

intends to initiate the next five-year review of the *Orders* not later than 30 days prior to the fifth anniversary of the effective date of continuation.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

Notification to Interested Parties

These five-year (sunset) reviews and this notice are in accordance with sections 751(c) and (d)(2) of the Act, and published in accordance with section 777(i) of the Act and 19 CFR 351.218(f)(4).

Dated: June 20, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019-13617 Filed 6-25-19; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 181019964-9283-01]

RIN 0648-XG584

Announcement of Hearing and Final Agenda Regarding Proposed Waiver and Regulations Governing the Taking of Marine Mammals

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

ACTION: Notice of hearing; final agenda.

SUMMARY: This notice announces the final agenda for a hearing before an Administrative Law Judge (ALJ) and the process by which interested persons can participate in the hearing on issues not previously included in the notice of hearing published on April 5, 2019. The hearing involves a proposed waiver under the Marine Mammal Protection Act (MMPA) and proposed regulations governing the hunting of eastern North Pacific (ENP) gray whales by the Makah

Indian Tribe in northwest Washington State. During the prehearing conference, the following new issue of fact was identified: “Is the ENP stock currently undergoing an Unusual Mortality Event (UME)? If so, does this merit further consideration before a waiver may be granted?”

DATES: NMFS has scheduled a hearing before Administrative Law Judge George J. Jordan to consider the proposed MMPA waiver and the proposed regulations previously published on April 5, 2019 (84 FR 13604). It will begin on Monday, August 12, 2019 at 9:30 a.m. PDT in the Henry M. Jackson Federal Building, 915 Second Avenue, 4th Floor Auditorium, Seattle, WA 98174. This date remains subject to change under 50 CFR 228.6(b)(1). Persons interested in participating as a party in the hearing on issues not included in the notice of hearing should consult regulations at 50 CFR part 228, the notice of hearing (84 FR 13639), and this notice and notify NMFS by the filing deadline below.

Filing Deadlines: The final date to submit direct testimony to rebut testimony previously submitted is July 9, 2019. The final date for submission of direct testimony on issues of fact not included in the notice of hearing (84 FR 13639) is July 9, 2019, and the final date for rebuttal to such testimony is July 31, 2019. The parties may file motions to exclude any issues listed in this notice by July 12, 2019. Motions to exclude based on any rebuttal evidence the parties submit must be filed by July 19, 2019. The other parties to this proceeding will have ten days to respond to any such motions, and additional replies will be authorized only on a showing of good cause.

Any person desiring to participate as a party at the hearing on the new issue fact identified during the prehearing conference, which was not included in the notice of hearing published on April 5, 2019 (84 FR 13639) must file a notice of intent to participate with the NMFS West Coast Region Regional Administrator by certified mail, postmarked no later than July 8, 2019.

ADDRESSES: The hearing will be held before Administrative Law Judge George J. Jordan of the United States Coast Guard at the Henry M. Jackson Federal Building, 915 Second Avenue, 4th Floor Auditorium, Seattle, WA 98174.

Any person desiring to participate as a party in the hearing on issues not previously included in the notice of hearing published on April 5, 2019 (84 FR 13639) must notify NMFS, by certified mail, at the following address: Mr. Barry Thom, Regional Administrator, NMFS, West Coast Region, 1201 NE Lloyd Boulevard, Suite 110, Portland, OR 97232.

Any person desiring to participate as a party in the hearing should also send an electronic copy to aljseattle@uscg.mil. Such persons may present direct testimony or cross-examine witnesses only on those issues not previously included in the notice of hearing.

FOR FURTHER INFORMATION CONTACT:

Michael Milstein, NMFS West Coast Region, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232-1274; 503-231-6268.

SUPPLEMENTARY INFORMATION: On

February 14, 2005, NMFS received a request from the Makah Indian Tribe for a waiver of the MMPA moratorium on the take of marine mammals to allow for take of ENP gray whales (*Eschrichtius robustus*). The Tribe requested that NMFS authorize a tribal hunt for ENP gray whales in the coastal portion of the Tribe's usual and accustomed fishing area for ceremonial and subsistence purposes and the making and sale of handicrafts. The MMPA imposes a general moratorium on the taking of marine mammals but authorizes the Secretary of Commerce to waive the moratorium and issue regulations governing the take if certain statutory criteria are met.

On April 5, 2019, NMFS published a Notice of Hearing and the associated proposed regulations in the **Federal Register** (84 FR 13639 and 84 FR 13604). Pursuant to an interagency agreement, a Coast Guard Administrative Law Judge was assigned to conduct the formal hearing and issue a recommended decision in this matter under the procedures set forth at 50 CFR part 228.

A prehearing conference took place on June 17, 2019 at the Jackson Federal Building, Seattle, WA. In compliance with 50 CFR 228.12, Judge George J. Jordan issued the following notice of final agenda for publication in the **Federal Register**.

Participant	Interest
National Marine Fisheries Service, NOAA, Barry Thom, Regional Administrator, Portland, OR, Chris McNulty, Esq., NOAA Office of General Counsel, Seattle, WA, Laurie Beale, Esq., NOAA Office of General Counsel, Seattle, WA, Caitlin Imaki, Esq., NOAA Office of General Counsel, Seattle, WA.	NMFS is the proponent of the proposed regulations. All parties are deemed adverse to NMFS for the purpose of cross-examination on the issues presented.
Makah Indian Tribe, Brian Gruber, Esq., Ziontz Chestnut, Seattle, WA ..	The Makah Tribe claims the right to hunt whales, granted by the Treaty of Neah Bay. The Makah Tribe is generally in favor of the proposed regulations but opposes the restrictions on off-reservation consumption of gray whale products.
Inanna McCarty, Neah Bay, WA	Ms. McCarty is an enrolled member of the Makah Tribe and generally supports the proposed regulations.
Marine Mammal Commission, Michael L. Gosliner, Esq., General Counsel, Bethesda, MD.	The Marine Mammal Commission (MMC) does not take a position as to the outcome of this rulemaking, but acts as a scientific advisory body to NMFS.
Animal Welfare Institute, Elizabeth Lewis, Esq., Meyer Glitzenstein & Eubanks LLP, Forth Collins, CO, Donald J. Schubert.	The Animal Welfare Institute (AWI) opposes the proposed regulations for procedural reasons and for the impact they would have on marine mammals.
Sea Shepherd Legal/Sea Shepherd Conservation Society, Catherine Pruett, Esq., Seattle, WA, Brett Sonnemeyer, Esq., Seattle, WA.	Sea Shepherd Legal (SSL) opposes the proposed regulations for procedural reasons and for the impact they would have on marine mammals.
Peninsula Citizens for the Protection of Whales, Margaret Owens, Port Angeles, WA.	PCPW opposes the proposed regulations.

Issues To Be Addressed at the Hearing

I. Should a waiver be granted pursuant to 16 U.S.C. 1371(a)(3)(A)?

A. Did NMFS give due regard to the distribution, abundance, breeding habits, and times and lines of migratory movements of the stock subject to the waiver? Will the proposed waiver have a meaningful effect on the distribution, abundance, breeding habits, or migratory movements of the stock subject to the waiver?

1. Distribution and Abundance:

a. What numbers are appropriate to use for ENP, WNP, and PCFG:

- Carrying capacity
- Current abundance estimates
- Population stability and/or historical fluctuation
- Optimum sustainable population (OSP) levels

b. What are the maximum number of ENP and PCFG whale deaths and maximum percentage reduction in ENP and PCFG abundance expected to result from Makah hunting over the 10-year waiver period?

i. Would this reduction have any impact on ENP or PCFG abundance?

c. Is the ENP stock currently undergoing an Unusual Mortality Event (UME)? If so, does this merit further consideration before a waiver may be granted?

d. Is the carrying capacity of ENP stock in the summer feeding areas being reduced and does this merit further consideration before a waiver may be granted?

2. Facts pertaining to Breeding Habits:

a. Under the proposed waiver, will hunting or hunt training overlap with the breeding season? Will this most likely occur in December-January?

i. What is the expected frequency of hunt activities during the relevant time period?

ii. Will the boundaries set for the proposed hunt adversely affect mating whales or mothers and calves?

3. Facts pertaining to Time and Lines of Migratory Movements:

a. Does the majority of the ENP stock range from the winter/spring breeding grounds in northern Mexico and southern California to the summer/fall feeding grounds in the Bering, Beaufort, and Chukchi seas? Should the Okhotsk Sea be included in the migratory range?

b. Does the ENP stock migrate between the breeding and feeding grounds between December and May?

i. Is the timing of the southbound migration being altered due to a longer feeding season in the Arctic?

c. Will migrating ENP whales generally be encountered only during even-year hunts?

i. How long is it expected to take for a migrating ENP whale to pass through the proposed hunt boundary?

ii. Proportionally, how much of the migratory range is included in the proposed hunt boundary?

iii. What is the expected range and duration of hunting activities during the even-year hunts?

iv. How many whales are likely to be subjected to hunt or training activities?

d. Does the PCFG spend the summer and fall feeding season off the Pacific coast of North America from northern California to northern Vancouver Island? Are some PCFG whales also present in the feeding area throughout the winter?

i. Are PCFG whales expected to be encountered during both even-and odd-year hunts?

ii. Is the PCFG further delineated into sub-groups with distinct feeding areas? Do PCFG whales randomly choose

feeding areas or are they internally or externally recruited into sub-groups?

iii. Will the proposed waiver have a disproportionate impact on PCFG whales in the Makah Tribe's Usual and Accustomed (U&A) hunting area? Particularly, will it have an impact on reproductive females?

e. Will non-lethal hunting activities result in a lasting effect on ENP/PCFG migratory movements?

B. Are NMFS's Determinations Consistent with the MMPA's Purposes and Policies?

1. Facts pertaining to the Health and Stability of the Marine Ecosystem and Functioning of Marine Mammals within their Ecosystems.

a. Is the northern California Current ecosystem the appropriate ecosystem to focus on for this proceeding? Should the focus instead be on a smaller biologically relevant scale such as the northern Washington coastal environment or an even more localized area such as the Makah U&A?

b. What effect would the waiver have on the relevant ecosystem(s) or area(s)?

i. What role do gray whales play in structuring the relevant ecosystem? Does this differ in the various geographical areas in which gray whales are present?

ii. In light of NMFS's assertion that "most effects of the hunt would be temporary and localized," does the environmental role and impact of the small groups of whales feeding in the Makah U&A necessitate separate consideration under the MMPA?

iii. Would the level of hunting proposed affect only a small fraction of

the ENP stock and the stock's ecosystems? Should the effects on ENP stock as a whole be compared and contrasted to the effects on the PCFG subset?

c. How do non-lethal activities such as training approaches and training harpoon throws affect whale health and behavior?

d. Consideration of waiver's collateral effects on WNP stock

i. Do WNP whales occasionally migrate along with ENP whales to the North American breeding grounds, or are these whales in fact a Western Feeding Group (WFG) of the ENP stock?

ii. If WNP whales are present in the ENP migration, how many are expected? Is this number constant or does it fluctuate?

iii. What is the appropriate calculation for the likelihood that a WNP whale will be approached, struck, or killed?

iv. Given that the waiver only applies to ENP stock, will an incidental take permit be required under the Endangered Species Act (ESA) to account for the possibility of a WNP whale being taken?

v. Should struck or lost whales that cannot be identified as ENP stock be considered to be WNP whales rather than PCFG whales?

2. Facts pertaining to Stocks to Attaining or Maintaining Optimum Sustainable Population (OSP) Levels

a. Is NMFS's conclusion that ENP stock are within OSP levels, at 85 percent carrying capacity, and with an 88 percent likelihood that the stock is above its maximum net productivity level scientifically valid?

i. Does this account for the possibility of an Unusual Mortality Event as discussed in section I.A.1.c., above?

ii. Will the removal of whales pursuant to this waiver affect these calculations?

b. Regardless of whether the PCFG is properly considered a separate stock or a subset of the ENP stock, should an OSP be separately determined for this group of whales?

c. What are the effects on the OSP of WNP whales if a WNP whale is killed?

II. Do NMFS's proposed regulations satisfy the regulatory requirements in 16 U.S.C. 1373?

A. Did NMFS Consider all Enumerated Factors in Prescribing Regulations?

1. Facts pertaining to the effect of regulations on existing and future levels of marine mammal species and population stocks (16 U.S.C. 1373(b)(1)):

a. Many issues related to this factor are discussed in Section I, pertaining to the Requirements for Waiver.

b. Are the protections in the waiver, such as reduced strike and landing limits, new strike limits for PCFG whales and PCFG females, minimum abundance threshold for PCFG whales, photographic and genetic matching, restrictions on additional strikes, restriction of the hunt to U&A waters, 10-year sunset provision sufficiently protective?

c. Are the protections for WNP whales sufficient and appropriate, including alternating hunt seasons, a limit of three strikes during even-year hunts, a ban on hunting during November and June, seasonal restriction on training harpoon throws in odd-numbered years, restriction on multiple strikes within 24 hours in even-year hunts, and the requirement that if a WNP is confirmed to be struck, the hunt will cease until steps are taken to ensure such an event will not recur?

2. Facts pertaining to existing international treaty and agreement obligations of the United States (16 U.S.C. 1373(b)(2)):

a. What is the relevance in this proceeding of the Treaty of Neah Bay, between the Makah Tribe and the United States, which explicitly protects the tribe's right to hunt whales?

b. The United States is a signatory to the International Convention for the Regulation of Whaling (ICRW). The ICRW establishes the International Whaling Commission (IWC), which sets catch limits for aboriginal subsistence whaling.

i. Since 1997, the IWC has routinely approved an aboriginal subsistence catch limit for ENP gray whales for joint use by the United States and the Russian Federation.

ii. The United States and the Russian Federation have been routinely, and are currently, parties to a bilateral agreement that allocates the IWC catch limit between the two countries and allows either country to transfer to the other any unused allocation.

iii. The IWC gray whale catch limit is currently 140 per year, with 5 gray whales per year allocated to the United States.

iv. If the waiver at issue here is not approved, will the United States continue to transfer the unused portion of the gray whale catch limit to the Russian Federation for use by Chukotkan natives, as has been current practice?

v. Does the proposed hunt comply with the IWC conservation objectives for WNP, ENP, and PCFG whales?

vi. Is the proposed hunt an aboriginal substance hunt as defined by the IWC?

A. Is the entire constellation of activities involved in hunting whales integral to the Makah Tribe?

B. How central is whaling to Makah Tribal identity? Does the Tribe have a continuing traditional dependence?

C. Does the Makah Tribe have a nutritional, substance, and cultural need for whaling?

D. Is any traditional dependence on whaling obviated by the Makah Tribe's engagement in sealing starting in the latter half of the 19th century and the near-cessation of whale hunting after 1927?

E. Is it possible for the Makah Tribe to substitute other, non-lethal activities and maintain their traditional ties to whaling?

3. Facts pertaining to the marine ecosystem and related environmental considerations (16 U.S.C. 1373(b)(3)):

a. Is NMFS's risk analysis sufficiently conservative and based on the best available scientific evidence?

b. Is consideration of cumulative impacts, including those including those from military exercises, marine energy and coastal development, and climate change, necessary? If so, is there evidence these factors were considered?

c. Were all local impacts that must be considered under the MMPA adequately considered?

4. Facts pertaining to the conservation, development, and utilization of fishery resources (16 U.S.C. 1373(b)(4)):

a. NMFS asserts the proposed hunt will have no effect on the conservation, development, and utilization of fishery resources.

5. Facts pertaining to the economic and technological feasibility of implementation (16 U.S.C. 1373(b)(5)):

a. What are the specific costs to NMFS and to the Makah Tribe associated with regulating a hunt under the proposed regulations? Are these feasible?

b. What are the specific technological requirements associated with managing and carrying out a hunt? Are these feasible?

c. What are the costs of enforcing the various restrictions contained in the regulations? Are these feasible?

d. Who is specifically tasked with each type of enforcement (*i.e.*, training restrictions, strike restrictions, use and sale restrictions on edible and non-edible whale parts) and do those persons/organizations have the necessary training and authority to carry out their obligations?

e. How will records be kept and shared amongst the necessary parties? How will any discrepancies in the records be resolved?

f. Is the use of photo-identification technology economically and technologically feasible? How quickly can identification be made? Is genetic identification more scientifically reliable and how does its economic and technological feasibility compare?

6. Other factors not enumerated in 16 U.S.C. 1373(b), but raised by parties to this proceeding and meriting consideration:

a. What is the appropriate degree to which the analysis in *Anderson v. Evans*, 371 F.3d 475 (9th Cir. 2011) should be considered in this proceeding?

b. Are the definitions contained in the proposed regulations adequate or do they contain ambiguities, omissions, and/or inconsistencies?

B. Restrictions in the Proposed Regulations.

1. Issues pertaining to the proposed restrictions on the number of animals that may be taken in any calendar year (16 U.S.C. 1373(c)(1)):

a. Hunt permits may authorize no more than three gray whales to be landed in an even-year hunt and no more than one to be landed in an odd-year hunt. No more than three strikes are permitted during an even-year hunt and no more than two are permitted in an odd-year hunt.

b. Additional restrictions are placed on the taking of PCFG whales and WNP whales.

c. How were the low-abundance triggers for PCFG whales, which would cause hunting activity to cease, determined?

2. Issues pertaining to the proposed restrictions on the age, size, sex, or any combination thereof of animals that may be taken (16 U.S.C. 1373(c)(2)):

a. Are the limits set on authorized strikes of PCFG females appropriate?

b. Are there, or should there be, limitations on approaches or strikes on calves or mother-and-calf pairs?

3. Issues pertaining to the season or other period of time within which animals may be taken (16 U.S.C. 1373(c)(3)):

a. The hunting seasons are split into "even-year hunts," during which hunting would be authorized from December 1 of an odd-numbered year until May 31 of the following even-numbered year, and "odd-year hunts," during which hunting would be authorized from July 1 through October 31 of the odd-numbered year.

4. Issues pertaining to the manner and locations in which animals may be taken (16 U.S.C. 1373(c)(4)):

a. The proposed waiver and regulations authorize training exercises, including approaches and training

harpoon throws. A question has been raised as to whether the inclusion of training exercises is necessary and/or appropriate.

b. Do the definitions of "land" and "landing" provide sufficient information about where the Makah Tribe would be permitted to land whales? Are consultations with other Federal and state agencies necessary (see 16 U.S.C. 1382)?

c. Are the definitions of "strike" and "struck" ambiguous? Specifically, issues have been raised regarding the single-strike limit within 24 hours (whether a harpoon strike followed by a firearm shot consist of a single "strike" or two separate strikes, and whether this will lead to unnecessary suffering on the part of a whale that is struck but not immediately killed); whether whales can be appropriately identified as belonging to WNP stock, ENP stock, or the PCFG during a 24-hour post-strike period; whether the use of crossbows or other devices to obtain genetic material from a struck whale should also be considered a strike; and whether the struck-and-lost limits proposed are inconsistent with the definition of "strike."

d. Will independent observers be present at every hunt or only certain hunts? How are these observers selected and trained?

e. Should the potential for an off-shore hunt to result in the taking of more migratory ENP whales and fewer PCFG/Makah U&A whales be considered?

5. Issues pertaining to techniques which have been found to cause undue fatalities to any species of marine mammal (16 U.S.C. 1373(c)(5)):

a. None identified.

6. Issues related to other proposed restrictions not specifically enumerated in 16 U.S.C. 1373(c):

a. Restrictions on the use or sale of gray whale products:

i. Do the restrictions on utilization of edible products of ENP gray whales off-reservation unfairly burden enrolled Makah Tribe members living elsewhere? Are such members permitted to share ENP gray whale products with members of their immediate households who are not enrolled in the Makah Tribe?

ii. Are there any restrictions on the resale of handicrafts by persons who are not enrolled members of the Makah tribe, either on a small or large scale?

iii. Are there restrictions on the international sale or transportation of handicrafts?

Stipulations of the Parties

During the prehearing conference, the participants stipulated that, while

discussion of issues related to the hunt methodology and humaneness during the hearing are not entirely foreclosed, this hearing is not the appropriate time for the final determination of these issues; rather, they will be determined during the permitting process.

The parties also agreed that, while evidence concerning the waiver's impact on various stocks and populations of gray whales recognized or supported by the scientific literature may be considered, the parties will not challenge the identification of any whale populations, stocks, or groups under the MMPA during this hearing.

Direct Testimony on the Issues

The parties have submitted the following direct testimony which bears on the issues noted above:

For NMFS

Declaration of Chris Yates with Attachments

Declaration of Dr. Shannon Bettridge

Declaration of Dr. David Weller

Declaration of Dr. Jeffrey Moore

For the Makah Tribe

Initial Direct Testimony of John

Bickham with Exhibits

Initial Direct Testimony of John

Brandon with Exhibits

Initial Direct Testimony of Jonathan

Scordino with Exhibits

Initial Direct Testimony of Joshua Reid with Exhibits

Initial Direct Testimony of Daniel J.

Greene

Initial Direct Testimony of Grieg Arnold with Exhibits

Initial Direct Testimony of Maria Pascua

Initial Direct Testimony of Dolly DeBari

For SSL/SSCS

Direct Testimony of Brett Sommermeyer with Attachments

For AWI

Declaration of Donald J. (DJ) Schubert with Attachments

For PCPW

Declaration of Margaret Owens with Attachments

List of Witnesses

The parties have identified the following witnesses, who will be cross-examined regarding their direct testimony. Potential rebuttal witnesses have not yet been identified.

For NMFS

Chris Yates, Assistant Regional Administrator for Protected Resources, West Coast Region, NMFS
Dr. Shannon Bettridge, Chief, Marine Mammal and Sea Turtle Conservation

Division, Office of Protected Resources, NMFS

Dr. David Weller, Research Biologist, Marine Mammal and Turtle Division, NMFS, Southwest Fisheries Science Center

Dr. Jeffrey Moore, Research Biologist, Marine Mammal and Turtle Division, NMFS, Southwest Fisheries Science Center

For the Makah Tribe

Jonathan Scordino, Marine Mammal Biologist, Makah Tribe Marine Mammal Program

John W. Bickham, Ph.D., Geneticist and Professor Emeritus, Department of Wildlife & Fisheries Sciences, Texas A&M University

John R. Brandon, Ph.D., Biometrician Joshua L. Reid, Ph.D., Historian and Professor, University of Washington

Greig Arnold, Member of the Makah Tribe and former Chairman, Vice Chairman, and member of the Makah Tribal Council

Polly DeBari, Member of the Makah Tribe

Maria Pascua, Member of the Makah Tribe

Daniel J. Greene, Sr., Member of the Makah Tribe

For SSL

Brett Sommermeyer, Esq., Sea Shepherd Legal

For AWI

Donald J. Schubert, Wildlife Biologist, Animal Welfare Institute

Dr. Naomi Rose, Wildlife Biologist, Animal Welfare Institute

For Peninsula Citizens for the Protection of Whales

Margaret Owens, Member, Peninsula Citizens for the Protection of Whales

New Issues Identified

The following issue was not included in the notice of hearing published on April 5, 2019 (84 FR 13639): Is the ENP stock currently undergoing an Unusual Mortality Event (UME)? If so, does this merit further consideration before a waiver may be granted?

Any person desiring to participate as a party at the hearing on the new issue of fact must file a notice of intent to participate with the NMFS West Coast Region Regional Administrator by certified mail, postmarked no later than July 8, 2019, as described in the **DATES** and **ADDRESSES** sections above.

Scheduling of the Hearing

The hearing on this matter is currently scheduled to begin on August 12, 2019 in the Jackson Federal

Building, Seattle, WA. At the pre-hearing conference, several parties requested a change in the date of the proceeding due to issues concerning the availability of witnesses and counsel. The parties are briefing the presiding officer on this issue. If the presiding officer reschedules the hearing, a notice will be published in the **Federal Register**.

The presiding officer, Judge George J. Jordan, prepared the contents of this notice. A copy of the draft notice Judge Jordan submitted to the NMFS Regulations Unit for filing with the Office of the Federal Register (OFR) was made available to all parties to this proceeding. The NMFS Regulations Unit reviewed the notice to ensure consistency with the OFR filing requirements. NMFS was otherwise not involved in the review of the contents of the notice. The signature of NMFS West Coast Regional Administrator Barry Thom is required to authorize the filing of the notice with the OFR.

Dated: June 21, 2019.

Barry A. Thom,

Regional Administrator, West Coast Region, National Marine Fisheries Service.

[FR Doc. 2019-13613 Filed 6-25-19; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE938

Marine Mammals; File No. 20430

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

ACTION: Notice; receipt of application for permit amendment.

SUMMARY: Notice is hereby given that James Harvey, Ph.D., Moss Landing Marine Laboratories, 8272 Moss Landing Road, Moss Landing, CA 95039, has applied for an amendment to Scientific Research Permit No. 20430.

DATES: Written, telefaxed, or email comments must be received on or before July 26, 2019.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species home page, <https://apps.nmfs.noaa.gov>, and then selecting File No. 20430 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427-8401; fax (301) 713-0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713-0376, or by email to NMFS.Pr1Comments@noaa.gov. Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT:

Shasta McClenahan or Amy Hapeman, (301) 427-8401.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 20430 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

Permit No. 20430, issued on March 30, 2017 (82 FR 29053), authorizes the permit holder to conduct research on 12 species of marine mammals in California waters to study their distribution, movement, diet, foraging, and acoustic behaviors. Permitted research activities include passive acoustic recordings, behavioral observations, photography, photo-identification, videography, biological sampling (skin and blubber biopsy or sloughed skin), tagging (suction cup or dart/barb), and tracking. Additionally, a small number of non-target marine mammals may be incidentally harassed during research.

The permit holder is requesting the permit be amended to (1) authorize aerial surveys by unmanned aircraft systems (UAS) for photography, video recording, and photogrammetry for a new research objective to determine morphometric measurements to better understand reproductive health, growth rates, maneuverability, and energy capacity; (2) increase the number of takes for humpback whales (*Megaptera novaeangliae*) to 500 Level B