

due to pile driving. If comments are received from the Regional Administrator on the draft final report, a final report must be submitted to NMFS within 30 days thereafter. If no comments are received from NMFS, the draft final report will be considered to be the final report.

### National Environmental Policy Act (NEPA)

NMFS has prepared an EA and made a Finding of No Significant Impact (FONSI). Therefore, preparation of an environmental impact statement on this action is not required by section 102(2) of the NEPA or its implementing regulations. A copy of the EA and FONSI are available upon request (see ADDRESSES).

### Endangered Species Act (ESA)

On October 30, 2001, NMFS completed consultation under section 7 of the ESA with the FHWA on the CALTRANS' construction of a replacement bridge for the East Span of the SF-OBB in California. The finding contained in the Biological Opinion was that the proposed action at the East Span of the SF-OBB is not likely to jeopardize the continued existence of listed anadromous salmonids, or result in the destruction or adverse modification of designated critical habitat for these species. Listed marine mammals are not expected to be in the area of the action and thus would not be affected. However, issuance of this IHA to CALTRANS constitutes an agency action that authorizes an activity that may affect ESA-listed species and, therefore, is subject to section 7 of the ESA. However, as the effects of the activities on listed salmonids were analyzed during a formal consultation between the FHWA and NMFS, and as the underlying action has not changed from that considered in the consultation, the discussion of effects that are contained in the Biological Opinion issued to the FHWA on October 30, 2001, pertains also to this action. In conclusion, NMFS has determined that issuance of an IHA does not lead to any effects to listed species apart from those that were considered in the consultation on FHWA's action.

### Determinations

For the reasons discussed in detail in this document, NMFS has determined that the impact of pile driving and other activities associated with construction of the East Span Project, (described in this document), should result, at worst, in the Level B harassment of small numbers of California sea lions, Pacific harbor seals and potentially gray whales

that inhabit or visit SFB in general and the vicinity of the SF-OBB in particular. While behavioral modifications, including temporarily vacating the area around the construction site, may be made by these species to avoid the resultant visual and acoustic disturbance, the availability of alternate areas within SFB and its haul-out sites (including pupping sites) and feeding areas within the Bay has led NMFS to determine that this action will have a negligible impact on California sea lion, Pacific harbor seal, and gray whale populations along the California coast.

In addition, no take by level A harassment (injury) or death is anticipated and harassment takes should be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document.

### Authorization

For the reasons previously discussed, NMFS has issued an IHA for a 1-year period, for the incidental harassment of harbor seals, California sea lions and California gray whales by the construction of a replacement bridge for the East Span of the San Francisco-Oakland Bay Bridge in California, provided the previously mentioned mitigation, monitoring and reporting requirements are incorporated.

November 4, 2003.

**Laurie K. Allen,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 110603A]

### Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

**ACTION:** Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

**SUMMARY:** The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator) has made a preliminary determination that the subject EFP application contains all the required information and warrants

further consideration. The Assistant Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow two vessels to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP would allow for exemptions from the FMP as follows: Minimum mesh size in the southern Gear Restricted Area (GRA) for fishing for Loligo squid with a 1 7/8-inch (4.8-cm) diamond mesh codend net; and scup landing limits for Winter I period.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

**DATES:** Comments on this document must be received on or before December 1, 2003.

**ADDRESSES:** Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Loligo Gear Modification Study EFP Proposal." Comments may also be sent via facsimile (fax) to (978) 281-9135.

### FOR FURTHER INFORMATION CONTACT:

Brian Hooker, Fishery Management Specialist, phone 978-281-9220.

**SUPPLEMENTARY INFORMATION:** The NMFS Northeast Fisheries Science Center submitted a complete application for an EFP on October 23, 2003. The experimental fishing application requests authorization to allow the quantitative assessment of the effectiveness of a 5 3/4-inch (14.6-cm) square mesh cylinder, installed as an extension of a Loligo squid net, in reducing scup bycatch and in retaining commercial quantities of Loligo squid. The study would be conducted during the month of January 2004. Sampling would be conducted in the northern portion of the Southern GRA, approximately between 39° 20' N lat. and 38° 00' N lat., at locations where scup and Loligo co-occur. The depth range within the GRA sampling area is approximately 40 to 100 fathoms (73 to 183 m). Stations would be located

across a range of depths to test the efficiency of the gear across a range of scup-Loligo densities. Samples would be within close proximity of one another to minimize steam time between stations. Estimated catch for the study period are as follows: Loligo squid, 96,000 lb (43,545 kg); scup, 13,000 lb (6,078 kg); butterfish, 9,600 lb (4,354 kg); Illex squid, 2,800 lb (1,270 kg); summer flounder, 2,600 lb (1,179 kg); monkfish, 1,900 lb (862 kg); smooth dogfish, 1,000 lb (454 kg); spiny dogfish, 700 lb (318 kg); white hake, 600 lb (272 kg); john dory, 200 lb (91 kg); black sea bass, 100 lb (45 kg); silver hake, 100 lb (45 kg); and tilefish, 10 lb (5 kg). Squid and fish caught during the study would be sold by the vessel owners, in accordance with the requirements of the permits issued to them (with the exception of the requested exemption to the scup landing limit). The sale of fish is necessary to offset the costs of chartering the vessels for the study. The participating vessels would be required to comply with applicable state landing laws and report all landings on the Federal Fishing Vessel Trip Report.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: November 7, 2003.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## CONSUMER PRODUCT SAFETY COMMISSION

### Public Meeting Concerning Petition for Rule Declaring Natural Rubber Latex a Strong Sensitizer

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Consumer Product Safety Commission ("CPSC" or "Commission") will conduct a public meeting on December 10, 2003, to receive comments concerning Petition HP 00-2, which requested that the Commission declare natural rubber latex ("NRL") to be a strong sensitizer under the Federal Hazardous Substances Act ("FHSA"). The CPSC staff's briefing package recommends that the Commission deny the petition. The Commission invites oral presentations from members of the public with information or comments related to the petition or the staff's briefing package. The Commission will consider these presentations as it decides what action to take on the petition.

**DATES:** The meeting will begin at 10 a.m. on December 10, 2003. Requests to make oral presentations, and 10 copies of the text of the presentation, must be received by the CPSC Office of the Secretary no later than December 3, 2003. Persons making presentations at the meeting should provide an additional 25 copies for dissemination on the date of the meeting.

The Commission reserves the right to limit the number of persons who make presentations and the duration of their presentations. To prevent duplicative presentations, groups will be directed to designate a spokesperson.

Written submissions, in addition to, or instead of, an oral presentation may be sent to the address listed below and will be accepted until January 10, 2003.

**ADDRESSES:** The meeting will be in room 420 of the Bethesda Towers Building, 4330 East-West Highway, Bethesda, MD. Requests to make oral presentations, and texts of oral presentations should be captioned "Latex Petition Briefing" and be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Requests and texts of oral presentations may also be submitted by facsimile to (301) 504-0127 or by e-mail to [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov).

**FOR FURTHER INFORMATION CONTACT:** For information about the purpose or subject matter of this meeting contact Suzanne Barone, Ph.D., Directorate for Health Sciences, U.S. Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-7256; e-mail: [sbarone@cpsc.gov](mailto:sbarone@cpsc.gov). For information about the schedule for submission of requests to make oral presentations and submission of texts of oral presentations, contact Rockelle Hammond, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-6833; fax (301) 504-0127; e-mail [rhammond@cpsc.gov](mailto:rhammond@cpsc.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Background

The Commission received a petition from Debi Adkins, editor of Latex Allergy News, requesting that the Commission issue a rule declaring natural rubber latex ("NRL") to be a strong sensitizer under the Federal Hazardous Substances Act ("FHSA") and that consumer products containing NRL be labeled. The petitioner asserts that a portion of the population has developed an allergy to NRL that can cause serious allergic reactions, even death. NRL may be in such consumer

products as gloves, adhesives, shoes, balloons, pacifiers, and carpet backing, as well as many medical products.

The Commission published a notice in the **Federal Register** on March 21, 2000, requesting comments on the petition. 65 FR 15133. The Commission extended the comment period 30 days. 65 FR 33525. The Commission received a total of 85 comments on the petition.

The staff reviewed the petition, comments and other relevant available information. The staff then forwarded a briefing package to the Commission, which is available on the Commission's Web site [www.cpsc.gov](http://www.cpsc.gov) or from the Commission's Office of the Secretary. The staff recommends that the Commission deny the petition. The staff concludes that available data do not support that NRL is a strong sensitizer as that term is defined in the FHSA. Current scientific information about the development of NRL allergy from consumer products that contain NRL is limited, and it does not appear that the information will be developed in the near future.

The FHSA defines the term "strong sensitizer" as a "substance which will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity which becomes evident on reapplication of the same substance" and which the Commission declares to be a strong sensitizer. 15 U.S.C. 1261(k). The FHSA definition further states that before making such a declaration, and "upon consideration of the frequency of occurrence and severity of the reaction, [the Commission] shall find that the substance has a significant potential for causing hypersensitivity." *Id.*

##### B. The Public Meeting

The purpose of the public meeting is to provide a forum for oral presentations on the NRL petition and the CPSC staff briefing package.

Participation in the meeting is open. See the **DATES** section of this notice for information on making requests to give oral presentations at the meeting and on making written submissions.

Dated: November 7, 2003.

**Todd A. Stevenson,**

*Secretary, Consumer Product Safety Commission.*

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## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

**AGENCY:** Department of Education.