

ESA-Definition of Harm

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

[Docket No. 980414094-9287-02; I.D. No. 091797A]
RIN 0648-AK55

Endangered and Threatened Wildlife and Plants; Definition of
``Harm''

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

ACTION: Final rule.

SUMMARY: This final rule defines the term ``harm'', which is contained
in the definition of ``take'' in the Endangered Species Act (ESA). The
purpose of this rulemaking is to clarify the type of actions that may
result in a take of a listed species under the ESA. This final rule is
not a change in existing law. It provides clear notification to the
public that habitat modification or degradation may harm listed species
and, therefore, constitutes a take under the ESA as well as ensuring
consistency between NMFS and the Fish and Wildlife Service (FWS). This
final rule defines the term ``harm'' to include any act which actually
kills or injures fish or wildlife, and emphasizes that such acts may
include significant habitat modification or degradation that
significantly impairs essential behavioral patterns of fish or
wildlife.

DATES: This rule is effective on December 8, 1999.

ADDRESSES: Chief, Endangered Species Division, Office of Protected
Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Chris Mobley, NMFS, 1315 East-West
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