

that are small businesses by examining the number of applicants in similar services that qualified as small businesses. For example, MDS authorizes non-common carrier services similar to what may be developed through LMDS. The MDS rules provide a similar definition of a small business as an entity that, together with its affiliates, has annual gross revenues for the three proceeding years not in excess of \$40 million. A total of 154 applications were received in the MDS auction, of which 141, or 92 percent, qualified as small businesses.

29. We plan to issue 2 licenses for each of the 492 BTAs, excluding New York, that are the geographic basis for licensing LMDS. Thus, 984 licenses will be made available for authorization in the LMDS auction. Inasmuch as 92 percent of the applications were received in the MDS auction were from entities qualifying as small businesses, we anticipate receiving at least the same from LMDS applicants interested in providing non-common carrier services.

30. There is only one company, CellularVision, that is currently providing LMDS video services. Although the Commission does not collect data on annual receipts, we assume that CellularVision is a small business under both the SBA definition and our proposed auction rules.

31. *Reporting, Recordkeeping, and Other Compliance Requirements:* Under the proposal contained in the Fifth NPRM: (1) acquisitions by partitioning or disaggregation will be treated as assignments of a license and will require the parties to seek prior approval of the Commission; (2) the parties will be required to identify which of them will be responsible for complying with the construction requirements set forth in the Second Report and Order we have adopted today, and to submit a certification to that effect, signed by both parties, (3) parties failing to meet their construction requirement obligations will be subject to forfeiture of their license; and (4) licensees afforded bidding preferences and other benefits available to small entities will be subject to the Commission's unjust enrichment rules should they partition or disaggregate to entities that are not small businesses. If adopted, this proposal would apply to all LMDS licensees and all entities that attempt to acquire an LMDS license by means of partitioning or disaggregation. We request comment on how these requirements can be modified to reduce the burden on small entities and still meet the objectives of the proceeding.

32. *Significant Alternatives Minimizing the Significant Economic*

Impact on a Substantial Number of Small Entities Consistent with the Stated Objectives: We have not identified any significant alternatives that would minimize the significant economic impact on small entities that are consistent with the stated objectives to allow a flexible approach to partitioning and disaggregation of LMDS. We tentatively conclude that a flexible approach affords providers, including small businesses, the ability to respond to market forces and demands for service relevant to their particular locations and service offerings.

The regulatory burdens we have imposed on LMDS licensees with respect to assignments and buildout certifications, as well as unjust enrichment, are necessary in order to ensure that the public receives the benefits of innovative new services in a prompt and efficient manner. We seek comment on any significant alternatives that are consistent with the objectives in the NPRM.

33. *Federal Rules That Overlap, Duplicate, or Conflict with These Proposed Rules:* None.

List of Subjects in 47 CFR Part 101

Communications common carriers, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97-8775 Filed 4-4-97; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB73

Endangered and Threatened Wildlife and Plants, Notice of Reopening of Comment Period on Proposed Endangered Status for the Peninsular Ranges Population of the Desert Bighorn Sheep

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule, notice of reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of reopening of the comment period for the proposed endangered status for the Peninsular Ranges population of desert bighorn

sheep (*Ovis canadensis*). The comment period has been reopened to acquire additional information from interested parties, and to resume the proposed listing action. In addition, the Service is seeking public comment on various articles and reports concerning the distinctiveness and status of bighorn sheep in the Peninsular Ranges.

DATES: The public comment period closes May 7, 1997. Any comments received by the closing date will be considered in the final decision on this proposal.

ADDRESSES: Written comments, materials and data, and available reports and articles concerning this proposal should be sent directly to the Field Supervisor, Carlsbad Field Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Peter Sorensen, at the address listed above (telephone 760/431-9440, facsimile 760/431-9618).

SUPPLEMENTARY INFORMATION:

Background

The Peninsular Ranges population of the desert bighorn sheep occurs along desert slopes of the Peninsular Ranges from the vicinity of Palm Springs, California, into northern Baja California, Mexico. Depressed recruitment, habitat loss and degradation, disease, loss of dispersal corridors, and random events (e.g., drought) affecting small populations threaten the desert bighorn sheep in the Peninsular Ranges.

On May 8, 1992, the Service published a rule proposing endangered status for the Peninsular Ranges population of the desert bighorn sheep (57 FR 19837). The original comment period closed on November 4, 1992. The Service was unable to make a final listing determination regarding the bighorn sheep because of a limited budget, other endangered species assignments driven by court orders, and higher listing priorities. In addition, a moratorium on listing actions (Public Law 104-6), which took effect on April 10, 1995, stipulated that no funds could be used to make final listing or critical habitat determinations. Now that funding has been restored, the Service is proceeding with a final determination for the Peninsular Ranges population of the desert bighorn sheep.

Due to the length of time that has elapsed since the close of the initial comment period, changing procedural

and biological circumstances and the need to review the best scientific information available during the decision-making process, the comment period is being reopened. Moreover, this proposed listing of a population of desert bighorn sheep must be consistent with Service policy published on February 7, 1996, regarding the recognition of distinct vertebrate population segments (61 FR 4722). This policy requires that distinct population segments be discrete from other populations of the species, be biologically and/or ecologically significant to the species, and meet the standards of a endangered or threatened species under section 4(a) of the Act. In this regard, the following recent articles and reports contained in Service files, including other non-cited information, are available for public review:

Berger, J. 1990. Persistence of different-sized populations: An empirical assessment of rapid extinctions. *Conservation Biology* 4:91–98.

Bleich, V. C., J. D. Wehausen, and S. A. Holl 1990. Desert-dwelling mountain sheep: Conservation implications of a naturally fragmented distribution. *Conservation Biology* 4:383–390.

Bleich, V. C., J. D. Wehausen, R. R. Ramey II, and J. L. Rechel 1997. Metapopulation theory and mountain sheep: Implications for conservation. Pages 353–373 in D. R. McCullough, editor. *Metapopulations and Wildlife Conservation*, Island Press, Washington D.C.

Bighorn Institute 1996. Summary of the San Jacinto Mountains helicopter survey of Peninsular bighorn sheep. unpublished report, 2 pp.

Bighorn Institute 1996. Summary of the Santa Rosa Mountains helicopter survey of Peninsular bighorn sheep. unpublished report, 3 pp.

Boyce, W. M., P. W. Hedrick, N. E. Muggli-Cockett, S. Kalinowski, M. C. T. Penedo, and R. R. Ramey II 1997.

Genetic variation of major histocompatibility complex and microsatellite loci: A comparison in bighorn sheep. *Genetics* 145:421–433.

DeForge, J. R., E. M. Barrett, S. D. Ostermann, M. C. Jorgensen, and S. G. Torres 1995. Population dynamics of Peninsular bighorn sheep in the Santa Rosa Mountains, California. *Desert Bighorn Council Trans.* 39:50–57.

R. R. Ramey II 1995. Mitochondrial DNA variation, population structure, and evolution of mountain sheep in the south-western United States and Mexico. *Molecular Ecology* 4:429–439.

Rubin, E., and W. Boyce 1996. Results of helicopter survey conducted in Anza-

Borrego Desert State Park, unpublished memo to Steve Torres (CDFG Bighorn Sheep Coordinator) and project collaborators. 6 pp.

Wehausen, J. D., and R. R. Ramey II 1993. A morphometric reevaluation of the Peninsular bighorn subspecies. *Desert Bighorn Council Trans.* 37:1–10.

Regarding the above articles and reports, the Service particularly seeks information concerning:

(1) The biological and ecological distinctiveness of bighorn sheep in the Peninsular Ranges from other populations of bighorn sheep;

(2) other biological, commercial, or other relevant data on any threat (or lack thereof) to bighorn sheep in the Peninsular Ranges; and

(3) the current size, number, or distribution of bighorn sheep populations in the Peninsular Ranges.

Written comments may now be submitted until [May 7, 1997] to the Service office in the ADDRESSES section.

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: April 1, 1997.

Thomas J. Dwyer,

Regional Director, Region 1.

[FR Doc. 97–8779 Filed 4–4–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 970129015–7072–02; I.D. 031997B]

RIN 0684–A184

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS by this action proposes a take reduction plan and implementing regulations to reduce serious injury and mortality of four large whale stocks that occur incidental to certain fisheries. The whales stocks consist of the North Atlantic right whale (*Eubalaena glacialis*), Western North Atlantic stock, humpback whale (*Megaptera*

novaeangliae), Western North Atlantic stock, fin whale (*Balaenoptera physalus*), Western North Atlantic stock, and minke whale (*Balaenoptera acutorostrata*), Canadian East Coast stock. Covered by the proposed plan are fisheries: for multiple species, including monkfish and dogfish in the New England Multispecies sink gillnet fishery; for multiple species in the U.S. mid-Atlantic coastal gillnet fisheries; for lobster in the Gulf of Maine and U.S. mid-Atlantic trap/pot fisheries; and for sharks in the Southeastern U.S. Atlantic driftnet fishery. NMFS seeks comments on this proposed plan and the proposed regulations to implement the plan.

DATES: Comments on the proposed plan and proposed regulations to implement the plan must be received by May 15, 1997.

ADDRESSES: Send comments to Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–33226. Copies of the Team Report and draft Environmental Assessment (EA) may be obtained by written request from the Office of Protected Resources, or by telephoning one of the contacts listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Kim Thounhurst, NMFS, Northeast Region, 508/281–9368; Bridget Mansfield, NMFS, Southeast Region, 813/570–5312; or Michael Payne, NMFS, Office of Protected Resources, 301/713–2322.

SUPPLEMENTARY INFORMATION:

Background

Since it was first passed in 1972, one of the underlying goals of the Marine Mammal Protection Act (MMPA) has been to reduce the incidental serious injury and mortality of marine mammals permitted in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate (section 101(a)(2) of the MMPA). The 1994 Amendments to the MMPA reaffirm this Zero Mortality Rate Goal (ZMRG) (section 118 (b)(1)).

To facilitate reduction of incidental serious injury and mortality to high priority marine mammal stocks, section 118(f) requires NMFS to develop and implement a take reduction plan to assist in the recovery or to prevent the depletion of each strategic stock that interacts with a Category I or II fishery. Category I or II fisheries are fisheries that have frequent or occasional incidental mortality and serious injury of marine mammals, respectively. A strategic stock is a stock: (1) For which the level of direct human-caused