

potential adverse effect on minority business.

The second major problem with implementing the banks' proposal concerns the administrative burden it would impose upon recipients. All the recipients that commented on this issue argued that it would be very difficult and burdensome for them to monitor and account for credit claims toward goals for the use of MFIs. Not only would the question of attribution to the DOT contracts and projects (discussed in the ANPRM) arise, but tracking financial transactions among contractors, subcontractors, and financial institutions would be a substantial, new, and technically difficult task for recipients' MBE/DBE/WBE program staffs to carry out. Particularly given the Department's policy emphasis on improving and making more thorough recipients' eligibility certification and verification procedures, the Department does not believe that it would be appropriate to add these additional tasks to the already heavy workloads of recipients' staffs.

Some commenters, citing conceptual and other problems with the banks' proposal, suggested that, as an alternative, the Department consider setting new, separate goals for the use of MFIs. This approach would avoid the conceptual problems associated with the banks' proposal as well as the potentially damaging effects on opportunities for other MBE/DBE/WBE firms. Consequently, the Department considered the desirability of such an approach. However, this approach would have no fewer administrative burdens for recipients than the banks' proposal. Because recipients would have to establish a new element of their MBE/DBE/WBE programs and require contractors to meet an additional goal, the Department is concerned that this approach would be more burdensome administratively than the banks' proposal. Principally for this reason, the Department has decided against proposing separate goals for the use of MFIs.

The Department is aware that on April 2, 1984, the Small Business Administration (SBA) issued a policy statement adopting a scheme very similar to that of the banks' proposal for use in direct procurement by Federal agencies. This policy is not legally binding on the Department for purposes of its financial assistance program, however. Because of the differences between direct Federal procurement and procurement by recipients in DOT financial assistance programs, the SBA

policy does not raise the same conceptual problems as does the banks' proposal in the context of DOT financial assistance programs. While implementing the SBA policy will add to Federal agencies' workloads in the procurement area, it will not result in any administrative burdens for the recipients of financial assistance from DOT and other Federal agencies. Consequently, the Department does not believe it necessary or advisable to follow the SBA's action with a similar action in the financial assistance area.

One of the assumptions of the banks' proposal (made explicit in SBA's discussion of its policy statement and accompanying size standard for banks) is that incentives for the use of MFIs will indirectly assist other minority businesses in obtaining financing and other financial services. That is, it is assumed that if minority banks receive more business as a result of incentives in a DOT regulation, they in turn will make loans and other financial services available to more minority and disadvantaged businesses.

The Department is not certain whether this assumption is well founded. While it is possible that MFIs have closer ties to the minority business community than other financial institutions, it is also possible that, because of other investment priorities and the importance to any bank of cautious lending policies, that MFIs would not be in a substantially better position than other banks to provide financing and other services to the minority business community. The comments to the ANPRM do not provide any direct evidence on this question. However, two minority business commenters suggested that, in return for providing assistance to MFIs, DOT should require MFIs to create financing opportunities for other minority and disadvantaged businesses (e.g., by requiring MFIs to use the additional funds they receive as a result of regulatory incentives specifically to assist other minority businesses). This comment underlines the concern about the link between incentives for the use of MFIs and assistance in financing to other businesses. However, because of its administrative complexity, and because of DOT's regulatory authority with respect to the lending and other business practices of banks is, at best, very indirect, the Department does not believe that it would be appropriate to adopt this suggestion.

For these reasons, the Department is withdrawing this ANPRM and does not propose to take any further regulatory

action at this time concerning minority financial institutions.

Issued at Washington, D.C., this 2nd day of November of 1984.

Elizabeth Hanford Dole,
Secretary of Transportation.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 227

Review of Marine Mammals, Sea Turtles, and Marine Fishes Listed as Endangered or Threatened

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of status reviews.

SUMMARY: The NMFS has completed a review of the status of certain endangered and threatened species under its jurisdiction, as required by Section 4(c)(2) of the Endangered Species Act of 1973 (ESA). The status reviews are available upon request. Based on these reviews, the NMFS may propose changes in the listing status for some species.

ADDRESS: Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Patricia Montano (Protected Species Division), 202 634-7471.

SUPPLEMENTARY INFORMATION: The ESA is administered jointly by the Fish and Wildlife Service (FWS), Department of the Interior, and the NMFS, Department of Commerce. The NMFS has jurisdiction over most marine species and makes determinations under Section 4(a) of the ESA as to whether the species should be listed as endangered or threatened. The FWS and the NMFS share jurisdiction over sea turtles, with the FWS having responsibility for sea turtles in the terrestrial environment and the NMFS having responsibility for sea turtles in the marine environment. The FWS maintains and publishes the List of Endangered and Threatened Wildlife (List) in 50 CFR Part 17 for all species determined by the NMFS or the FWS to be endangered or threatened. A list of those endangered species under the jurisdiction of the NMFS is contained in

50 CFR 222.23(a) and threatened species in 50 CFR 227.4.

Section 4(c)(2) of the ESA requires that, at least once every five years, a review of the species on the List be conducted to determine whether any species should be (1) removed from the List; (2) changed in status from an endangered species to a threatened species; or (3) changed in status from a threatened species to an endangered species. On February 9, 1983, the NMFS published a notice in the Federal Register (48 FR 5982) that it was conducting status reviews for species under its jurisdiction and solicited comments and information. The status reviews for the following species have been completed and are available upon request:

Totoba (*Cynoscion macdonaldi*)
 Green sea turtle (*Chelonia mydas*)
 Hawksbill sea turtle (*Eretmochelys imbricata*)
 Kemp's ridley sea turtle (*Lepidochelys kempfi*)
 Leatherback sea turtle (*Dermochelys coriacea*)
 Loggerhead sea turtle (*Caretta caretta*)
 Olive ridley sea turtle (*Lepidochelys olivacea*)
 Caribbean monk seal (*Monachus tropicalis*)
 Hawaiian monk seal (*Monachus schauinslandi*)
 Blue whale (*Balaenoptera musculus*)
 Bowhead whale (*Balaena mysticetus*)

Fin whale (*Balaenoptera physalus*)
 Gray whale (*Eschrichtius robustus*)
 Humpback whale (*Megaptera novaeangliae*)
 Right whale (*Balaena glacialis*)
 Sei whale (*Balaenoptera borealis*)

Based upon the status reviews, the NMFS believes the following proposed changes to the List are warranted:

1. *Caribbean Monk Seal*. The available information indicates that the Caribbean monk seal is extinct. Caribbean monk seals were not found in surveys made in 1950, 1951, 1969, and 1973. Surveys of beaches for the Western Atlantic Turtle Symposium in 1983 also provided no evidence that a residual population exists. Therefore, the NMFS concludes that the species should be removed from the List.

2. *Gray Whale*. The eastern North Pacific or California stock of the gray whale has recovered to near its original population size (at the time commercial whaling began). Because of its recovery and current growth rate of about 2.5 percent a year, the NMFS concludes that this stock is not an endangered species. However, because of limited calving grounds and primarily coastal habitat which is being subjected to increasing development, the NMFS concludes that the California stock of gray whale should be listed as threatened.

3. *Olive Ridley Sea Turtle*. The western North Atlantic (Surinam and adjacent areas) nesting population of Olive ridley sea turtle has declined more than 80 percent since 1967. The survival of this population may be jeopardized by the killing of turtles in shrimp trawls. Physical changes in the nesting beaches may impact future nesting at Surinam. Accordingly, the NMFS concludes that the western North Atlantic population should be classified as endangered, rather than threatened.

List of Subjects

50 CFR Part 222

Administrative practice and procedures, Endangered and threatened wildlife, Exports, Fish, Imports, Marine mammals, Reporting and recordkeeping requirements.

50 CFR Part 227

Endangered and threatened wildlife, Exports, Fish, Fisheries, Imports.

Dated: November 5, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Services.

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