

ADDRESSES: Written comments on fisheries interactions with sea turtles and Hawaiian monk seals or other information that NMFS should consider in preparing the EIS and requests to be included on a mailing list of persons interested in the EIS should be sent to Sarah Malloy, Protected Resources Division, Pacific Islands Regional Office, National Marine Fisheries Service, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814.

FOR FURTHER INFORMATION CONTACT: Sarah Malloy, telephone (808) 973-2937, fax (808) 973-2941

SUPPLEMENTARY INFORMATION:

Endangered Species Act Requirements

The ESA requires the development of a list of species determined to be in danger of extinction throughout all or a significant portion of its range (endangered) or likely to become endangered in the foreseeable future (threatened). Section 9 of the ESA prohibits "take" of such endangered species. "Take" has been defined as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Section 9 of the ESA prohibits all take of endangered species, regardless of whether the take is directed or incidental. Through section 4(d) of the ESA, NMFS has extended the prohibition of take to threatened sea turtles under 50 CFR 223.205.

One exemption to the ESA take prohibition is provided through an ESA section 10(a)(1)(B) incidental take permit (ITP). Specifically, section 10(a)(1)(B) authorizes NMFS, under some circumstances, to permit the taking of fish and wildlife otherwise prohibited if such taking is incidental to, and not the purpose of carrying out, otherwise lawful activities.

Applicants seeking an ESA section 10(a)(1)(B) permit must include a conservation plan with their application that: (1) identifies the impacts to species and critical habitat; (2) identifies actions to minimize and mitigate any negative impacts; (2) identifies funding for minimization and mitigation efforts; (3) illustrates that there will be no appreciable reduction in the likelihood of survival and recovery of the species; and (4) contains adequate assurances that the plan will be fully implemented.

To determine whether to grant the issuance of a permit, NMFS must conduct a thorough and collaborative review of all data and potential effects on listed species of the activity(ies) identified in the permit. NMFS cannot authorize an ITP unless it can determine that the permit application and related

conservation plan establish that (1) the taking will be incidental; (2) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; (3) the applicant will ensure that adequate funding for the plan is provided; (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) any other measures or assurances required by NMFS as being necessary or appropriate for purposes of the conservation plan will be met.

Section 7 of the ESA also states that actions taken by Federal agencies must not jeopardize the continued existence of threatened and endangered species and directs these agencies to take affirmative steps to enhance prospects for recovery of such species. In evaluating section 10 permit applications, NMFS must ensure that allowing incidental take as described in the application would not likely jeopardize the continued existence of the listed species or adversely modify critical habitat and that the permit is consistent with recovery requirements identified to date for the species.

ESA-listed species that may be impacted by the interactions with fishing gear associated with State of Hawaii-managed fisheries include five species of sea turtles and monk seals. Therefore, as part of its management of inshore fisheries in the main Hawaiian islands (MHI), the State of Hawaii has applied for a permit for the incidental take of the five species of sea turtles and monk seals. NMFS is now undertaking a review of the permit application, as amended, and the impacts of the State of Hawaii's management of its fisheries on ESA-listed species to determine whether or not a permit should be issued for the incidental take of such species.

NEPA Process

The authorization of an ITP constitutes a Federal action. Under the National Environmental Policy Act (NEPA), Federal agencies must insure that environmental information is available to public officials and citizens before Federal decisions are made and before Federal actions are taken. The purpose is to promote management and policy decisions that will prevent or eliminate damage to the environment, stimulate the health and welfare of the public, and enrich the understanding of the ecological systems and natural resources important to the nation. A key element of the NEPA process is the identification not only of the proposed action but also a set of alternatives to the proposed action. The NEPA process,

involving public review of the alternatives, is designed to provide the agency with information that enables identification of the most satisfactory alternative. Therefore, public involvement, including public meetings and other opportunities for public input, in the scoping and selection of alternatives is an important part of the EIS process.

The proposed action now under consideration and the subject of this EIS is the issuance of a permit for the incidental take of sea turtles and monk seals associated with fishing activities in MHI inshore waters under the authority of the State of Hawaii. A no-action alternative and its environmental consequences will be considered and evaluated. Other alternatives that may be considered may include those listed in the conservation plan and other appropriate measures. For instance, alternative actions may call for gear modifications, reporting requirements, and other remedial actions on the part of fishers designed to minimize the number of individual animals affected and mitigate the injuries of animals that are taken.

Public scoping for this EIS commenced with publication of the Notice of Intent on May 9, 2002 (67 FR 31172), which is intended to meet the NEPA scoping guidelines at 40 CFR 1501.7 and 1508.22. This document furthers the scoping process by announcing scoping meetings. In addition to the meetings, NMFS is accepting written comments on the range of actions, alternatives, and impacts it should consider in the EIS. These comments will be part of the public record. In rendering a decision on whether or not an incidental take permit should be issued, NMFS will consider fully the application and its associated conservation plan as well as the alternatives considered.

Issues Associated with Permit Application

A number of issues associated with the State of Hawaii permit application have been identified. These issues include: (1) number of sea turtle and monk seal hookings, entanglements and injuries/ mortalities expected to result from the fisheries; (2) effects of those hookings, entanglements and injury/ mortality levels on sea turtle and monk seal populations; (3) the cumulative effect on sea turtle and monk seal populations resulting from fishing and other activities; (4) how each of the five sea turtle populations and the monk seal population would be affected if the fishing activities would cease; (5) the economic and social impacts of changes