

OBTAINING A SMALLTOOTH
SAWFISH
SCIENTIFIC RESEARCH OR
ENHANCEMENT PERMIT:
Navigating the Process

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Office of Protected Resources

Prohibitions of the ESA

- ◆ **Taking** a listed species within the U.S. or its territorial sea, or upon the high seas
- ◆ Importing, exporting, possessing, selling, offering for sale, delivering, carrying, transporting, shipping, or receiving a listed species

Thou shalt not “take”



ESA definition of take:

“to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct”

Exceptions to the prohibition of take

- ◆ Incidental Take (e.g. bycatch in fisheries)
 - ◆ **Federal agencies** – incidental take may be authorized through an ESA section 7 consultation
 - ◆ **States and other non-federal entities** – Incidental take permits may be issued following the development of a species conservation plan (typically called habitat conservation plans, or HCPs)
- ◆ Directed take
 - ◆ To conduct bona fide scientific research
 - ◆ To enhance the propagation or survival of the species

Who to contact for permits?

- ◆ **Incidental take permits** – David O'Brien, Endangered Species Division
- ◆ **Scientific research or enhancement permits** – Jennifer Jefferies, Permits, Conservation, and Education Division
- ◆ When in doubt, call either Jen or Dave

How to request a research or enhancement permit: (The Application Process)

- ◆ Definitions
- ◆ Application content

Preparing the Application: Definitions

Applicant/Permit Holder:

Person, institution*, or agency* who is ultimately responsible for all activities of any individual who is operating under the authority of the permit.

*If it is an institution/agency, there must also be a Responsible Party with signature authority.

Preparing the Application: Definitions

Principal Investigator (PI):

Individual* primarily responsible for the taking, importation, export, and any related activities conducted under the permit.

*There can be only 1 PI per permit and the Applicant/Permit Holder can be the PI.

Preparing the Application: Definitions

Co-Investigator (CI):

The on-site representative(s)* of the PI who conducts, or directly supervises the conduct of taking, import, and export activities authorized under a permit.

*There can be numerous CIs.

Application Content:

Do's and Don'ts

- ◆ **Do** give complete information and citations
- ◆ **Do** follow the approved format
- ◆ **Do** avoid technical jargon
- ◆ **Don't** use vague or ambiguous words
- ◆ **Don't** forget to sign the application

Application Content

- ◆ Summary
- ◆ Introduction
- ◆ Methods
- ◆ National Environmental Policy Act (NEPA) and ESA considerations
- ◆ Previous and other permits
- ◆ Special considerations

Application Content: Summary*

Concise statement (not more than 200 words) that includes:

- ◆ Why - objective(s)
- ◆ What - species (common and scientific names)
- ◆ How - methods (type of take and numbers)
- ◆ Where - location
- ◆ When - field season and duration of project

*Used in FR Notice

Application Content: Introduction

- ◆ Hypothesis/Objective(s)
- ◆ Status of species
 - ◆ life history
 - ◆ population dynamics
 - ◆ estimates of abundance and distribution
 - ◆ current threats to species and habitat
- ◆ Literature review
 - ◆ has this study been done before?

Application Content: Methods

Justification

- ◆ Choice of species
- ◆ Necessary discomfort, pain, suffering
- ◆ Sample size (power analysis)
- ◆ Benefit to species, or critically important research need (recovery plan objectives)

Application Content: Methods

Types of take: Narrative description

- ◆ Describe all procedures (e.g. capture, restraint, sampling, tagging) in detail
- ◆ Indicate maximum number per species, age class, sex, location, etc. for each procedure
- ◆ Describe **anticipated effects** and **mitigating measures** (not only to sawfish but to any other potential bycatch)
- ◆ Indicate method(s) of data analysis (including statistics)

Application Content: Methods

Types of take: Take Table

- ◆ Indicate all types of take proposed
- ◆ Give exact numbers by type of take, sorted by species, location, age class, sex, reproductive condition, etc. for each year of the study and in total
- ◆ Use same numbers as in narrative

Application Content: Methods

Parts or Specimen Samples

- ◆ Indicate all parts/samples that will be taken, imported, or exported
- ◆ Indicate size (size of fin clip) or volume (amount of blood), where applicable
- ◆ Describe method of tracking and arrangements for disposition
- ◆ For imports, indicate source (e.g. wild, captive), location, date of collection, name of collector

Application Content: Methods

Lethal take

- ◆ Explain why non-lethal method is not feasible and how results will directly benefit the species/stock or fulfill critically important research need
 - ◆ lethal takes must be done in a humane manner
- ◆ If unintentional mortality is possible, indicate maximum number by species (and include in Take Table)

Sample Take Table

Number of Individuals	Species	Life Stage	Sex	Origin	Take Activity Category	Location	Date(s)	Details
25 Fish Annually	Smalltooth sawfish (<i>Pristis pectinata</i>)	Juveniles & Adults	Males & Females	Wild	Capture*, measure, genetic sample, PIT tag, rototag or Plastic headed dart tag, Vemco acoustic tag, release, monitor	Florida coastal waters	Spring 2004 through Spring 2009	Animals will be actively tracked (followed in a boat) or monitored using moored acoustic monitors
10 Fish Annually	Smalltooth sawfish (<i>Pristis pectinata</i>)	Adults & juveniles	Males & Females	Wild	Capture*, measure, genetic sample, PIT tag, rototag, SPOT or PAT satellite tag, release	Florida coastal waters	Spring 2004 through Spring 2009	
25 fish Annually	Smalltooth sawfish (<i>Pristis pectinata</i>)	Adults & juveniles	Males & Females	Wild	Capture*, measure, genetic sample, PIT tag, rototag or Plastic headed dat tag, and release	Florida coastal waters	Spring 2004 through Spring 2009	

* Capture by longline, rod and reel, set lines, gill nets or beach seine.

Application Content: Methods

Don't forget...

- ◆ Dates of research (i.e. field seasons) and duration of permit
- ◆ Incidental harassment/non-target species
- ◆ Publication of results

Application Content: ESA Section 7 Consultations

- ◆ All federal agencies must insure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of an endangered or threatened species or result in the destruction or adverse modification of designated critical habitat.
- ◆ The Permits Division must consult* with the Endangered Species Division on all smalltooth sawfish permit actions.
- ◆ Must determine: what species affected and where, nature of potential effects, temporal and spatial extent of effects, and other factors affecting species.

*ESA allows for 90 days or more for consultation and an additional 45 days to produce the “biological opinion”.

Application Content: NEPA Considerations

- ◆ Responsibility of Federal agencies to consider and publicly disclose the potential environmental impacts of all federal actions (including permit issuance).
- ◆ The impacts of permit issuance must be addressed in either
 - ◆ Environmental Assessment & Finding of No Significant Impact, or
 - ◆ Environmental Impact Statement.
- ◆ Traditionally, most scientific research permits have been categorical excluded from the need to prepare an EA/EIS.

Application Content: NEPA Considerations

- ◆ New, innovative, controversial or experimental techniques
- likely to be adopted by others?
- ◆ Unique, unknown, or highly uncertain risks?
- ◆ Significant cumulative impact?
- ◆ Adverse effect on marine mammals, other ESA-listed species or critical habitat?
- ◆ Affect public health or safety?
- ◆ Loss or destruction of significant scientific, cultural, or historic resources?
- ◆ In violation of Federal, state or local environmental protection laws?

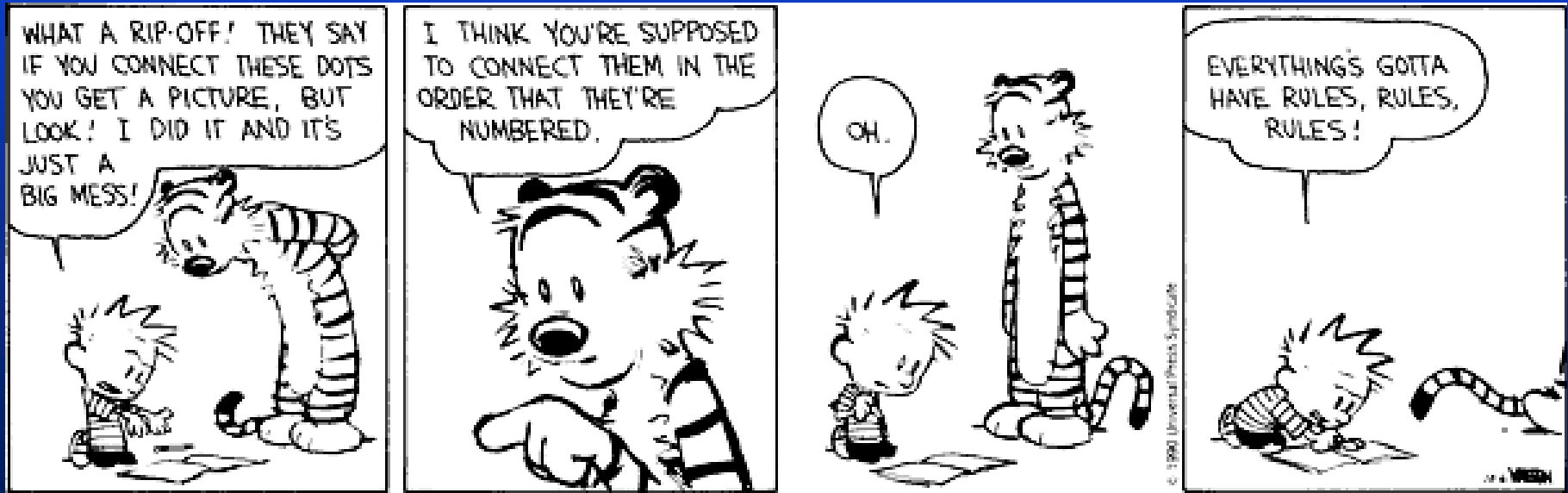
Application Content: NEPA Considerations

For NMFS to appropriately assess the nature and extent of any potential social, economic, biological or physical environmental effects from proposed research, applications need to outline:

- ◆ Target and non-target species, including age/sex classes and sample sizes
- ◆ Details of all protocols, including time of year and overall project duration
- ◆ Geographic location of the activity, noting any areas of *special importance* = marine protected areas, ESA critical habitat, Essential Fish Habitat

Why ask for so much info?

Regulations require an applicant to demonstrate that their proposed activities will meet established permit issuance criteria.



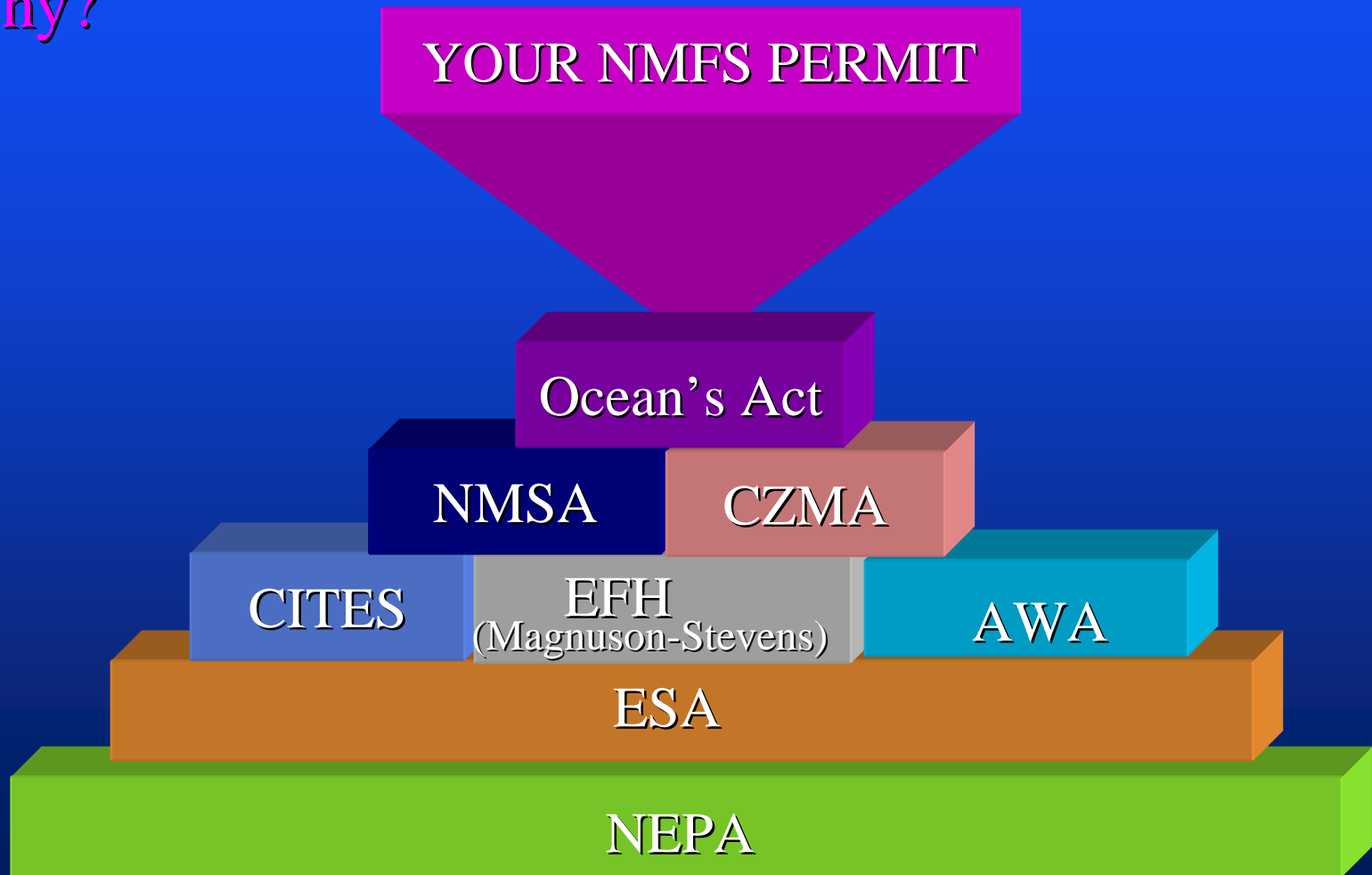
THE REVIEW PROCESS

Who?

- ◆ USFWS
- ◆ some state F&W depts
- ◆ NMFS Regions/
Enforcement
- ◆ NOS/NMS
- ◆ Public comments
(FR Notice of
Receipt)
- ◆ independent
experts

THE REVIEW PROCESS

Why?



THE REVIEW PROCESS

How long?

- ◆ **Statutory processing requirements:** Public comment period is 30 days
- ◆ **Incomplete applications:** depends on response time of applicant to request for additional information
- ◆ **Biological Opinions/NEPA Analysis:** BiOp has 135 days for consultation and opinion (bare minimum); NEPA is unlimited time but depends on finalized BiOp

What if you change your mind?



"Well, I guess I'll have the ham and eggs."

Research Permit Modifications

- ◆ **Major** - for changes in:
 - ◆ number of takes
 - ◆ manner of take, if it will increase the level of risk
 - ◆ location
 - ◆ duration, if greater than 12 months
- ◆ **Major** - subject to the same review process as a new application, with a 30-day public comment period and may require re-initiation of Sect. 7 consultation and new NEPA analysis.
- ◆ **Minor**
 - ◆ anything that is not a major modification
 - ◆ change in duration, if less than 12 months

Research Permit Modifications

Re-initiating consultation under ESA is required when:

- ◆ the amount or extent of authorized or incidental take is exceeded
- ◆ new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in the Biological Opinion
- ◆ the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in the BiOp
- ◆ a new species is listed or critical habitat designated that may be affected by the action

IN SUMMARY...

- ◆ Apply early

135 days + 30 days + processing = at least 8 months from a complete application

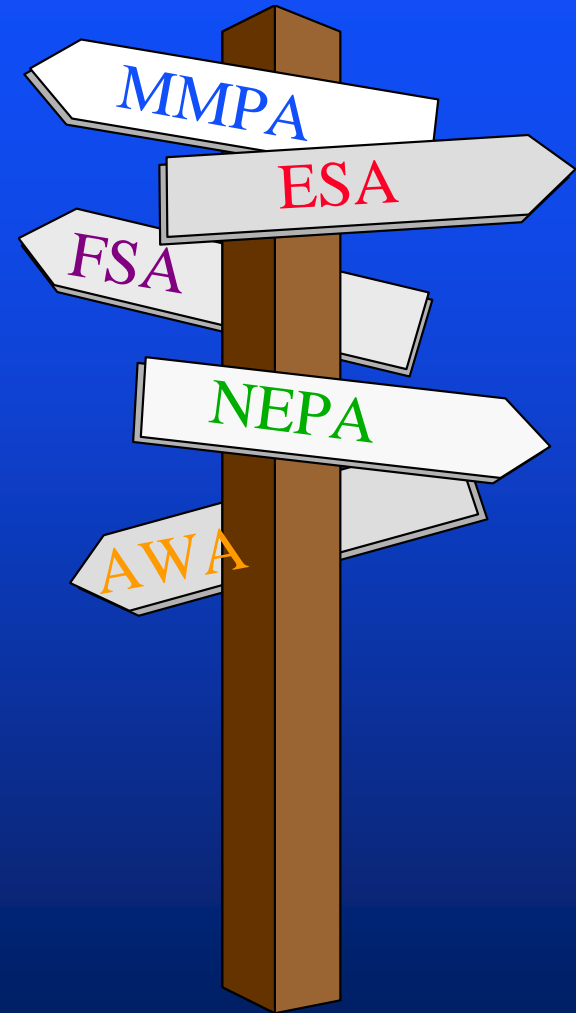
- ◆ Plan ahead

Modifications take time to process

- ◆ Give complete information

Decreases processing time

Still confused?



For more information on NMFS smalltooth sawfish research permits:

✍ Call us at 301/713-2289

✍ visit our website at

http://www.nmfs.noaa.gov/prot_res/overview/permits.html

✍ email me at Jennifer.Jefferies@noaa.gov