

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[I.D. 031203A]

Small Takes of Marine Mammals Incidental to Specified Activities; Harbor Activities at Vandenberg Air Force Base, CA

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

ACTION: Notice of receipt of application and proposed authorization for incidental harassment of marine mammals; request for comments.

SUMMARY: NMFS has received a request from The Boeing Company (Boeing) for an authorization to take small numbers of marine mammals by harassment incidental to harbor activities related to the Delta IV/Evolved Expendable Launch Vehicle (EELV) at south Vandenberg Air Force Base, CA (VAFB). Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize Boeing to take, by harassment, small numbers of several species of pinnipeds at south VAFB beginning in May 2003.

DATES: Comments and information must be received no later than May 9, 2003.

ADDRESSES: Comments on the application should be addressed to Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3225. Comments will not be accepted if submitted via e-mail or the Internet. A copy of the application (which includes the list of references used in this document) may be obtained by writing to this address or by telephoning one of the contacts listed here.

FOR FURTHER INFORMATION CONTACT: Kimberly Skrupky, (301) 713-2322, ext. 163 or Christina Fahy, (562) 980-4023.

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.

Permission 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) and 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 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.

Subsection 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. 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"].

Subsection 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 either issue or deny issuance of the authorization.

Summary of Request

On January 28, 2003, 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 fur seals (*Callorhinus ursinus*) and northern elephant seals (*Mirounga angustirostris*) may also be incidentally harassed but in smaller numbers. An Incidental Harassment Authorization (IHA) was issued to Boeing on May 20, 2002 and remains in effect until May 20, 2003 (*see* FR 36151, May 23, 2002). 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).

Specified Activities

Delta Mariner off-loading operations and associated cargo movements will occur a maximum of 3 times per year, beginning December, 2003. The *Delta Mariner* is a 95.1-m (312-ft) long, 25.6-m (84-ft) wide steel hull ocean-going vessel capable of operating at a 2.4-m (8-ft) draft. For the first few visits to the south VAFB harbor, tug boats will accompany the *Delta Mariner*. Sources of noise from the *Delta Mariner* include ventilating propellers used for maneuvering into position and the cargo bay door when it becomes disengaged. Removal of the CBC from the *Delta Mariner* requires use of an elevating platform transporter. An additional source of noise with sound levels measured at a maximum of 82 dB A-weighted (re 20 microPascals at 1-m) 6.1 m (20 ft) from the engine exhaust (Acentech, 1998). Procedures require 2 short (approximately 1/3 second) beeps of the horn prior to starting the ignition. At 60.9 m (200 ft) away, the sound level of the EPT horn ranged from 62-70 dB A-weighted. Containers containing flight hardware items will be towed off the *Delta Mariner* by a tractor tug that generates a sound level of approximately 87 dB A-weighted at 15.2 m (50 ft) while in operational mode. Total time of *Delta Mariner* docking and cargo movement activities is estimated at 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. Dredging will involve the use of heavy equipment, including a clamshell dredge, dredging crane, a small tug, dredging barge, dump trucks, and a skip loader. Measured sound levels from this equipment are roughly equivalent to those estimated for the wharf modification equipment: 61-81 dB A-weighted at 76.2 m (250 ft). Dredge operations, from set-up to tear-down, would continue 24-hours a day for 3-5 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 2003 is contained in the 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