounder trawl fishery, which currently does not fall under the TED requirement, would also be considered for a requirement to use TEDs, as detailed below in this notice.

Whelk and Calico Scallop Trawl Fisheries

Much of the whelk fishery occurs primarily in the state waters of Georgia and South Carolina, in both state and Federal fisheries. The fishery arose as an alternative fishery when the shrimp fishery was closed. Trawling for knobbed, channeled and lightning whelk occurs from mid-February through mid-April. Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Virginia, Maryland, and North Carolina have reported landings of channeled, lightning or knobbed whelk by trawl gear.

Due to documented sea turtle interactions in whelk fisheries, NMFS evaluated potential TED designs for the fishery in 2000–2001. The whelk TED was developed in cooperation with the Georgia Department of Natural Resources (GDNR) and the University of Georgia Marine Extension Service in an effort to provide nearshore whelk fishermen with a TED that would allow the target species to pass through the TED frame and be retained as catch. The whelk TED passed the NMFS turtle testing protocol in 2001. The whelk TED design is similar to the top-opening flounder TED used along the southeastern Atlantic coast during the winter months, and features enlarged openings at the bottom of the frame. Currently, GDNR requires the use of this TED in the whelk trawl fishery in Georgia state waters. As part of the Strategy, NMFS is considering requiring the use of TEDs in the whelk trawl fishery throughout the range of the fishery.

The calico scallop fishery originally developed in North Carolina in the early 1960s, but the focus of the fishery shifted to areas off Florida during the early 1970s. Calico scallop trawls are typically small (e.g., headrope length <40 feet) and are towed for short periods of time (e.g., 15 minutes). The scallop beds off Florida stretch from Jacksonville to Ft. Pierce in 60 to 240 feet (18 to 73 m) of water. Due to large fluctuations of calico scallop abundance and patchy distribution, landings within the fishery have been extremely sporadic. No vessels are thought to currently be operating in the fishery as a result of resource depletion, habitat degradation, and lack of processing facilities. NMFS has determined that a hard TED, similar in design to the whelk TED, could be installed in calico scallop trawls. As part of the Strategy, NMFS is considering an option to require the use of TEDs in the calico scallop trawl fishery in the event that the fishery re-emerges. TED use in this fishery would be a new requirement.

Mid-Atlantic Scallop Trawl Fishery

The U.S. Atlantic sea scallop fishery is conducted in the Gulf of Maine, on Georges Bank, and in the Mid-Atlantic offshore region southward to North Carolina. The commercial fishery for Atlantic sea scallops occurs year round and is primarily conducted using dredges and otter trawls. Approximately 10 percent of landings in the sea scallop fishery are from vessels using trawl gear, primarily in the Mid-Atlantic. Fishing by these vessels often occurs during the summer when other species (e.g., summer flounder) are not available (NMFS 2003). Trawl fishermen participating in the sea scallop fishery primarily use either Atlantic sea scallop trawls or flounder trawls. Sea turtle bycatch has been documented in the Atlantic sea scallop trawl fishery.

In 2005 and 2006, NMFS tested the feasibility of TED use in the sea scallop trawl fishery. The sea scallop TED tested is a whelk TED that has been modified to prevent chafing of the gear. This TED design passed the NMFS testing criteria for sea turtle escapement. Initial results suggest that TED use in the sea scallop trawl fishery is feasible. As part of the first phase of rulemaking, NMFS is considering an option to require the use of TEDs in the Mid-Atlantic sea scallop trawl fishery. TED use in this fishery would be a new requirement.

Flynet Fishery

Flynets are high profile trawls fished just off the bottom and range from 80 to 120 feet (24.4 to 36.6 m) in width, with wing mesh sizes of 8 to 64 inches (41 to 163 cm). The flynet fishery is a multi-species fishery that operates along the east coast of the United States. One component of the fishery operates inside of 180 feet (55 m) from North Carolina to New Jersey, and targets Atlantic croaker, weakfish, and other finfish species. Another component of the flynet fishery operates outside of 180 feet (55 m) from the Hudson Canyon off New York, south to Hatteras Canyon off North Carolina. Target species for the deeper-water component of the fishery include bluefish, Atlantic mackerel, squid, black sea bass, and scup. Sea turtle bycatch has been documented in this fishery. TED requirements for Trawl–Phase I would be only for Atlantic croaker and weakfish fisheries.

TEDs for the flynet fishery have been in development since 1999. Two semi-rigid TED designs for use within the flynet fishery have passed the NMFS turtle testing protocol when rigged with a top-opening escape panel. As part of the first phase, NMFS is currently considering requiring the use of TEDs in the flynet fishery. TED use in this fishery would be a new requirement.

Replacement of the Summer Flounder Fishery Sea Turtle Protection Area Boundary with a General Sea Turtle Protection Area Boundary

The existing Summer Flounder Fishery Sea Turtle Protection Area rule requires that any summer flounder trawler operating within the boundary must use TEDs (50 CFR 223.206(d)(2)(iii)). Currently, this protection area is bounded on the north by a line extending off Cape Charles, Virginia, on the south by a line extending from the South Carolina-North Carolina border, and on the east by the Exclusive Economic Zone boundary. Vessels are exempted from the summer flounder TED requirement north of Oregon Inlet, North Carolina, from January 15 through March 15, annually, when bycatch of sea turtles by summer flounder trawling is not expected.

From 1994–2004, observers documented turtle bycatch in summer flounder and other Mid-Atlantic bottom otter trawl fisheries in areas and times when TEDs are not required in the summer flounder trawl fishery (Murray 2006). Based on the analysis, the likelihood of interacting with a turtle depends on the time and area in which fishing occurs rather than the fish species being targeted. While incidental captures of sea turtles occurred throughout the year, Murray (2006) demonstrated that most interactions were confined to certain bathymetric and thermal regimes. Because of documented bycatch of sea turtles north of the current line, NMFS is considering expanding the geographic scope of the TED requirements in the summer flounder fishery as part of the first phase to address sea turtle bycatch in the summer flounder fishery. This change would expand the TED requirements to other trawl fisheries in the Mid-Atlantic, which currently do not have any TED requirements within this geographic area.

Purpose of This Action

NEPA requires Federal agencies to conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the human environment. NMFS is considering a variety of regulatory measures under the Strategy to reduce the bycatch of threatened and endangered sea turtles in trawl fisheries. This EIS will provide background on the overall Strategy and specifically evaluate the alternatives and impacts associated with the proposed first phase of regulating the trawl fisheries along the Atlantic Coast and Gulf of Mexico. This rulemaking authority would be pursuant to the ESA. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with the exceptions identified in 50 CFR 223.206. NMFS is seeking public input on the scope of the required NEPA analysis, including the range of reasonable alternatives, associated impacts of any alternatives, and suitable mitigation measures.

Public Involvement and the Scoping Process

On February 15, 2007, NMFS published an ANPR in the **Federal Register** regarding potential amendments to the regulatory requirements for TEDs (72 FR 7382). The notice initiated a 30-day public comment period scheduled to end on March 19, 2007. However, due to requests from the pubic to extend the comment period, NMFS published an extension to the ANPR on March 19, 2007 (72 FR 12749), to allow comments through May 18, 2007.

NMFS received approximately 165 comments on proposed regulatory requirements during the combined 90-day comment period. The vast majority of nearly identical comments (approximately 130) were in favor of additional TED requirements for trawl fisheries, as well as a closure of ''key sea turtle habitat areas.'' While not specifically opposed to the proposed regulatory requirements, another group of 23 identical e-mail comments suggested a ''new approach perhaps a deflector'' for trawl fisheries. Through this NOI, NMFS further encourages all interested parties to participate in this NEPA process.

Scope of the Action

The Draft EIS is expected to identify and evaluate the relevant impacts and issues associated with implementing the first phase of sea turtle regulations in trawl fisheries of the northwest Atlantic and Gulf of Mexico, in accordance with the Council on Environmental Quality's Regulations at 40 CFR parts 1500, 1508, and NOAA's procedures for implementing NEPA found in NOAA Administrative Order (NAO) 216–6, dated May 20, 1999.

NMFS is proposing to implement the trawl part of the Strategy along the Atlantic Coast and the Gulf of Mexico. Phase one will specifically focus on the Atlantic coast trawl fisheries. The public will have additional opportunity to provide input on Trawl Phases II and III regulations at such time that separate rule-making processes are initiated.

Alternatives

NMFS will evaluate a range of alternatives in the Draft EIS for implementing phase one of the Strategy to reduce sea turtle bycatch and mortality in trawl fisheries along the Atlantic Coast. In addition to evaluating the status quo, NMFS will evaluate several alternatives. These alternatives include time and area closures, requiring the use of TEDs in the summer flounder, whelk, croaker and weakfish flynet and calico scallop trawls for the entire Atlantic Coast, as well as combination of spatial and temporal options. In terms of spatial options, sea turtles in U.S. waters range as far North as Georges Bank and the Gulf of Maine, but may be less likely to interact with a fishery towards the northern extent of this range. We will likely evaluate several alternatives related to the northern/northeastern extent of any required gear modification or other regulation. In general, NMFS is considering applying any gear modification or other regulation shoreward to the mean high water line. Similarly, several alternatives will likely be evaluated for the temporal extent of when a regulation would be in effect, as sea turtles migrate north along the Atlantic coast as waters warm each year, and are only present in more northern areas during the warmer months. Several datasets are available to help select and analyze the various spatial and temporal alternatives; these include fisheries landings and catch reports, observer data, sea surface temperature data, sea turtle strandings data, and sea turtle sighting and survey data.

Public Comments

NMFS provides this notice to advise the public and other agencies of NMFS's intentions and to obtain suggestions and information on the scope of the issues to include in the EIS. Comments and suggestions are invited from all interested parties to ensure that the full range of issues related to this proposed action and all substantive issues are identified. NMFS requests that comments be as specific as possible. In particular, the agency requests information regarding the potential direct, indirect, and cumulative impacts on the human environment from the

proposed action. The human environment is defined as ''the natural and physical environment and the relationship of people with that environment'' (40 CFR 1508.14). In the context of the EIS, the human environment could include air quality, water quality, underwater noise levels, socioeconomic resources, fisheries, and environmental justice.

Comments concerning this environmental review process should be directed to NMFS (see **ADDRESSES**). See **FOR FURTHER INFORMATION CONTACT** Alexis Gutierrez at *Alexis.Gutierrez@noaa.gov* or at 301–713–2322 for questions. All comments and material received, including names and addresses, will become part of the administrative record and may be released to the public.

Authority: The environmental review of the phase one of the Strategy for Sea Turtle Conservation and Recovery in Relation to Atlantic Ocean and Gulf of Mexico Fisheries will be conducted under the authority and in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), National Environmental Policy Act Regulations (40 CFR parts, 1500 through 1508), other appropriate Federal laws and regulations, and policies and procedures of NOAA and NMFS for compliance with those regulations.

Scoping Meetings Code of Conduct

The public is asked to follow the following code of conduct at the scoping meetings. At the beginning of each meeting, a representative of NMFS will explain the ground rules (e.g., alcohol is prohibited from the meeting room; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees may not interrupt one another). The NMFS representative will structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and those that do not will be asked to leave the meeting.

Special Accommodations

The scoping meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to one of the contacts (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days prior to the meeting. See Council meeting announcement for accessibility information for the briefings to the councils.

Dated: May 1, 2009.

Katy Vincent,

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

[FR Doc. E9–10674 Filed 5–7–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XI63

Incidental Takes of Marine Mammals During Specified Activities; Marine Geophysical Survey in the Northeast Pacific Ocean, August – October 2009

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

ACTION: Notice; proposed incidental take authorization; request for comments.

SUMMARY: NMFS has received an application from the Lamont-Doherty Earth Observatory (L-DEO), a part of Columbia University, for an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by harassment, incidental to conducting a seismic survey in the northeast Pacific Ocean. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS requests comments on its proposal to authorize L-DEO to take, by Level B harassment only, small numbers of marine mammals incidental to conducting a marine seismic survey during August through October, 2009.

DATES: Comments and information must be received no later than June 8, 2009.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Permits, Conservation and Education 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 *PR1.0648–XI63@noaa.gov*. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size.

All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*.

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Jeannine Cody or Howard Goldstein, Office of Protected Resources, NMFS, (301) 713–2289.

SUPPLEMENTARY INFORMATION:

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 marine mammals by United States 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 authorization is provided to the public for review.

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

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. 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 [ALevel A harassment@]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing