

unmitigable adverse impact on the availability of marine mammal stocks for subsistence uses. Northern fur seals, Guadalupe fur seals, and Steller sea lions are unlikely to be found in the area and therefore will not be affected. While behavioral modifications may be made by those pinniped species ashore in order to avoid the resultant acoustic and visual stimuli from the activity, there is no potential for large-scale movements, such as stampedes, since harbor seals, California sea lions, and elephant seals haul out in small numbers near the site (maximum number of harbor seals hauled out in one day estimated at 43 seals, averaging at 21 seals per day, maximum number of California sea lions hauled out in one day is estimated at six). The effects of Boeing's harbor activities are expected to be limited to short-term and localized behavioral changes.

Due to the localized nature of these activities, the number of marine mammals potentially taken by harassment are estimated to be small. In addition, no take by injury and/or death is anticipated, and the potential for temporary or permanent hearing impairment is unlikely given the low noise levels expected at the site. No rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near south VAFB harbor.

Authorization

NMFS has issued an IHA to Boeing for harbor activities related to the Detla IV/EELV program at south VAFB for a 1-year period. A copy of this IHA is available upon request (see **ADDRESSES**). The issuance of this IHA is contingent upon adherence to the previously mentioned mitigation, monitoring, and reporting requirements.

Dated: June 10, 2003.

Donna Wieting,

Acting Office Director, Office of Protected Resources, National Marine Fisheries Service.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061203I]

Small Takes of Marine Mammals Incidental to Specified Activities; Movement of Steel Drilling Caisson through the Beaufort Sea from Cross Island, McCovey Prospect to Herschel Island, Yukon Territory

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

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

SUMMARY: NMFS has received a request from EnCana Oil and Gas (USA) Inc. (EnCana) for an authorization to take small numbers of marine mammals by harassment incidental to movement of a Steel Drilling Caisson (SDC) from Cross Island, McCovey Prospect, AK through the Beaufort Sea to Herschel Island in the Yukon Territory and for associated activities in the Beaufort Sea. If there is a problem with this location for the SDC, the U.S. Outer Continental Shelf waters north of West Dock has been named as the backup location. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize EnCana to incidentally take, by harassment, small numbers of bowhead whales, beluga whales, ringed seals, bearded seals, and spotted seals in the above mentioned areas during August 2003 through January 2004 for SDC preparation, movement, refueling, and removal of equipment. The incidental take of polar bears and walrus from EnCana's planned activities are not covered by this proposed incidental harassment authorization, as these species are under jurisdiction of the U.S. Fish and Wildlife Service (USFWS). EnCana is applying for a Letter of Authorization from the USFWS for potential takes of polar bear and Pacific walrus.

DATES: Comments and information must be received no later than July 18, 2003.

ADDRESSES: Comments on the application should be addressed to Kaja Brix, Acting Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3225. A copy of the application 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 Brad Smith, (907) 271-3023.

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 May 14, 2003, NMFS received an application from EnCana requesting an authorization for the harassment of