

(EIS); notice of public scoping meetings; request for comments.

SUMMARY: NMFS announces its intention to prepare an EIS for the ALWTRP, in accordance with the National Environmental Policy Act (NEPA), to analyze impacts to the environment of the management alternatives under consideration. The purpose of this action is to solicit public comments on the scope of issues to be addressed in the EIS. NMFS requests comments on management options, including those provided by the Atlantic Large Whale Take Reduction Team (ALWTRT), for this action. Additionally, NMFS is seeking information on the range of impacts that should be considered for the various options designed to reduce the incidental mortality and serious injury of right, humpback and finback whales incidentally taken in commercial fisheries.

DATES: Written comments must be postmarked or transmitted via facsimile (fax) at the appropriate address or number (see **ADDRESSES**) no later than 5 p.m. Eastern Standard Time on July 30, 2003. The public scoping meetings will be held in July. For specific dates and times see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Written comments on this action should be sent to: Mary Colligan, Assistant Regional Administrator for Protected Resources, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930, Attn: Large Whale EIS. Comments may also be sent via fax to 978-281-9394. Comments submitted via e-mail or Internet will not be accepted. Copies of the most recent marine mammal stock assessment reports may be obtained by writing Chief, Marine Mammal Division, Office of Protected Resources, NMFS, Silver Spring, MD 20910 or may be downloaded from the Internet (see Electronic Access). For locations of scoping meetings see **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS/Northeast Region, 978-281-9328 ext. 6503; Juan Levesque, NMFS/Southeast Region, 727-570-5779; or Kristy Long, NMFS, Office of Protected Resources, 301-713-2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

The ALWTRP is implemented under authority of the Marine Mammal Protection Act (MMPA) by regulations at 50 CFR 229.32. Copies of the background documents provided to the ALWTRT in advance of the April 2003

ALWTRT meeting and general information on the ALWTRP may be obtained from the ALWTRP website at: <http://www.nero.nmfs.gov/whaletrp>. Copies of the most recent marine mammal stock assessment reports may be downloaded from the Office of Protected Resources website at: http://www.nmfs.noaa.gov/pr/PR2/Stock_Assessment_Program/individual_sars.html. Once available, a meeting summary of the April 2003 ALWTRT meeting will be posted on the ALWTRP website. A document which summarizes ALWTRP options from the April 2003 meeting and subsequent subgroup meetings will also be posted on the ALWTRP website on or about July 1, 2003, and made available to the public at scoping meetings.

Background

On June 14, 2001, NMFS issued four Biological Opinions (BOs) as the result of Endangered Species Act section 7 consultations on the Fishery Management Plans (FMPs) for the monkfish, spiny dogfish, and Northeast multispecies fisheries, and on the Federal regulations for the American lobster fishery. The BOs concluded that the regulations implementing the three FMPs and the lobster regulations were likely to jeopardize the continued existence of right whales. In response to this finding, NMFS developed a Reasonable and Prudent Alternative (RPA) with multiple management components. As part of its RPA, NMFS developed gear restrictions for the anchored gillnet and lobster trap fisheries based on predictable annual concentrations of right whales. This management component is known as the Seasonal Area Management (SAM) program.

The BOs established September 30, 2001 as the deadline for identifying proposed rules to implement the RPA. NMFS complied with the deadline by publishing an Advanced Notice of Proposed Rulemaking (ANPR) and a Notice of Intent (NOI) to Prepare an EIS for the SAM program on October 3, 2001 (66 FR 50390). However, the Federal District Court for the District of Massachusetts ordered NMFS to prepare a proposed rule to implement the SAM program by November 23, 2001, and a final rule to implement the program by December 31, 2002. As a result of the Court's findings, NMFS engaged in an accelerated rulemaking process for implementing a SAM program. The SAM program was approved on December 31, 2002, and published as an interim final rule on January 9, 2002 (67 FR 1142). In support of the interim final rule for the SAM program, NMFS

prepared an Environmental Assessment and Regulatory Impact Review. Information concerning the BOs, including the RPA may be found in the original ANPR and NOI for the SAM program published on October 3, 2001 (see citation above) and is not repeated here.

This EIS was originally intended to analyze impacts to the environment of different management alternatives that would finalize the SAM program. However, due to continuing large whale entanglements in fishing gear since the publication of the SAM interim final rule, NMFS believes additional modifications to the ALWTRP are needed. Therefore, this document announces NMFS' intent to change the scope of the EIS and consider more alternatives for possible amendments to the ALWTRP. NMFS believes modifications to the ALWTRP are needed to meet the goals of the MMPA by reducing incidental mortality and serious injury to three strategic large whale species - the North Atlantic right whale (*Eubalaena glacialis*), humpback whale (*Megaptera novaeangliae*), and fin whale (*Balaenoptera physalus*) - incidentally taken in commercial fisheries to or below the Potential Biological Removal (PBR) level for each stock.

ALWTRT

NMFS reconvened the ALWTRT April 28-30, 2003, to help evaluate the ALWTRP, which currently regulates lobster trap/pot and gillnet fisheries, and discuss additional modifications that may be necessary to meet the goals of the MMPA. For example, five right whale mortalities and eight entanglements were documented in 2002. The ALWTRT was asked to consider and develop possible options to address fishery interactions with large whales by reducing the potential for entanglements, minimize adverse effects if entanglements occur, and mitigate the effects of any unavoidable entanglements. New fisheries (Northeast trap/pot, Mid-Atlantic mixed species trap/pot, and Mid-Atlantic and Southeast Atlantic black sea bass trap/pot fisheries) were added to the ALWTRT process in 2003, including those that target hagfish, Jonah crab, red crab, shrimp, black sea bass, and conch/whelk. NMFS requested that the ALWTRT consider options for regulating these fisheries under the ALWTRP.

It was agreed that the ALWTRT would meet in separate subgroups over the two months following the April 2003 meeting to further refine the proposals developed at the meeting. These