

to eliminate barriers which limit the access of Native American businesses to markets and capital; (2) identifying and working to meet the special needs of Native American businesses seeking to obtain large-scale contracts (in excess of \$500,000) with institutional customers; and (3) promoting the understanding and use of Electronic Commerce by the Native American business community.

- Management Fee

For-profit as well as not-for-profit organizations may negotiate their management fees, but they shall not exceed 7% of total estimated direct costs (Federal plus non-Federal) for the proposed award.

- Program Income

Many of MBDA's business development services programs allow their awardees to charge a fee for services rendered to clients. Where applicable, fees are considered program income and shall be accounted for and may be used to finance the non-Federal cost-share of the project. Any excess fee income shall be used to further the program purpose in accordance with the terms and conditions of the award.

#### Selection Procedures

Prior to the formal paneling process, each application will receive an initial screening to ensure that all required forms, signatures and documentation are present. Each application will receive an independent, objective review by a panel qualified to evaluate the applications submitted. MBDA anticipates that the review panel will be made up of at least three independent reviewers who review all applications based on the above criteria. The review panel will evaluate and rank the proposals. The Director of MBDA makes the final recommendation to the Department of Commerce Grants Officer regarding the funding of applications, taking into account the following selection criteria:

1. The evaluations and rankings of the independent review panel;
2. The degree to which applications address MBDA priorities as established under the project funding priorities;
3. The availability of funding.

#### Intergovernmental Review:

Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

#### Application Forms and Package:

Standard Forms 424, Application for Federal Assistance; 424A, Budget Information-Non-Construction Programs; and 424B, Assurances-Non-Construction Programs, SF-LLL (Rev. 7-97); Department of Commerce forms, CD-346, Applicant for Funding

Assistance, CD-511, Certifications Regarding Debarment, Suspension and Other Responsibility matters: Drug-Free Workplace Requirements and Lobbying, CD-512, Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying shall be used in applying for financial assistance. These forms may be obtained by (1) contacting MBDA as described in the "CONTACT" section above; (2) by downloading Standard forms at [www.whitehouse.gov/OMB/grants/index.html](http://www.whitehouse.gov/OMB/grants/index.html); (3) and Department of Commerce forms may be downloaded at [www.doc.gov/forms](http://www.doc.gov/forms); or (4) by applying on-line via the World Wide Web at MBDA's web site located at [www.mbda.gov/egrants](http://www.mbda.gov/egrants).

#### Unsuccessful Competition

On occasion, competitive solicitations or competitive panels may produce less than optimum results, such as competition resulting in the receipt of no applications or competition resulting in all unresponsive applications received. If the competition results in the receipt of only one application, it may or may not require additional action from MBDA depending upon the competitive history of the area, the quality of the application received, and the time and cost limits involved. In the event that any or all of these conditions arise, MBDA shall take the most time and cost-effective approach available that is in the best interest of the Government. This includes, but is not limited to: (1) Re-competition or (2) Re-Paneling or (3) Negotiation.

#### Disposition of Unsuccessful

*Applications:* Upon the execution of an award by the Department of Commerce, MBDA will notify the unsuccessful applicants, in writing, indicating the winner of the award and indicating a 30-day timeframe in which to request return of the unsuccessful application. Once this 30-day notice has lapsed, MBDA will destroy all unsuccessful applications.

*Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements:* The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** Notice of October 1, 2001 (66 FR 49917), are applicable to this solicitation.

*Paperwork Reduction Act:* This Notice involves collections of information subject to the Paperwork Reduction Act, which have been approved by OMB under OMB control numbers 0348-0043, 0348-0044, 0348-0040, and 0348-0046. Notwithstanding any other

provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection displays a current valid OMB Control Number.

*Executive Order 12866:* This Notice was determined to be not significant for purposes of Executive Order 12866.

Dated: November 20, 2001.

**Edith Jett McCloud,**

*Associate Director for Management, Minority Business Development Agency.*

**Juanita E. Berry,**

*Federal Register Liaison Officer, Minority Business Development Agency.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 110701A]

#### Marine Mammals; Notice of Intent to Prepare an Environmental Assessment for Issuing a Gray Whale Subsistence Quota to the Makah Indian Tribe for the years 2003 through 2007

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

**ACTION:** Notice of intent to prepare an Environmental Assessment(EA); request for written comments.

**SUMMARY:** NMFS announces its intention to prepare an EA, in accordance with the National Environmental Policy Act, to assess the impacts of issuing a subsistence quota for gray whales to the Makah Tribe for the years 2003 through 2007. NMFS solicits comments and information to facilitate this analysis.

**DATES:** Comments and information must be postmarked by January 15, 2002.

**ADDRESSES:** Written comments should be sent to Chief, Marine Mammal Division (F/PR2), Office of Protected Resources, National Marine Fisheries Service, 13th Floor, 1315 East-West Hwy, Silver Spring, MD 20910. Please mark the outside of the envelope with "Comments on Gray Whale Analysis." Comments will not be accepted if submitted via e-mail or internet.

**FOR FURTHER INFORMATION CONTACT:** Chris Yates, 301-713-2322.

**SUPPLEMENTARY INFORMATION:** At its 1997 annual meeting, the International

Whaling Commission (IWC) approved a quota of 620 gray whales for an aboriginal subsistence harvest for the years 1998 through 2002. The basis for the quota was a joint request by the Russian Federation (for a total of 600 whales) and the United States (for a total of 20 whales). The subsistence and ceremonial needs of the Makah Indian Tribe were the foundation of the United States' request to the IWC. On July 12, 2001, NMFS published an EA on issuing a quota to the Makah Indian Tribe for a subsistence hunt on gray whales for the years 2001 and 2002 (66 FR 37641, July 19, 2001.) The EA is posted on NMFS website at: <http://www.nmfs.noaa.gov/prot-res/prot-res.html> under "New Arrivals".

The IWC's 54th annual meeting is scheduled for May of 2002. NMFS is preparing an EA on issuance of a quota to the Makah Indian Tribe for a subsistence hunt on gray whales for the years 2003 through 2007 in the event that the IWC renews a 5-year aboriginal subsistence quota for gray whales. NMFS is evaluating the following four alternatives: Alternative 1 - Grant the Makah Tribe a quota of 5 whales per year over 5 years with restrictions that would allow a limited hunt on the gray whale summer feeding aggregation.

Alternative 2—Grant the Makah Tribe a quota of 5 whales per year over 5 years with restrictions to target the hunt on migrating whales.

Alternative 3—Grant the Makah Tribe a quota of 5 whales per year over 5 years without time or area restrictions.

Alternative 4—(No Action)—Do not grant the Makah Tribe a quota.

#### Information Solicited

To ensure that the review is comprehensive and based on the best available information, NMFS is soliciting information and comments from any interested party concerning the issuance of a gray whale quota of 5 whales per year over 5 years to the Makah Tribe for the years 2003 through 2007. NMFS is particularly interested in any new information on the affected environment or environmental consequences that has become available since the last analysis was completed. It is requested that data, information, and comments be accompanied by (1) supporting documentation, and (2) the name, address, and affiliation of person submitting data. Following the issuance of the draft EA NMFS will solicit additional public input.

Dated: November 16, 2001.

**William T. Hogarth,**

*Assistant Administration for Fisheries,  
National Marine Fisheries Service.*

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**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 110801C]

#### Small Takes of Marine Mammals Incidental to Specified Activities; Construction of the East Span of the San Francisco-Oakland Bay Bridge

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

**ACTION:** Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

**SUMMARY:** NMFS has received a request from the California Department of Transportation (CALTRANS) for an authorization to take small numbers of marine mammals by harassment incidental to construction of a replacement bridge for the East Span of the San Francisco-Oakland Bay Bridge (SF-OB). Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize CALTRANS to incidentally take, by harassment, small numbers of California sea lions, Pacific harbor seals, and possibly gray whales in San Francisco Bay.

**DATES:** Comments and information must be received no later than December 26, 2001.

**ADDRESSES:** Comments on the application should be addressed to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3225. A copy of the application, and a list of references used in this document may be obtained by writing to this address or by telephoning one of the contacts listed here. Comments will not be accepted if submitted via e-mail or the Internet.

**FOR FURTHER INFORMATION CONTACT:** Simona Perry Roberts, (301) 713-2322, ext 106; or Tina Fahy, (562) 980-4023.

**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 to allow, upon request, the incidental, but not intentional, taking of small numbers of

marine mammals by U.S. 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, notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s) and 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 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.

Subsection 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. The MMPA defines "harassment" as:

...any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild ("Level A harassment"); or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering ("Level B harassment").

Subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

#### Summary of Request

On September 14, 2001, NMFS received a request from CALTRANS requesting an Incidental Harassment Authorization (IHA) for the possible harassment of small numbers of California sea lions (*Zalophus californianus*), Pacific harbor seals (*Phoca vitulina richardsii*), and gray whales (*Eschrichtius robustus*) incidental to construction of a replacement bridge for the East Span of the SF-OB.