

DEPARTMENT OF COMMERCE**International Trade Administration****Export Trade Certificate of Review**

ACTION: Notice of revocation of Export Trade Certificate of Review No. 99-00006.

SUMMARY: The Secretary of Commerce issued an Export Trade Certificate of Review to T.P. International Expo Services, Inc. Because this certificate holder has failed to file an annual report as required by law, the Secretary is revoking the certificate. This notice summarizes the notification letter sent to T.P. International Expo Services, Inc.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. 97-290, 15 U.S.C. 4011-21) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III ("the Regulations") are found at 15 CFR part 325 (1999). Pursuant to this authority, a certificate of review was issued on January 11, 2000 to T.P. International Expo Services, Inc.

A certificate holder is required by law to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate (section 308 of the Act, 15 U.S.C. 4018, § 325.14(a) of the Regulations, 15 CFR 325.14(a)). The annual report is due within 45 days after the anniversary date of the issuance of the Certificate of Review (§325.14(b) of the Regulations, 15 CFR 325.14(b)). Failure to submit a complete annual report may be the basis for revocation (§§ 325.10(a) and 325.14(c) of the regulations, 15 CFR 325.10(a)(3) and 325.14(c)).

On January 7, 2002, the Department of Commerce sent to T.P. International Expo Services, Inc. a letter containing annual report questions with a reminder that its annual report was due on February 25, 2002. Additional reminders were sent on April 11, 2002 and on May 21, 2002. The Department has received no written response from T.P. International Expo Services, Inc. to any of these letters.

On July 10, 2002, and in accordance with § 325.10(c)(2) of the Regulations, (15 CFR 325.10 (c)(2)), the Department of Commerce sent a letter by certified

mail to notify T.P. International Expo Services, Inc. that the Department was formally initiating the process to revoke its certificate for failure to file an annual report. In addition, a summary of this letter allowing T.P. International Expo Services, Inc. thirty days to respond was published in the **Federal Register** on July 16, 2002 at 67 FR 46634. Pursuant to § 325.10(c)(2) of the regulations (15 CFR 325.10(c)(2)), the Department considers the failure of T.P. International Expo Services, Inc. to respond to be an admission of the statements contained in the notification letter.

The Department has determined to revoke the certificate issued to T.P. International Expo Services, Inc. for its failure to file an annual report. The Department has sent a letter, dated August 19, 2002, to notify T.P. International Expo Services, Inc. of its determination. The revocation is effective thirty (30) days from the date of publication of this notice. Any person aggrieved by this decision may appeal to an appropriate U.S. district court within 30 days from the date on which this notice is published in the **Federal Register** §§ 325.10(c)(4) and 325.11 of the Regulations, 15 CFR 324.10(c)(4) and 325.11 of the Regulations, 15 CFR 325.10(c)(4) and 325.11.

Dated: August 19, 2002.

Jeffrey Anspacher,

Director, Office of Export Trading Company Affairs.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[I.D. 081402A]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Receipt of an application to modify an existing scientific research/enhancement permit (1044) and request for comment.

SUMMARY: Notice is hereby given that NOAA Fisheries has received an application for a permit modification for permit number 1044 from the Southwest Fisheries Science Center (SWFSC) in Santa Cruz, CA. The modified permit would affect ten Evolutionarily Significant Units (ESUs) of salmonids identified in **SUPPLEMENTARY**

INFORMATION following. This document serves to notify the public of the availability of the permit modification application for review and comment before a final approval or disapproval is made by NOAA Fisheries.

DATES: Written comments on the permit application must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific Standard Time on September 23, 2002.

ADDRESSES: Written comments on the modification request should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the request. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents are available for review in the indicated office, by appointment: Daniel Logan, Protected Species Division, NOAA Fisheries, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404-6528 (ph: 707-575-6053, fax: 707-578-3435). Documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NOAA Fisheries, 1315 East-West Highway, Silver Spring, MD 20910-3226 (301-713-1401).

FOR FURTHER INFORMATION CONTACT:

Daniel Logan at phone number 707-575-6053, or e-mail: dan.logan@noaa.gov.

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NOAA Fisheries regulations governing listed fish and wildlife permits (50 CFR parts 222-226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NOAA Fisheries.

Species Covered in This Notice

This notice is relevant to the following eight threatened and two endangered salmonid ESUs: threatened Southern Oregon/northern California Coasts coho salmon (*Oncorhynchus kisutch*), threatened Central California Coast coho salmon, threatened California Coastal Chinook salmon (*O. tshawytscha*), threatened Central Valley Spring-run Chinook salmon, endangered Sacramento River Winter-run Chinook salmon, threatened Northern California steelhead (*O. mykiss*), threatened Central California Coast steelhead, threatened Central Valley steelhead, threatened South-central California Coast steelhead, and endangered Southern California steelhead.

Modification Request Received

SWFSC requests a modification to permit 1044 for takes of adult and juvenile ESA-listed coho salmon, chinook salmon, and steelhead associated with population studies, carcass counts, redd surveys, genetic analyses, and habitat association studies. Presently, permit 1044 authorizes intentional takes of adult and juvenile threatened Southern Oregon/northern California Coasts coho salmon, and threatened Central California Coast coho salmon for projects in northern California. This requested modification would add intentional takes of threatened California Coastal chinook salmon, threatened Central Valley Spring-run chinook salmon, endangered Sacramento River Winter-run chinook salmon, threatened Northern California steelhead, threatened Central California Coast steelhead, threatened Central Valley steelhead, threatened South-central California Coast steelhead, and endangered Southern California steelhead to the SWFSC permit.

Dated: August 19, 2002.

Susan L. Pultz,

*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. 021102C]

Taking and Importing of Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Final organized decision process.

SUMMARY: The Dolphin Protection Consumer Information Act (DPCIA) requires the Secretary of Commerce (Secretary), subject to certain conditions, to amend the "dolphin-safe" labeling standard so that tuna from the eastern tropical Pacific Ocean (ETP) purse seine fishery caught in sets in which no dolphins were killed or seriously injured may be labeled "dolphin-safe." The Secretary is required by the Marine Mammal Protection Act (MMPA) to conduct specified scientific research and to make a finding, based on the results of that research, information obtained under the International Dolphin Conservation Program (IDCP), and any other relevant information, as to whether the intentional deployment on or encirclement of dolphins with purse seine nets is having a "significant adverse impact" on any depleted dolphin stock in the ETP. "Significant adverse impact" is not defined in the statute. On February 15, 2002, NMFS proposed an organized decision process (ODP) for outlining the types of information that will be available to the Secretary and the context in which the Secretary will consider the information in arriving at a final finding. NMFS accepted public comment on the proposed ODP for 60 days. This notice responds to comments and contains the final ODP to be used by the Secretary in making the finding.

FOR FURTHER INFORMATION CONTACT: Nicole R. Le Boeuf, Office of Protected Resources, NMFS, 301-713-2322.

SUPPLEMENTARY INFORMATION:**Background**

Since its enactment in 1972, the MMPA (16 U.S.C. 1361 *et seq.*) has been amended several times to address the issue of dolphin mortality in the ETP tuna purse seine fishery. As concern among U.S. consumers grew, the DPCIA (16 U.S.C. 1385) was enacted in 1990 to establish the dolphin-safe labeling standard. The International Dolphin Conservation Program Act (IDCPA), (Public Law 105-42), was enacted in 1997, in response to the success of the ETP tuna purse seine fishery in dramatically reducing dolphin mortality caused by normal fishing operations. The IDCPA amended both the MMPA and the DPCIA. The MMPA, as amended by the IDCPA, requires the Secretary to conduct specified scientific research on dolphin stocks in the ETP.

The DPCIA, as amended by the IDCPA, requires the Secretary to make a finding, based on the scientific research, information obtained under the IDCP (the international program of dolphin conservation established by the nations participating in the ETP purse seine fishery), and any other relevant information, as to whether the intentional deployment on or encirclement of dolphins with purse seine nets is having a "significant adverse impact" on any depleted dolphin stock in the ETP. There are three depleted dolphin stocks in the ETP: northeastern offshore spotted, eastern spinner, and coastal spotted. The ETP is the area of the Pacific Ocean bounded by 40° N. lat., 40° S. lat., 160° W. long., and the western coastlines of North, Central, and South America.

The Secretary's finding will determine the definition of "dolphin-safe" as applicable to tuna harvested by purse seine vessels with carrying capacities of greater than 400 short tons operating in the ETP. Refer to the **Federal Register** Notice at 64 FR 24590 (May 7, 1999), for more information on the dolphin-safe labeling standard.

The DPCIA requires the Secretary to make an initial finding regarding the dolphin-safe label in 1999, and a final finding by December 31, 2002. On April 29, 1999, NMFS made an initial finding that there was insufficient evidence at that time to determine whether the chase and encirclement of dolphins by the tuna purse seine fishery was having a significant adverse impact on any depleted dolphin stock in the ETP (NMFS 1999) (64 FR 24590). The U.S. District Court for the Northern District of California in *Brower v. Daley*, 93 F. Supp. 2d 1071 (N. D. Ca. 2000), set aside this determination, and that ruling was affirmed by the Ninth Circuit Court of Appeals in *Brower v. Evans*, 257 F. 3d 1058 (9th Cir. 2001). As a result, the dolphin-safe labeling standard (from section (h)(2) of the DPCIA) is currently in effect.

NMFS' IDCPA research activities will provide substantial additional information for the final finding relative to what was available for the initial finding in 1999. Some of this new information will include: dolphin abundance data from 1999 and 2000, updated mortality estimates based on observer data, an updated review of scientific literature on stress in marine mammals, results from a necropsy study of dolphins killed in the fishery, a review of historical demographic and biological data related to dolphins involved in the fishery, results from a required chase-recapture experiment, as well as information regarding variability