

Atmospheric Administration,  
Commerce

**ACTION:** Issuance of Permit No:1417.

**SUMMARY:** Notice is hereby given of the following action regarding permits for takes of endangered and threatened species for the purposes of incidental take under the Endangered Species Act (ESA): NMFS has issued permit 1417 to Dr. Anne RudloeGulf Specimen Marine Laboratories, Inc.(GSML), Florida.

**DATES:** Effective May 15, 2003.

**ADDRESSES:** Requests for copies of the permit and environmental assessment should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Therese Conant (ph. 301-713-1401, fax 301-713-0376, e-mail [Therese.Conant@noaa.gov](mailto:Therese.Conant@noaa.gov)), or Eric Hawk (ph. 727-570-5312, fax 727-570-5517, e-mail [Eric.Hawk@noaa.gov](mailto:Eric.Hawk@noaa.gov)).

**SUPPLEMENTARY INFORMATION:** Section 9 of the ESA and Federal regulations prohibit the "taking" of a species listed as endangered or threatened. The term "take" is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. Section 10(a)(1)(B) of the ESA provides for authorizing incidental take of listed species. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

### Background

NMFS published a notice of receipt and requested public comments on the GSML application for an incidental take permit on February 14, 2003 (68 FR 7505). No public comments were received.

Permit 1417 was issued on May 15, 2003, and will expire May 1, 2012. The permit will be reviewed and reauthorized on an annual basis. Permit 1417 authorizes the take of listed sea turtles incidental to otherwise lawful trawling activities in the Florida state waters of Gulf, Franklin and Wakulla Counties. Permit 1417 authorizes through May 1, 2012, an incidental take of up to a total of 3 sea turtles, all live, in any combination, of loggerhead, green, Kemp's ridley or leatherback sea turtles and up to 1 Gulf sturgeon, alive.

Dated: May 19, 2003.

**David O'Brien,**

*Acting Chief, Endangered Species Division,  
Office of Protected Resources, National  
Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 040703H]

#### Small Takes of Marine Mammals Incidental to Specified Activities; Coastal Commercial Fireworks Displays

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

**ACTION:** Notice of proposed incidental harassment authorization and notice of receipt of application; request for comments.

**SUMMARY:** NMFS has received a request from The Monterey Bay National Marine Sanctuary (MBNMS) for a one-year authorization to take small numbers of California sea lions and harbor seals by Level B harassment incidental to permitting professional fireworks displays within the Sanctuary in California waters, and an application for the promulgation of regulations governing the incidental take of marine mammals for the same activity over a five-year period. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize the incidental harassment of small numbers of these two species and the application for regulations.

**DATES:** Comments and information must be received no later than June 26, 2003.

**ADDRESSES:** Comments on the proposed authorization and application should be addressed to Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. A copy of the application may be obtained by writing to this address or by telephoning one of the contacts listed here. Comments cannot be accepted if submitted via e-mail or the Internet.

**FOR FURTHER INFORMATION CONTACT:** Sarah Hagedorn, Office of Protected Resources, NMFS, (301) 713-2322, ext 117; or Christina Fahy, Southwest Regional Office, NMFS, (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, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have 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 if the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings 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. Under Section 3(18)(A), the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild; or (ii) 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.

The term "Level A harassment" means harassment described in subparagraph (A)(i). The term "Level B harassment" means harassment described in subparagraph (A)(ii).

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 May 10, 2002, NMFS received an application from the MBNMS requesting a one-year Incidental Harassment