

# MMPA Bulletin

NMFS Office of Protected Resources

September, 1994

## THE MARINE MAMMAL PROTECTION ACT IS AMENDED

On April 30, 1994, the Marine Mammal Protection Act was amended (P.L. 103-238). Congress made substantial changes to many provisions of the act, including:

- significantly altering the current regime governing marine mammals caught incidentally to commercial fishing;
- establishing scientific review groups and task forces;
- highlighting authority to include effects on the ecosystem in managing marine mammal stocks;
- significantly reducing fisheries service jurisdiction over the care and maintenance of captive marine mammals held for public display;
- providing for a general authorization for non-injurious scientific research on marine mammals; and,
- establishing a new permit category for photographing marine mammals.

A brief summary of the principal changes to the law is included in the middle insert of this bulletin. The following articles highlight what NMFS is doing or has done in response to these changes.

### Stock Assessment Reports

On August 9, NMFS made available to the public draft marine mammal stock assessment reports and a summary of the Potential Biological Removal (PBR) Workshop held in June of this year. Recognizing the need for consistency in preparing the draft stock assessments, NMFS convened the PBR workshop to ensure that a single interpretation of the terms referred to in the amendments were used to prepare the reports. As such, NMFS is seeking comments on both the individual draft stock assessment reports and on the draft methodologies outlined in the PBR Workshop report.

The draft stock assessment reports have been divided into three separate regions -- Alaska, Pacific, and Atlantic -- to correspond to the three regional scientific review groups specified by the amendments. NMFS used an open nomination process before establishing the review groups on

June 30. Each group consists of ten to twelve persons with expertise ranging from population dynamics and modeling to commercial fishing technologies. The groups represent a balance of regional, conservation and industry interests.

NMFS forwarded preliminary draft assessments to the appropriate scientific review groups on July 20 to begin the consultation process with NMFS. NMFS will continue to consult with the review groups and provide them with a summary of the public comments received on each stock assessment for their consideration when preparing final recommendations. NMFS is also attempting to develop a strategy for co-management with Alaska Native organizations regarding those stocks taken for subsistence purposes.

The public comment period will end on November 7. For more information, contact Tom Eagle, (301) 713-2319.

NMFS has also established a computer bulletin board for electronic retrieval of stock assessment reports. See the back page for instructions on how to access the bulletin board.

### List of Fisheries

Every year, NMFS publishes a list of fisheries which classifies each U.S. fishery based on how often it interacts with marine mammals. The fisheries are classified according to whether they interact frequently (Category I), occasionally (Category II), or rarely (Category III) with marine mammals. On August 25, NMFS published in the Federal Register the final list of fisheries for 1994. This list was based on the standards for classifying fisheries used for the interim exemption program, and will remain in effect until replaced by a revised list of fisheries, based on provisions of the MMPA's section 118.

A revised list of fisheries under section 118 will need to be completed by September, 1995. NMFS published in the *Federal Register* proposed changes to the list of fisheries on September 1, recognizing that the criteria for classifying fisheries may need to be changed because of the amendments. For example, "fishery interaction rates" will

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*This is the first in a planned series of bulletins on what the National Marine Fisheries Service is doing to implement the Marine Mammal Protection Act (MMPA). This first bulletin summarizes some of the major provisions of recent amendments to the law, yet is not intended to be a comprehensive summary. Rather, it highlights some significant changes included in the amendments. For more details, please refer directly to the amendments themselves.*

*To suggest future bulletin topics, or to be included on the mailing list for future editions, please call Nancy Daves or Laurel Bryant, Office of Protected Resources, (301) 713-2319 or 713-2289, respectively. Or mail your comments to the National Marine Fisheries Service, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, Attn: MMPA Bulletin.*



National Marine Fisheries Service, Silver Spring, MD 20910

now be based only on whether marine mammals are seriously injured or killed. Also, the amendments prohibit intentionally killing or injuring a marine mammal.

NMFS is asking for suggestions on how to revise the classification criteria to better define the terms "frequent," "occasional," or "remote likelihood", as well as on the proposed changes to the list. NMFS is also asking for suggestions on possible methods by which the accuracy and timeliness of information on incidental serious injuries and mortalities, and fishing effort, might be improved.

The public comment period will end on November 30. For more information, contact Vicki Credle, (301) 713-2322.

### Scientific Research

The amendments require NMFS to issue a general authorization and implementing regulations for scientific research involving Level B harassment of marine mammals in the wild. The amendments define Level B harassment as any act of pursuit, torment, or annoyance which has the potential to disturb by causing disruption of behavioral patterns, including but not limited to, migration, breathing, nursing, breeding, feeding or sheltering. An Endangered Species Act (ESA) permit holder is not required to submit a letter of intent under the general authorization if the taking authorized under their ESA permit involves only level B harassment.

The statutory deadline does not allow sufficient time for the public to comment on a proposed rule. However, NMFS is asking for comments received in response to an interim final rule before the final rule is developed.

The interim final rule will (1) establish a general authorization for scientific research involving Level B harassment; (2) describe the research activities most likely to be included under the general authorization; (3) identify the submission requirements for the letter of intent; (4) establish procedures for confirming that the general authorization applies or notifying the applicant that a scientific research permit is required to conduct the activity described in the letter of intent; and (5) specify the conditions of the general authorization including reporting requirements.

The interim rule will be published in the *Federal Register* in September for public comment. For more information, contact Ann Terbush, Permits Division, (301) 713-2289. [Discussions are also underway with the Fish and Wildlife Service regarding the possibility of issuing a joint final rule to be published in January 1995.]

### Non-Lethal Deterrence Measures

NMFS is currently investigating non-injurious measures that should be included in the guidelines for deterring marine mammals, and drafting proposed regulations that would implement this provision. The proposed guidelines will be published in the *Federal Register* in the next few months. For more information, contact Ken Hollingshead, (301) 713-2055, or Doug Beach, NMFS Northeast Region, (508) 281-9254.

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### IMPLEMENTING THE AMENDMENTS: STATUTORY DEADLINES

DATE	TASK
04/30/94	Enactment of the 1994 MMPA amendments
07/94	Establish regional scientific review groups
08/94	Publish proposed changes to the List of Fisheries
08/94	Complete draft stock assessments
09/94	Issue general authorization for scientific research
11/94	Start program to monitor the Bering Sea ecosystem
01/95	Publish proposed implementing regulations for the amendments
02/95	Publish final stock assessments
03/95	Establish take reduction teams for strategic stocks
05/95	Convene workshop on Gulf of Maine ecosystem
09/95	Develop draft take reduction plans for strategic stocks for which human-caused deaths exceed PBR
10/95	Report on impacts of California sea lions and harbor seals on salmonids
01/96	Report on Gulf of Maine workshop
02/96	Develop draft take-reduction plans for non-strategic stocks and strategic stocks where human-caused takes are less than PBR
04/96	Complete plans for strategic stocks for which takes are greater than PBR
05/96	Report on interactions between pinnipeds and Gulf of Maine aquaculture operations
07/96	Complete final take-reduction plans for non-strategic stocks and strategic stocks where human-caused takes are less than PBR
05/97	Begin review of progress towards Zero Mortality Rate Goal
05/98	Report on review of progress towards Zero Mortality Rate Goal
05/2001	Zero Mortality Rate Goal to be achieved

The *MMPA Bulletin* is published periodically by the Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910, (301) 713-2319. Comments and suggestions should be sent to the above address, Attn: MMPA Bulletin, or faxed to (301) 713-0376.

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## How Do The Amendments Affect...?

### ...Permits for Public Display and Research

The amendments limit NMFS' public display permit authority to controlling the capture of wild marine mammals and the importation of marine mammals not previously held under a permit in the United States. New rights have been extended to those holding marine mammals, and NMFS' involvement with the care and maintenance of mammals held for public display has been virtually eliminated.

The amendments grant any person issued a permit or otherwise holding marine mammals the right, without any additional permit or authorization, to take, import, export, transfer, possess, sell, or conduct other activities concerning such marine mammals or their progeny. Permit holders must only send NMFS a letter of notification 15 days before any of these activities can occur. NMFS will outline what this letter must contain as part of the implementing regulations it will publish in January 1995. In the meantime, NMFS will issue "guidelines" for what notification letters should contain.

NMFS no longer has authority to specify the methods of supervision, care, or transport of captive marine mammals held for purposes of public display once they have been captured from the wild or imported into the United States. The Agriculture Department's Animal and Plant Health Inspection Service (APHIS) now has sole responsibility to regulate the care and maintenance of marine mammals, including swim-with-the-dolphin programs.

The amendments eliminate the requirement that NMFS determine whether a particular education or conservation program was acceptable before issuing a permit. This determination is now limited to whether a person receiving a marine mammal offers an educational or conservation program based on professionally recognized standards of the public display community. As such, NMFS will not issue any permit for capture or importation unless these standards are included with an application and can be published in the *Federal Register* for public comment. NMFS understands that the display community is developing such standards, and NMFS will publish them when they become available.

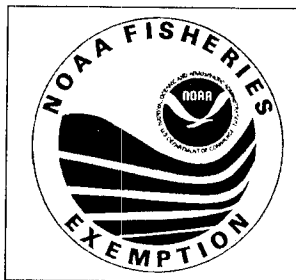
The amendments also require NMFS and the U.S. Fish and Wildlife Service to maintain an inventory of captive marine mammals. Although NMFS has always maintained such an inventory, the amendments limit the inventory to the animal's name, sex, date of birth, source, acquisition, disposition, death, cause of death when determined, and the name of the recipient. NMFS previously required cause of death to be determined and a necropsy filed. While copies of necropsies may no longer be required, NMFS continues to encourage the public display community to follow the practice of submitting necropsy reports to NMFS. NMFS will provide a schedule for submission of inventory reports and updates of these reports as part of the implementing regulations to be published in January 1995.

Lastly, the amendments prohibit the export of marine mammals and marine mammal parts unless the recipient meets standards which are comparable to domestic standards. Although the amendments provide rights to export for purposes of public display, no concurrent language was included for scientific research or enhancement activities. As part of the proposed implementing regulations to be published in January 1995, NMFS intends to include language authorizing the continuation of these activities. In the meantime, to minimize the confusion and bureaucratic burden resulting from this new prohibition, NMFS will authorize these activities by letter under existing permits.

For more information, contact Ann Terbush, Chief, Permits Division, (301) 713-2289.

### ...Commercial Fishermen

The amendments replace the current Interim Exemption with a long-term system for governing interactions between marine mammals and commercial fisheries. However, there are many changes required by the amendments and it will take time for NMFS to implement them fully. Therefore, the Interim Exemption has been extended until the new program is underway, but no later than September 1995. NMFS is working toward earlier implementation, currently on schedule for mid-1995.



In the meantime, vessel owners must carry current exemption certificates and maintain daily logs, as required under the interim exemption program. In 1994, no fees were required and exemption certificates were automatically extended if certificates were current in 1993. Vessel owners

were instructed to submit their logbooks for 1993, as usual. Vessel owners who were not registered in 1993 had to pay a \$30 fee to get a valid 1994 exemption certificate and decal. Exemption certificates will be extended again in 1995, with no additional fees required by existing certificate holders. However, vessel owners are being asked to provide updated information on current addresses and fisheries they will participate in. Logbooks also need to be maintained and submitted as usual.

Exemption holders are still authorized to deter marine mammals to protect their gear or catch. However, the amendments prohibit the intentional serious injury or mortality of a marine mammal, unless necessary to save human life. Proposed regulations, which should be published later this year, will specify what are acceptable and non-acceptable deterrence methods. As in the past, exemption holders will be authorized to protect themselves from being injured by a marine mammal.

By September 1, 1995, NMFS will issue revised regulations to implement the new program that will govern the incidental take of marine mammals in commercial fisheries. Participants in fisheries that have frequent or occasional interactions with marine mammals that result in serious injury or death to the animals will have to register with NMFS, or its designee, and obtain a new decal. These individuals will also be required to report to NMFS any marine mammal that is killed or seriously injured within 48 hours after the end of a fishing trip. NMFS is developing pre-addressed reporting forms for this purpose. The forms will be easier to use than the current logbook reporting forms, and they'll be easier for NMFS to process as well.

For more information about the current registration and reporting requirements, contact Vicki Credle, (301) 713-2322, Steve Zimmerman, NMFS Alaska Region, (907) 586-7233, Joe Scordino, NMFS Northwest Region (206) 526-6143, James Lecky, NMFS Southwest Region, (310) 980-4020, Doug Beach, NMFS Northeast Region, (508) 281-9254, or Jeff Brown, NMFS Southeast Region, (813) 570-5312.

## Washington State Request

On July 12, the Washington Department of Fish and Wildlife (WDFW) requested that NMFS authorize the intentional killing of individually identifiable California sea lions that were preying on wild winter-run steelhead trout migrating through the Ballard Locks in Seattle. The WDFW also requested that NMFS establish a Pinniped/Fishery Interaction Task Force and immediately start the process provided by section 120 of the MMPA, so that authorization for killing, if approved, would be in time for protection of the steelhead run that will migrate through the Ballard Locks from December, 1994 through the end of March, 1995.

The winter-run steelhead trout population in the Lake Washington drainage basin has declined dramatically in recent years. The causes for the decline are not known exactly, but may include competition with other salmon, authorized and unauthorized high seas driftnet fishery takes, habitat degradation in the lakes, rivers and streams of the Lake Washington watershed, and large-scale environmental changes (e.g., El Nino events).

Predation by sea lions of steelhead returning from the ocean also affects this run. Studies at Ballard Locks show that California sea lions have consumed over 50 percent of the adult returns in recent years. Non-lethal means of controlling sea lion predation -- including firecrackers, rubber-tipped arrows and temporary removal of the offending sea lions -- have been used in recent years, but have not been successful. Wild steelhead spawning escapement into the Lake Washington drainage has declined from about 2,500 fish in the mid-1980's to only 70 last season.

NMFS determined that the WDFW's application provides sufficient evidence to warrant establishment of the task force,

and notice was published in the *Federal Register* on August 2. Task force meetings will be open to the public and comments on the application were accepted up to September 2.

For more information, contact Ken Hollingshead, (301) 713-2055, or Joe Scordino, NMFS Northwest Region, (206) 526-6143.

### Take a Ride On NMFS' Information Superhighway

NMFS has established a bulletin board for electronic retrieval of stock assessment reports and other documents. Documents are stored as Wordperfect 5.1 files and may be downloaded by a modem link to the NMFS bulletin board number: (703) 218-2595. Within your communications software, specify 8 data bits, no parity, and 1 stop bit. Set up as an ANSI terminal and set the appropriate baud rate up to 19,200. Instructions to download files are available on screen, or by writing to us.

More general information about NMFS is available on the INTERNET. A user-friendly approach is to access NMFS' "home page" using a software program called MOSAIC. The MOSAIC software is available via the anonymous file transfer protocol, or FTP, on INTERNET. Type: `ftp ftp.ncsa.uiuc.edu` at the command prompt and find the program in the MOSAIC directory. Connect to the HQ home page by clicking on the File header and Open URL. Type: `http://kingfish.ssp.nmfs.gov:80/home-page` to connect to the NMFS home page. If you have any questions, email them to `spoulton@solidsparc.ssp.nmfs.gov`.

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## Overview of the 1994 MMPA Amendments

### Governing Incidental Take in Fisheries

The amendments replace the Interim Exemption for Commercial Fisheries (section 114) with a long-term regime for governing interactions between marine mammals and commercial fisheries (sections 117 and 118). The Interim Exemption provides a general exemption to the prohibition on incidental take due to commercial fishing in order to provide a temporary means for collecting reliable data about marine mammal interactions with commercial fisheries. Until section 118 is fully implemented, which must happen by September 1995, the Interim Exemption remains in effect. Following is a summary of how the amendments specify the new program will work.

### Stock Assessments

The new law requires NMFS to complete a draft assessment for every population, or stock, of marine mammals in United States waters by August 1. The assessment has to include a wide variety of information about each stock, including its range, our estimate of its minimum population and its net productivity (population growth rate), estimates of human-caused deaths within the stock, a description of the commercial fisheries that are likely to have contact with a particular stock, and finally an estimate of what's called the potential biological removal (PBR) level for the stock, or the number of animals that can be removed from the stock without interfering with its ability to reach or maintain its optimum sustainable population.

The assessments identify "strategic stocks" as those stocks that have a level of human-caused mortality likely to reduce or keep the stock below its optimum sustainable population. Strategic stocks are also those stocks that are listed as endangered or threatened under the ESA, depleted, or that are declining and likely to be listed as threatened in the future. Alaska Natives may request a hearing before an Administrative Law Judge regarding draft stock assessments before NMFS publishes a final stock assessment report. Final stock assessments must be published 90 days after the close of the public comment period. Stock assessments for strategic stocks must be reviewed at least annually, other stocks, every three years.

### Scientific Review Groups

Within 60 days of enactment, NMFS is required to establish three regional scientific review groups, representing Alaska, the Pacific Coast (including Hawaii) and the Atlantic Coast (including the Gulf of Mexico). The scientific review groups are to review draft stock assessments and advise NMFS concerning marine mammal population status, trends, stock identity, and dynamics; uncertainty and research needed on the marine mammal stocks and research needed to identify methods to reduce incidental mortality and injury; impacts of habitat degradation and appropriate measures to reduce impacts; and any other issue NMFS or the groups consider appropriate for pursuing the goals of the MMPA. The groups must consist of individuals with expertise in marine mammal biology and ecology, populations dynamics and modeling, commercial fishing technology and practices, or marine mammal stocks taken for subsistence by Alaska Natives, and must represent, to the extent feasible, a balance of viewpoints.

### Registration and Authorization

Within 90 days of enactment of the amendments, NMFS is required to publish proposed revisions to the list of fisheries that interact with marine mammals, describing the marine mammal stocks involved and the number of vessels in each fishery. Each fishery will be categorized by whether its rate of incidental mortality or serious injury to marine mammals is frequent, occasional, or has only a remote likelihood of occurring (corresponding to a Category I, Category II or Category III fishery, respectively). Vessels engaged in commercial fisheries included in Categories I or II will register with NMFS, which will authorize the take of non-listed marine mammals in the course of fishing. Each registered vessel will receive a decal that must be displayed while the registration is current. In addition, the amendments allow NMFS to permit the taking of endangered and threatened marine mammals incidental to commercial fishing for three-year periods provided that, in addition to other restrictions, the taking will have a negligible impact on the stock, and that a recovery plan has been or is being developed for the species.

### Take Reduction Teams/Plans

NMFS must establish take reduction teams to develop take reduction plans to assist in the recovery or prevent the depletion of strategic stocks that interact with a Category I or Category II commercial fishery. Take reduction plans may also be developed for certain other marine mammal stocks that interact with commercial fisheries. Take reduction teams must be convened within 30 days of the issuance of final stock assessment reports. The take reduction teams must submit their plans within six months of their convening for strategic stocks and within 11 months for non-strategic stocks. (See definitions under Stock Assessments.)

### Monitoring of Incidental Takes

NMFS must establish a program to monitor marine mammal mortalities and serious injuries incidental to commercial fishing operations. The program will combine information from on-board observers and voluntary reporting by vessel owners of incidental takes. All owners or operators of commercial vessels in all fisheries must report incidental death or injury of marine mammals to NMFS on a postage-paid form (currently being developed) within 48 hours after the end of each fishing trip.

### Zero Mortality Rate Goal

Since it was first passed in 1972, the goal of the MMPA has been to reduce incidental death and serious injury of marine mammals taken in the course of commercial fishing operations to insignificant levels approaching zero. The 1994 amendments reaffirmed this Zero Mortality Rate Goal (ZMRG), and specified that all fisheries must attain the goal within seven years. NMFS must review progress toward the ZMRG and report the results of the study to Congress by 1998.

### Ecosystem Activities

The 1994 amendments call for the initiation of several ecosystem-oriented studies, as authorized in sections 110 and 120. Following is a summary of these new programs.

#### Bering Sea Ecosystem Study

By October 1994, NMFS must develop a scientific research program to monitor the health and stability of the Bering Sea Ecosystem and consult with the Secretary of the Interior, Marine Mammal Commission, the State of Alaska and Alaska Native groups as part of the plan's formulation.

#### Gulf of Maine Ecosystem Workshop

No later than one year after enactment, NMFS must convene a regional workshop for the Gulf of Maine to assess human-caused factors affecting the health of the ecosystem of which they are a part. A report of this workshop must be submitted to Congress by December 31, 1995.

#### Pinniped-Fishery Interactions in the Northwest

NMFS may conduct a study of the interaction between pinnipeds and anadromous fish in at least three areas of the Pacific Northwest (Washington, Oregon and northern California) where predation of pinnipeds on anadromous fish is high. Participants in the workshop will include representatives of state, federal and tribal agencies.

#### Interaction of California Sea Lions and Pacific Harbor Seals with Salmonid Stocks

NMFS must examine whether California sea lions and Pacific harbor seals are having a significant negative impact on 1) the recovery of salmonid fishery stocks listed as threatened or endangered under the ESA or are approaching endangered or threatened status, and 2) other fish and shellfish communities in the coastal/estuarine systems of Washington, Oregon and California. If additional funding is appropriated, assessments will be extended to include: 1) pinniped distribution and abundance, 2) food habits of the species in question, 3) where predation is occurring, 3) standardized measurements of scarring and predated fish species, and, 4) tracking fish and pinnipeds as needed. The report must be submitted to Congress by October 1, 1995.

## Overview of the 1994 MMPA Amendments (cont.)

### Scientific Research, Public Display and Enhancement Permits

The amendments make significant changes to sections 102 and 104 of the MMPA governing permits for public display, scientific research, and enhancement activities of marine mammal species and stocks such as management projects to increase stock sizes in the wild. Among other things, the amendments add new provisions and prohibitions for scientific research and enhancement; substantially reduce NMFS's jurisdiction over marine mammals held in captivity for public display; and establish a new permit category for photographing marine mammals.

#### General Authorization for Scientific Research

The amendments eliminate the requirement that research not be duplicative and allow NMFS to waive the 30-day comment period in certain "emergency" circumstances. Scientific research will now be divided into two categories: those activities for which a permit is required and those for which a General Authorization is issued. The amendments also provide new definitions of "harassment." Level A harassment is defined as "any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal or marine mammal stock in the wild." Level B harassment is defined as "any act of pursuit, torment, or annoyance which 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."

#### Permits for Export of Marine Mammal Parts

The amendments add a new prohibition on the export of marine mammals and marine mammal parts. Although exportation of marine mammals for purposes of public display was specifically provided for, no such concurrent provision was specified for scientific research or enhancement activities.

#### Public Display: Captive Care and Maintenance

Under the amendments, NMFS' authority to condition public display permits by specifying methods of supervision, care, and transport has been limited to marine mammals being captured from the wild or imported for the first time without benefit of a previously issued permit. The Animal and Plant Health Inspection Service, (APHIS), which previously had concurrent jurisdiction, now has sole responsibility over the care and maintenance of marine mammals held in public display.

#### Transfer of Marine Mammals Held for Public Display

A permit may be issued to take or import a marine mammal for public display to a person that:

- 1) offers a program for education or conservation based on professionally recognized standards of the public display community;
- 2) is registered or holds a license issued by APHIS under the Animal Welfare Act; and,
- 3) maintains facilities for the public display of marine mammals that is open to the public on a regularly scheduled basis and that access to such facilities is not limited or restricted other than by charging an admission fee.

In general, the amendments allow persons holding marine mammals, without any additional permit or authorization, the right to take, sell, export, or otherwise transfer possession of a marine mammal, for public display, to any person who meets the above public-display criteria. A letter of notification is required 15 days in advance of any transportation, sale, purchase, or export of a marine mammal for public display, scientific research, or enhancement purposes.

#### Inventory of Marine Mammals in Captivity

The amendments require NMFS and the U.S. Fish and Wildlife Service to maintain a basic inventory of marine mammals held in captivity. The amendments change NMFS's present inventory by limiting it to the animal's name, sex, date of birth, source, acquisition, disposition, name of recipient and (if appropriate) its date of death

and cause of death when determined.

#### Photography Permits

The amendments add a new category of permits to allow marine mammals in the wild to be photographed for educational and commercial purposes. These permits are limited to Level B harassment and require that the photographic products be made available to the public. Provisions for this new category of permit will be included with implementing regulations to be published in January, 1995.

### Other Aspects of the Amendments

#### Deterrence Guidelines

The amendments allow persons to prevent marine mammals from damaging private or public property, or from endangering personal safety, as long as the animal is not killed or injured. NMFS must, after consultation with experts and after notice and opportunity for comment, develop guidelines for use in deterring marine mammals, and may prohibit certain forms of deterrence that may significantly harm marine mammals.

#### Small Incidental Take

The amendments allow NMFS to authorize annually, through a permit-like system, the harassment of small numbers of marine mammals incidental to activities other than commercial fishing. Other forms of small, incidental take (other than fishing) remain subject to the act's previous requirement for rulemaking.

#### Pinniped-Fishery Interaction Task Force

The amendments allow states to apply for permission to kill individually identified pinnipeds that are having a significant negative impact on the decline or recovery of certain salmonid fishery stocks, and give NMFS the authority to allow such killing. Once a state's application is received, NMFS must determine whether to establish a Pinniped-Fishery Interaction Task Force to recommend to the agency whether to approve or deny the application and to suggest non-lethal alternatives.

#### Gulf of Maine Task Force

NMFS must establish a Pinniped-Fishery Interaction Task Force to advise the agency on issues arising from pinnipeds acting in dangerous or damaging ways with aquaculture operators in the Gulf of Maine. NMFS must submit to Congress a report on interactions between pinnipeds and aquaculture activities in the Gulf of Maine by April, 1996.

#### Marine Mammal Cooperative Agreements in Alaska

The amendments provide for cooperative agreements between NMFS and Alaska Native organizations to conserve marine mammals and provide co-management of subsistence use by Alaska Natives. The amendments specifically provide NMFS with the authority to provide grants to Alaska Native organizations to:

- 1) collect and analyze data on marine mammal populations;
- 2) monitor the harvest of marine mammals for subsistence use;
- 3) participate in marine mammal research;
- 4) develop co-management structures with Federal and state agencies.

For a copy of the 1994 amendments to the Marine Mammal Protection Act, write or fax your request for *Public Law 103-238* to:

Senate Documents Room  
Hart Senate Office Building, Room B-04  
Washington, D.C. 20510  
FAX: (202) 228-2815