

Because the countervailing duty rates for all of the above-noted companies are either less than 0.5 percent and, consequently, *de minimis*, or zero, we will instruct CBP to liquidate entries of these companies during the period January 1, 2004, through December 31, 2004, without regard to countervailing duties in accordance with 19 CFR 351.106(c). The Department will issue appropriate instructions directly to CBP within 15 days of publication of these final results of this review.

For all other companies that were not reviewed (except Barilla G. e R. F.lli S.p.A. and Gruppo Agricoltura Sana S.r.L., which are excluded from the order), the Department has directed CBP to assess countervailing duties on all entries between January 1, 2004, and December 31, 2004, at the rates in effect at the time of entry.

We are revoking the order, in part, with respect to pasta from Italy produced and exported by Pasta Lenzi. In accordance with 19 CFR 351.222(f)(3), we will terminate the suspension of liquidation for pasta produced and exported by Pasta Lenzi that was entered, or withdrawn from warehouse, for consumption on or after January 1, 2005, and will instruct CBP to refund any cash deposits for such entries.

Since the countervailable subsidy rates for Corticella/Combattenti and Atar are *de minimis*, the Department will instruct CBP to continue to suspend liquidation of entries, but to collect no cash deposits of estimated countervailing duties for the above-noted companies on all shipments of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

For all non-reviewed firms (except Barilla G. e R. F.lli S.p.A. and Gruppo Agricoltura Sana S.r.L., which are excluded from the order), we will instruct CBP to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested.

This notice serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is

hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 20, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 060806C]

Small Takes of Marine Mammals Incidental to Specified Activities; Harbor Activities Related to the Delta IV/Evolved Expendable Launch Vehicle at Vandenberg Air Force Base, CA

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: In accordance with the provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to The Boeing Company (Boeing) to take small numbers of marine mammals, by Level B harassment, incidental to harbor activities related to the Delta IV/Evolved Expendable Launch Vehicle (EELV) at south Vandenberg Air Force Base, CA (VAFB).

DATES: Effective June 21, 2006, to June 20, 2007.

ADDRESSES: A copy of the IHA and the application are available by writing to 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, or by telephoning the contact listed here. A copy of the application containing a list of references used in this document may be obtained by writing to this address, by telephoning the contact listed here (See **FOR FURTHER INFORMATION CONTACT**) or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Jolie Harrison, (301) 713-2289, ext. 166 or Monica DeAngelis, (562) 980-3232.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce 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 either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and that the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

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.

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except for certain categories of activities not pertinent here, the MMPA 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"].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must determine whether to issue the authorization with appropriate conditions.

Summary of Request

On February 28, 2006, NMFS received an application from Boeing requesting an authorization for the harassment of small numbers of Pacific harbor seals (*Phoca vitulina richardsi*) and California sea lions (*Zalophus californianus*) incidental to harbor activities related to the Delta IV/EELV, including: transport vessel operations, cargo movement activities, harbor maintenance dredging, and kelp habitat mitigation operations. In addition, northern elephant seals (*Mirounga angustirostris*) may also be incidentally harassed but in even smaller numbers. Incidental Harassment Authorizations (IHAs) were previously issued to Boeing in 2002 (67 FR 36151), 2003 (68 FR 36540), 2004 (69 FR 29696), and 2005 (70 FR 30697). No work and, therefore, no monitoring was conducted under the 2005 IHA. The harbor where activities will take place is on south VAFB approximately 2.5 mi (4.02 km) south of Point Arguello, CA and approximately 1 mi (1.61 km) north of the nearest marine mammal pupping site (i.e., Rocky Point).

Additional background relating to this application and the scope of the activities is set forth in the proposed notice (71 FR 26069, May 3, 2006) and is not repeated here. The activities to be conducted have not changed between the notice of the proposed activities and this final notice announcing the issuance of the IHA.

Specified Activities

Delta Mariner off-loading operations and associated cargo movements will occur a maximum of 3 times per year, each of which is estimated to take approximately between 14 and 18 hours in good weather.

To accommodate the *Delta Mariner*, the harbor will need to be dredged, removing approximately 3,000 to 5,000 cubic yards of sediment per dredging. Dredge operations, from set-up to tear-down, would continue 24-hours a day for 3 to 5 weeks. Sedimentation surveys have shown that initial dredging indicates that maintenance dredging should be required annually or twice per year, depending on the hardware delivery schedule.

A more detailed description of the work proposed for 2006/2007 is contained in the re-application which is available upon request (see ADDRESSES) and in the Final US Air Force Environmental Assessment for Harbor Activities Associated with the Delta IV Program at Vandenberg Air Force Base (ENSR International, 2001).

Comments and Responses

On May 3, 2006 (71 FR 26069), NMFS published a notice of receipt of application of an IHA on MBNMS's request to take marine mammals, by harassment, incidental to harbor activities related to the Delta IV/EELV, including: transport vessel operations, cargo movement activities, harbor maintenance dredging, and kelp habitat mitigation and requested comments, information and suggestions concerning the request. During the 30-day public comment period, NMFS received one comment.

Comment: The commenter opposed the issuance of permits to allow killing of marine mammals.

Response: NMFS does not believe that the authorized activities will result in the death of any marine mammals, nor does this IHA authorize any marine mammal mortality.

Marine Mammals Affected by the Activity

The marine mammal species likely to be harassed incidental to harbor activities at south VAFB are the Pacific harbor seal, California sea lion, and northern elephant seal, which haul out in the area where these activities are conducted. None of the haul-out areas near these activities are used for breeding, molting, or mating. A more detailed discussion of the status of these stocks and their occurrence at VAFB, as well as other marine mammal species that occur at VAFB, was included in the notice of the proposed IHA (71 FR 26069, May 3, 2006).

Potential Effects of Activities on Marine Mammals

The primary impacts to marine mammals from these activities are expected to be short-term behavioral reactions in response to the acoustic and visual stimuli produced by the heavy machinery used. NMFS anticipates that no injury will result from these actions. A discussion of the sound levels produced by the equipment, behavioral reactions of marine mammals to loud noises or looming visual stimuli, and some specific observations of the response of marine mammals to this activity gathered during previous monitoring were presented in the proposed IHA (71 FR 26069, May 3, 2006) and will not be repeated here. For a further discussion of the anticipated effects of the planned activities on pinnipeds in the area, please refer to the application, NMFS 2005 Environmental Assessment (EA) and ENSR International's 2001 Final EA.

Numbers of Marine Mammals Expected to be Harassed

Boeing estimates that a maximum of 43 harbor seals per day may be hauled out near the south VAFB harbor, with a daily average of 21 seals sighted when tidal conditions were favorable during previous dredging operations in the harbor. Considering the maximum and average number of seals hauled out per day, assuming that the seals may be seen twice a day, and using a maximum total of 73 operating days in 2006–2007, NMFS estimates that a maximum of 767 to 1570 Pacific harbor seals may be subject to Level B harassment out of a total estimated population of 31,600. These numbers are small relative to this population size (2.4 - 5.0 percent).

During wharf modification activities, a maximum of six California sea lions were seen hauling out in a single day. Based on the above-mentioned calculation, NMFS believes that a maximum of 219 California sea lions may be subject to Level B harassment out of a total estimated population of 240,000. These numbers are small relative to this population size (less than 0.1 percent). Up to 10 northern elephant seals (because they may be in nearby waters) may be subject to Level B harassment out of a total estimated population of 101,000. These numbers are small relative to this population size (less than 0.01 percent).

Possible Effects of Activities on Marine Mammal Habitat

The anticipated negative effects of dredging and kelp mitigation (short-term increase in noise and sedimentation) will be short-term and are not expected to result in a loss or modification to the habitat used by Pacific harbor seals, California sea lions, or northern elephant seals that haul out near the south VAFB harbor. Additional details were provided in the proposed IHA (71 FR 26069, May 3, 2006).

Possible Effects of Activities on Subsistence Needs

There are no subsistence uses for pinnipeds in California waters, and thus, there are no anticipated effects on subsistence needs.

Mitigation

To reduce the potential for disturbance from visual and acoustic stimuli associated with the activities Boeing and/or its designees will undertake the following marine mammal mitigating measures:

(1) If activities occur during nighttime hours, lighting will be turned on before dusk and left on the entire night to avoid startling pinnipeds at night;

(2) Activities will be initiated before dusk;

(3) Construction noises must be kept constant (i.e., not interrupted by periods of quiet in excess of 30 minutes) while pinnipeds are present;

(4) If activities cease for longer than 30 minutes and pinnipeds are in the area, start-up of activities will include a gradual increase in noise levels;

(5) A NMFS-approved marine mammal observer will visually monitor the pinnipeds on the beach adjacent to the harbor and on rocks for any flushing or other behaviors as a result of Boeing's activities (see Monitoring); and

(6) To the extent possible, the *Delta Mariner* and accompanying vessels will enter the harbor only when the tide is too high for harbor seals to haul-out on the rocks. The vessel will reduce speed 1.5 to 2 knots (2.8–3.7 km/hr) once the vessel is within 3 mi (4.83 km) of the harbor. The vessel will enter the harbor stern first, approaching the wharf and mooring dolphins at less than 0.75 knot (1.4 km/hr).

Monitoring

As part of its 2002 application, Boeing provided a proposed monitoring plan for assessing impacts to harbor seals from the activities at south VAFB harbor and for determining when mitigation measures should be employed. NMFS proposes the same plan for this IHA.

A NMFS-approved and VAFB-designated biologically trained observer will monitor the area for pinnipeds during all harbor activities. During nighttime activities, the harbor area will be illuminated, and the monitor will use a night vision scope. Monitoring activities will consist of:

(1) Conducting baseline observation of pinnipeds in the project area prior to initiating project activities;

(2) Conducting and recording observations on pinnipeds in the vicinity of the harbor for the duration of the activity occurring when tides are low enough for pinnipeds to haul out (2 ft, 0.61 m, or less); and

(3) Conducting post-construction observations of pinniped haul-outs in the project area to determine whether animals disturbed by the project activities return to the haul-out.

Monitoring results from previous years of these activities have been reviewed and incorporated into the analysis of potential effects in this document, as well as the take estimates.

Reporting

Boeing will notify NMFS 2 weeks prior to initiation of each activity. After each activity is completed, Boeing will provide a report to NMFS within 90

days. This report will provide dates and locations of specific activities, details of seal behavioral observations, and estimates of the amount and nature of all takes of seals by harassment or in other ways. In addition, the report will include information on the weather, the tidal state, the horizontal visibility, and the composition (species, gender, and age class) and locations of haul-out group(s). In the unanticipated event that any marine mammal is injured or killed as a result of these activities, Boeing or its designee shall report the incident to NMFS immediately.

Endangered Species Act

This action will not affect species listed under the Endangered Species Act (ESA) that are under the jurisdiction of NMFS. VAFB formally consulted with U.S. Fish and Wildlife Service (FWS) in 1998 on the possible take of southern sea otters during Boeing's harbor activities at south VAFB. A Biological Opinion was issued in August 2001, which concluded that the proposed activities were not likely to jeopardize the continued existence of the southern sea otter. The activities covered by this IHA are analyzed in that Biological Opinion, and this IHA does not modify the action in a manner that was not previously analyzed.

National Environmental Policy Act

In 2001, the USAF prepared an Environmental Assessment (EA) for Harbor Activities Associated with the Delta IV Program at Vandenberg Air Force Base. In 2005, NMFS prepared an EA supplementing the information contained in the USAF EA and issued a Finding of No Significant Impact (FONSI) on the issuance of an IHA for Boeing's harbor activities in accordance with section 6.01 of the National Oceanic and Atmospheric Administration Administrative Order (NAO) 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999). The proposed activity is within the scope of NMFS'2005 EA and FONSI.

Conclusions

NMFS has issued an IHA to Boeing for harbor activities related to the Delta IV/EELV to take place at south VAFB over a 1-year period, contingent upon adherence to the previously mentioned mitigation, monitoring, and reporting requirements. NMFS has determined that the impact of harbor activities related to the Delta IV/EELV at VAFB (transport vessel operations, cargo movement activities, harbor maintenance dredging, and kelp habitat

mitigation) will result in the Level B Harassment of small numbers of Pacific harbor seals, California sea lions, and northern elephant seals. The effects of Boeing's harbor activities are expected to be in the form of short-term and localized behavioral changes and no take by injury or death is anticipated or authorized. NMFS has further determined that these takes will have a negligible impact on the affected marine mammal species and stocks and will not have an unmitigable adverse impact on the availability of such marine mammal species and stocks for subsistence uses.

Authorization

NMFS has issued an IHA to take marine mammals, by Level B harassment, incidental to conducting harbor activities at VAFB to Boeing for a 1-year period, provided the mitigation, monitoring, and reporting requirements are undertaken.

Dated: June 19, 2006.

James H. Lecky,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–P–2006–0014]

Changes to Practice for Petitions in Patent Applications To Make Special and for Accelerated Examination

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) has established procedures under which the examination of a patent application may be accelerated. Under one of these procedures, the USPTO will advance an application out of turn for examination if the applicant files a grantable petition to make special under the accelerated examination program. The USPTO is revising its procedures for applications made special under the accelerated examination program with the goal of completing examination within twelve months of the filing date of the application. The USPTO is similarly revising the procedures for other petitions to make special, except those based on applicant's health or age or the recently announced Patent Prosecution Highway (PPH) pilot program between the USPTO and the Japan Patent Office.

DATES: *Effective Date:* The change in practice in this notice applies to