

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety *that may disproportionately affect children*.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not

likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because it establishes a safety zone. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A temporary section in 165.T13–037 is added to read as follows:

165.T13–037 Safety Zone; Arlington Chamber of Commerce Fireworks Display, Arlington, Oregon.

(a) *Location.* The following area is a safety zone: The waters of the Columbia River from surface to bottom, encompassed by lines connecting the following points: from the southern bank of the Columbia River to latitude 45°43'29" N, longitude 120°12'12" W, thence to 45°43'31" N, 120°12'06" W, thence to the southern shoreline located at 45°43'26" N, 120°12'02" W in the vicinity of Arlington's waterfront on the Columbia River in Arlington, Oregon at river mile 243.

(b) *Enforcement period.* This rule will be in effect from 8:30 p.m. to approximately 11:30 p.m. on June 28, 2008 in the described waters of the Columbia River in Arlington, Oregon.

(c) *Regulations.* In accordance with the general regulations in Section 165.23 of this part, no person or vessel not participating in the actual fireworks display may enter or remain in this zone unless authorized by the Captain of the Port or his designated representatives. Vessels and persons granted authorization to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port or his designated representatives.

(d) Vessels wishing to request permission to enter the safety zone may contact the official patrol on VHF Channel 16 or by calling 503–240–9311.

Dated: June 6, 2008.

F.G. Myer,

Captain, U.S. Coast Guard, Captain of the Port Portland.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Approval and Promulgation of Implementation Plans

CFR Correction

In title 40 of the Code of Federal Regulations, part 52 (§§ 52.01 to 52.1018), revised as of July 1, 2007, on page 250, in § 52.229, in paragraph (c), in the first sentence, remove the word "anderfere" and replace it with the words "and no analysis has been

presented to show that this rescission will not interfere”.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 79

Registration of Fuels and Fuel Additives

CFR Correction

In title 40 of the Code of Federal Regulations, parts 72 to 80, revised as of July 1, 2007, on page 604, in § 79.68, paragraph (f)(5)(vii) is reinstated to read as follows:

§ 79.68 *Salmonella typhimurium* reverse mutation assay.

* * * * *

(f) * * *

(5) * * *

(vii) Dose-response relationship, if applicable.

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[FR Doc. E8-13913 Filed 6-18-08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 080302357-8703-01; I.D. 030905A]

RIN 0648-AT79

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the Explosive Removal of Offshore Structures in the Gulf of Mexico

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

ACTION: Final rule.

SUMMARY: NMFS, upon application from the Minerals Management Service (MMS), is issuing regulations to govern the unintentional takings of small numbers of marine mammals incidental to explosive severance activities at offshore oil and gas structures in the Gulf of Mexico (GoM). Issuance of regulations, and Letters of Authorization (LOAs) under those regulations, governing the unintentional incidental takes of marine mammals in connection with particular activities is required by

the Marine Mammal Protection Act (MMPA) when the Secretary of Commerce (Secretary), after notice and opportunity for comment, finds, as here, that such takes will have a negligible impact on the affected species or stocks of marine mammals and will not have an unmitigable adverse impact on their availability for taking for subsistence uses, and if the Secretary sets forth the permissible methods of taking and other means of effecting the least practicable adverse impact on affected marine mammal species or stocks and their habitat, and on the availability of such species or stocks for subsistence uses.

These regulations do not authorize offshore structure removal activities as such authorization is not within the jurisdiction of the Secretary. Rather, NMFS' regulations together with LOAs authorize the unintentional incidental take of marine mammals in connection with this activity.

DATES: Effective from July 21, 2008 through July 19, 2013.

ADDRESSES: A copy of the MMS application containing a list of the references used in this document may be obtained by writing to Mr. P. Michael Payne, Chief Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, by telephoning one of the contacts listed under **FOR FURTHER INFORMATION CONTACT**, or at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

Documents cited in this final rule may also be viewed, by appointment, during regular business hours (M-F, 8 a.m. until 4:30 p.m., except Federal holidays) at this address. A copy of MMS' Programmatic Environmental Assessment (PEA) is available on-line at: <http://www.gomr.mms.gov/homepg/regulate/enviro/nepa/2005-013.pdf>.

Comments regarding the burden-hour estimate or any other aspect of the collection of information requirement contained in this rule should be sent to NMFS via the means stated above, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, DC 20503, David_Rostker@eap.omb.gov.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, NMFS, at 301-713-2289, ext 128 or Ken.Hollingshead@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary

of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

An authorization will be granted for periods of 5 years or less if the Secretary finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses, and if regulations are prescribed setting forth the permissible methods of taking and other means of effecting the least practicable adverse impact (i.e., mitigation) the requirements pertaining to the monitoring and reporting of such taking.

NMFS has defined “negligible impact” in 50 CFR 216.103 as “an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.”

Summary of Request

On February 28, 2005, NMFS received an application from MMS (MMS, 2005a) requesting, on behalf of the offshore oil and gas industry, authorization under section 101(a)(5)(A) of the MMPA to take marine mammals by harassment incidental to explosive severance activities at offshore oil and gas structures in the GoM outer continental shelf (OCS). Except for certain categories of activities not pertinent here, the MMPA, 16 USC 1362(18)(A), defines “harassment” as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) 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 [Level B harassment].

Description of the Activity

During exploration, development, and production operations for mineral extraction in the GoM OCS, the seafloor around activity areas becomes the repository of temporary and permanent equipment and structures. In compliance with OCS Lands Act (OCSLA) regulations and MMS guidelines, operators are required to remove or “decommission” seafloor obstructions from their leases within