

**FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm>

### 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 by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified area, the incidental, but not intentional, taking of small numbers of marine mammals, providing that certain findings are made and the necessary prescriptions are established.

The incidental taking of small numbers of marine mammals may be allowed only if NMFS (through authority delegated by the Secretary) finds that the total taking by the specified activity during the specified time period will (i) have a negligible impact on the species or stock(s) and (ii) not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). Further, the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking must be set forth, either in specific regulations or in an authorization.

The allowance of such incidental taking under section 101(a)(5)(A), by harassment (which is defined to include behavioral harassment and injury), serious injury, death, or a combination thereof, requires that regulations be promulgated for the specific activity. Subsequently, a Letter of Authorization may be issued pursuant to the prescriptions established in such regulations, providing that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations. Under section 101(a)(5)(D), NMFS may authorize such incidental taking by harassment only, for periods of not more than one year, pursuant to requirements and conditions contained within an IHA. The proposed incidental take authorization and establishment of prescriptions through either specific regulations or an IHA requires notice and opportunity for public comment.

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." Except with respect to certain activities not pertinent here, section 3(18) of 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 [Level A harassment]; 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 [Level B harassment]."

Activities such as those described in the application (e.g., pile driving) may result in the disturbance of marine mammals through disruption of behavioral patterns

### Summary of Request

On February 13, 2015, NMFS received an application for a single multi-year project for the taking of marine mammals incidental to the rehabilitation of the North Jetty, South Jetty, and Jetty A at the MCR. NMFS issued an incidental harassment authorization (IHA) for the first year of the project on August 31, 2015 (80 FR 53777 September 8, 2015) allowing the take of specified marine mammals for work associated with the reconstruction of Jetty A only. The IHA is valid from May 1, 2016 through April 30, 2017. The Corps is seeking an LOA for this same project that would cover in-water work associated with continuation of Jetty A reconstruction as well as reconstruction of the North Jetty and South Jetty. The Corps has requested regulations to be effective for the period from approximately summer of 2017 through 2022. The Corps requested authorization to take marine mammals by Level B harassment only: Killer whale (*Orcinus orca*), Steller sea lion (*Eumatopius jubatus*), gray whale (*Eschrichtius robustus*), harbor porpoise (*Phocoena phocoena*), California sea lion (*Zalophus californianus*), and harbor seal (*Phoca vitulina richardii*).

### Specified Activities

The Corps is proposing to conduct monitoring actions, repairs, and rehabilitation of the three rubble-mound jetty structures at the MCR. The three structures are referred to as North Jetty, South Jetty, and Jetty A. Initial work on Jetty A will be covered by an IHA which has already been issued. The Corps is requesting a LOA for remaining pile repairs and removal actions at Jetty A, for pile installation and removal at North Jetty, and for pile installation and removal at South Jetty. Pile installation and removal activities are required as part of the construction of four temporary barge offloading facilities. These facilities combined will require up to 96 piles with a maximum

diameter of 24-inches and up to 373 sections of Z-piles to retain rock fill. They will be installed via vibratory installation. A full description of the activities proposed by the Corps is described in the application.

### Information Solicited

Interested persons may submit information, suggestions, and comments concerning the Corps' request (see **ADDRESSES**). All information, suggestions, and comments related to The Corps' request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by the Corps will be considered by NMFS in developing, if appropriate, regulations governing the issuance of letters of authorization.

Dated: October 20, 2015.

**Perry Gayaldo**,

*Deputy Director, Office of Protected Resources, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Caribbean Fishery Management Council (CFMC); Public Hearings

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

**ACTION:** Notice of public hearings on amendments to the U.S. Caribbean Reef fish, spiny lobster and corals and reef associated plants and invertebrates fishery management plans: timing of accountability measure-based closures.

**SUMMARY:** The CFMC is considering modifying the timing for the implementation of accountability measure based closures in the EEZ and specifying how often to revisit the modification. The Council is considering these management measures in order to ensure AM-based closures successfully achieve their conservation objective at the least cost to fishers and the fishing communities, consistent with National Standard 8 the Magnuson-Stevens Fishery Conservation and Management Act.

Following are the actions and management alternatives:

The Amendment consists of two actions:

Action 1: Modify the timing for the implementation of AM-based closures in the EEZ.

Alternative 1: No action. Continue AM-based closures resulting from an ACL overage beginning on December 31st of the closure year and extending backward in the year for the number of days necessary to achieve the required reduction in landings.

Alternative 2: Accountability measure-based closures resulting from an ACL overage will begin on September 30th of the closure year and would extend backward into the year for the number of days necessary to achieve the required reduction in landing. This closure start date would apply to all FMUs for each of Puerto Rico commercial and recreational sectors, St. Thomas/St. John, St. Croix, and Caribbean-wide. If for any FMU in any year, the number of days left in the year is not enough to achieve the required reduction in landings, then those additional days would be captured in the opposite direction.

Alternative 3: Accountability measure-based closures resulting from an ACL overage will begin on January 1st of the closure year and would extend forward into the year for the number of days necessary to achieve the required reduction in landing. This closure start date would apply to all FMUs for each of Puerto Rico commercial and recreational sectors, St. Thomas/St. John, St. Croix, and Caribbean-wide.

Alternative 4: Establish a fixed fishing closure start date for the implementation of AMs for each FMU (*i.e.*, species/species complex) by island/island group (Puerto Rico, St. Thomas/St. John, St. Croix, and Caribbean-wide). A different start date may be chosen for each FMU on each island/island group, but that start date would apply every year AMs need to be triggered for that FMU on that island. The start date will begin on the last day of the identified month and go backward towards the beginning of the year.

**Alternative 4 Sub-alternatives:**

Alternative 4(a): Closure to start the last day of the month with highest average landings.

Alternative 4(b): Closure to start the last day of the month with lowest average landing.

**Alternative 4—Puerto Rico (Commercial):**

Sub-alternative 4(a): Closure to start the last day of the month that has the highest landings based on the most recent three years of available landings data.

Sub-alternative 4(b): Closure to start the last day of the month with lowest landings based on the most recent three years of available landings data.

**Alternative 4—Puerto Rico (Recreational):**

Sub-alternative 4(a): Closure to start the last day of the month that has the highest landings based on the most recent three years of available landings data.

Sub-alternative 4(b): Closure to start the last day of the month with lowest landings based on the most recent three years of available landings data.

**Alternative 4—St. Thomas/St. John, USVI (Commercial and Recreational combined):**

Sub-alternative 4(a): Closure to start the last day of the month that has the highest landings based on the most recent three years of available landings data.

Sub-alternative 4(b): Closure to start the last day of the month with lowest landings based on the most recent three years of available landings data.

**Alternative—Caribbean-Wide (Commercial and Recreational combined)**

Sub-alternative 4(a): Closure to start the last day of the month that has the highest landings based on the most recent three years of available landings data (shortest closure time).

Sub-alternative 4(b): Closure to start the last day of the month with lowest landings based on the most recent three years of available landings data.

Action 2: Specify how often to revisit the approach selected in Action 1.

Alternative 1: No action. Do not specify how often the approach chosen should be revisited.

Alternative 2 (Preferred): Review the approach selected no longer than 2 years from implementation and every 2 years thereafter.

Alternative 3: Review the approach selected no longer than 5 years from implementation and every five years thereafter.

*Dates and Addresses:* The meetings will be held on the following dates and locations:

**In the U.S. Virgin Islands:**

November 16, 2015, 7 p.m.–10 p.m.—

The Buccaneer Hotel, Estate Shoys, Christiansted, St. Croix, USVI.

November 17, 2015, 7 p.m.–10 p.m.—

Windward Passage Hotel, Charlotte Amalie, St. Thomas, USVI.

**In Puerto Rico:**

November 23, 2015, 7 p.m.–10 p.m.—

Doubletree Hotel, De Diego Avenue, Santurce, PR.

November 24, 2015, 7 p.m.–10 p.m.—

Mayaguez Holiday Inn, 2701 Hostos Avenue, Mayagüez, Puerto Rico.

November 25, 2015, 2 p.m.–5 p.m.—

Holiday Inn Ponce & Tropical Casino, 3315 Ponce By Pass, Ponce,

Puerto Rico.

**FOR FURTHER INFORMATION CONTACT:**

Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone (787) 766–5926.

**SUPPLEMENTARY INFORMATION:** Copy of the document, “Amendments to the U.S. Caribbean Reef fish, Spiny Lobster and Corals and Reef Associated Plants and Invertebrates Fishery Management Plans: Timing of Accountability Measure-Based Closures”, can be found at the CFMC Web page: [caribbeanfmc.com](http://caribbeanfmc.com).

Written comments can be sent to the Council not later than December 10, 2015, by regular mail to the address below, or via email to [graciela\\_cfmc@yahoo.com](mailto:graciela_cfmc@yahoo.com).

**Special Accommodations**

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918–1903, telephone (787) 766–5926, at least 5 days prior to the meeting date.

Dated: October 21, 2015.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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**COMMISSION OF FINE ARTS**

**Notice of Meeting**

The next meeting of the U.S. Commission of Fine Arts is scheduled for 19 November 2015, at 9:00 a.m. in the Commission offices at the National Building Museum, Suite 312, Judiciary Square, 401 F Street NW., Washington, DC 20001–2728. Items of discussion may include buildings, parks and memorials.

Draft agendas and additional information regarding the Commission are available on our Web site: [www.cfa.gov](http://www.cfa.gov). Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Thomas Luebke, Secretary, U.S. Commission of Fine Arts, at the above address; by emailing [cfastaff@cfa.gov](mailto:cfastaff@cfa.gov); or by calling 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.