

components of the scallop fishery; measures to reduce capacity in the limited access fishery including DAS leasing, permits or DAS transfers, and individual fishing quotas (IFQs); and consideration of an overfishing definition that would average fishing mortality for a particular area over a period of time rather than an overall average for the entire resource per fishing year. As for modifications to Amendment 11 measures if approved by NMFS, this action may consider a rollover allowance for general category IFQ permit owners; allocation of IFQ by area for general category IFQ permit owners; alternative methods for calculating the hard TAC in the Northern Gulf of Maine (NGOM) in future years; and consideration of individual sector applications for general category vessels interested in forming a voluntary sector.

This action is also considering alternatives to address the inconsistent EFH areas currently closed to the scallop fishery under both the Scallop and Multispecies FMPs. Specifically, this action may consider making the EFH closed areas consistent under both FMPs if Phase II of the EFH Omnibus Amendment timeline is delayed. Rather than both EFH areas being closed to the scallop fishery, just the EFH areas implemented under the Multispecies FMP would apply to the scallop fishery. Additionally, this action is considering alternatives to improve the overall effectiveness of the research set-aside program. Specifically, alternatives to streamline the process may be considered as well as specific alternatives to maximize use of the resource for direct benefits to scallop management. Lastly, the amendment may consider a range of dates for the start of the fishing year, in addition to the status quo of March 1, to address that the scallop fishing year is out of sync with the framework adjustment process and the timing of when the scallop survey data become available for analysis. As a result, actions have not been implemented at the start of the fishing year, TACs have been misestimated due to reliance on older data, and extra actions have been required to compensate. Therefore, May 1 has been suggested as a possible start date to address some of these issues.

It is possible that during the scoping process other issues will be raised related to the stated purposes of this amendment, and if appropriate, those issues will be considered by the Council as well. On the other hand, some issues may be dropped after completion of the scoping process if the Council determines that the scope of this action

is too broad and, due to limited resources, needs to reduce the number of issues considered in this action.

#### Scoping Process

All persons affected by or otherwise interested in scallop management are invited to participate in determining the scope and significance of issues to be analyzed by submitting written comments (see **ADDRESSES**) or by attending one of the scoping meetings. Scope consists of the range of actions, alternatives, and impacts to be considered. Alternatives include the following: not amending the management plan (taking no action), developing an amendment that contains management measures such as those discussed in this notice, or other reasonable courses of action. Impacts may be direct, individual or cumulative.

This scoping process will also identify and eliminate issues that are not significant from detailed analysis. When, after the scoping process is completed, the Council proceeds with the development of an amendment to the Scallop FMP, the Council will prepare an EIS to analyze the impacts of a range of alternatives under consideration. The Council will hold public hearings to receive comments on the draft amendment and on the analysis of its impacts presented in the EIS.

#### Scoping Hearing Schedule

The Council will discuss and take scoping comments at the following public meetings:

1. Tuesday, April 1, 7 p.m., Omni Newport News Hotel, 1000 Omni Boulevard, Newport News, VA. 23606; telephone (757) 873-6664.

2. Wednesday, April 2, 7 p.m., Congress Hall, 251 Beach Avenue, Cape May, NJ 08204; telephone (609) 884-8421.

3. Monday, April 7, 7 p.m., Holiday Inn by the Bay, 88 Spring Street, Portland, ME 04101; telephone (207) 775-2311.

4. Tuesday, April 8, 7 p.m., Holiday Inn Express, 110 Middle Street, Fairhaven, MA 02719; telephone: (508) 997-1281.

#### Special Accommodations

These meetings are accessible to people with physical disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: February 28, 2008

**James P. Burgess,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**0648-XG07**

[I.D. 050107K]

#### Taking and Importing Marine Mammals; Atlantic Fleet Active Sonar Training (AFAST) Activities

**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. Navy (Navy) for authorization for the take of marine mammals incidental to Atlantic Fleet Active Sonar Training (AFAST) activities conducted off the Atlantic coast and in the Gulf of Mexico for the period beginning January 2009 and ending January 2014. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is announcing our receipt of the Navy's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the Navy's application and request.

**DATES:** Comments and information must be received no later than April 4, 2008.

**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 [PR1.050107K@noaa.gov](mailto:PR1.050107K@noaa.gov). NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size.

**FOR FURTHER INFORMATION CONTACT:** Jolie Harrison, Office of Protected Resources, NMFS, (301) 713-2289, ext. 166.

**SUPPLEMENTARY INFORMATION:**

### Availability

A copy of the Navy'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>. The Navy's Draft Environmental Impact Statement (DEIS) for AFAST was made available to the public on Feb 15th, 2008, and may be viewed at <http://afasteis.gcsaic.com>. Because NMFS is participating as a cooperating agency in the development of the Navy's DEIS for AFAST, NMFS staff will be present at the associated public meetings and prepared to discuss NMFS' participation in the development of the EIS as well as the MMPA process for the issuance of incidental take authorizations. The dates and times of the public meetings may be viewed at: <http://afasteis.gcsaic.com>.

### Background

In the case of military readiness activities, 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 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 no more than 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 that 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.

With respect to military readiness activities, the MMPA defines "harassment" as:

(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral

patterns are abandoned or significantly altered [Level B Harassment].

### Summary of Request

On February 1, 2008, NMFS received an application from the Navy requesting authorization for the take of 29 species of marine mammals incidental to upcoming AFAST activities to be conducted off the Atlantic coast and in the Gulf of Mexico, over the course of 5 years. These training activities are classified as military readiness activities. The Navy states that these training activities may expose some of the marine mammals present in the area to sound from various mid-frequency and high-frequency active tactical sonar sources or to underwater detonations from the Improved Extended Echo-ranging (IEER) system. The Navy requests authorization to take individuals of 29 species of marine mammals by Level B Harassment. Further, the Navy requests authorization to take 10 individual beaked whales per year by serious injury or mortality (any combination of the following species: Cuvier's beaked whales, northern beaked whales, True's beaked whales, Gervais' beaked whales, Blainsville's beaked whales, and Sowerby's beaked whales).

### Specified Activities

In the application submitted to NMFS, the Navy requests authorization for take of marine mammals incidental to conducting operations utilizing mid- and high frequency active sonar sources and IEER, which consists of an explosive source sonobuoy and an air deployable active receiver. These sonar and explosive sources will be utilized during Independent Unit Level Training (single unit), Coordinated Unit Level Training and Strike Group Training (multi-unit operations), maintenance activities, and research, development, testing and evaluation (RDT&E) activities. Table 1-1 in the application lists the activity types, the equipment and platforms involved, and the duration and potential locations of the activities.

### Information Solicited

Interested persons may submit information, suggestions, and comments concerning the Navy's request (see **ADDRESSES**). All information, suggestions, and comments related to the Navy's AFAST request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by the Navy's AFAST activities will be considered by NMFS in developing, if appropriate, the most

effective regulations governing the issuance of letters of authorization.

Dated: February 28, 2008.

**Helen M. Golde,**

*Deputy Director, Office of Protected Resources, National Marine Fisheries Service.*  
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## DELAWARE RIVER BASIN COMMISSION

### Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, March 12, 2008. The hearing will be part of the Commission's regular business meeting. The business meeting is open to the public and will be held at the Commission's office building, located at 25 State Police Drive in West Trenton, New Jersey. No morning conference session is scheduled for this meeting.

Please note that commission action on the Proposed Amendments to the Water Quality Regulations, Water Code and Comprehensive Plan to Classify the Lower Delaware River as Special Protection Waters (SPW) will not take place at this meeting. The earliest commission meeting date when action could be taken is May 14, 2008.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include the dockets listed below:

1. *Freeland Borough Municipal Authority D-94-63 CP-2*. An application for the renewal of a ground water withdrawal project to continue withdrawal of 17.2 million gallons per thirty days (mg/30 days) to supply the applicant's public water supply distribution system from existing Wells Nos. 9, 12 and 14 in the Buck Mountain Mauch Chunk Formation. The project is located in the Pond Creek Watershed in Freeland Borough, Luzerne County, Pennsylvania, within the drainage area to the section of the non-tidal Delaware River known as the Lower Delaware, which is designated as Special Protection Waters.

2. *Township of Roxbury D-96-17 CP-2*. An application for the renewal of a ground water withdrawal project to supply up to 19.8 mg/30 days from existing Wells Nos. 2, 4, 9 and 12. The project is located in the Stratified Drifts Aquifer in the Musconetcong River Watershed in Roxbury Township, Morris County, New Jersey, within the drainage area to the section of the non-