

dolphins, 51 bottlenose dolphins, and 21 unidentified cetacean species. Most of the cetaceans were sighted either outside the take zone or before the Navy exercise, and were not expected to be affected. Only one bottlenose dolphin was sighted approximately 68 yards from the vessel during a break between the 1st and 2nd round of FIREX event. No unusual behavior was observed from the bottlenose dolphin, and the area was monitored for 30 minutes after the sighting, without the animal being sighted again, before training activities were resumed.

Integrated Comprehensive Management Program (ICMP) Plan

The ICMP will be used both as: (1) A planning tool to focus Navy monitoring priorities (pursuant to ESA/MMPA requirements) across Navy Range Complexes and Exercises; and (2) an adaptive management tool, through the consolidation and analysis of the Navy's monitoring and marine observer data, as well as new information from other Navy programs (e.g., research and development), and other appropriate newly published information. The Navy updated its 2010 ICMP Plan and will comply with the Plan. The ICMP may be viewed at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

NOAA Workshops

In a January 19, 2010, letter to the Council on Environmental Quality, NOAA identified the need for two interrelated workshops on marine mammals and sound in the ocean. To address this commitment, NOAA is convening two parallel, focused, relatively small, and product-driven working groups. One will identify and map cetacean "hot spots", defined as areas of known, or reasonably predictable, biological importance (*i.e.*, for reproduction, feeding, migration) and/or high densities. The second working group will be directed toward developing a comprehensive data collection and analysis plan for describing and predicting underwater sound fields in different areas. The outcomes of these working groups will be integrated and analyzed in a broader follow-on symposium to include a larger audience of scientists, industries, federal agencies, conservation managers, and environmental NGOs. The final products and analyses will provide a more robust, comprehensive, and context-specific biological and acoustic basis by which to inform subsequent management decisions regarding human noise in our oceans. The steering committee has been convened and met for the first time in October 2010. Both

working groups had their first meeting in March 2011 in Boston, MA. The working group efforts should take about a year to complete, and we expect the final symposium to be held in early 2012. The results of these working groups will be analyzed by NMFS in an adaptive management context, as related to the three east coast training ranges final rules, and mitigation or monitoring measures may be modified, as appropriate.

Adaptive Management

NMFS and the Navy conducted an adaptive management meeting in October 2010 wherein we reviewed the Navy monitoring results through August 1, 2010, discussed other Navy research and development efforts, and discussed other new information that could potentially inform decisions regarding Navy mitigation and monitoring. Based on the review, NMFS determines that the Navy's current monitoring plans for the VACAPES, JAX, and CHPT range complexes are robust and no changes are warranted.

In terms of the Navy's proposed modification for its future training activities, NMFS conducted a thorough analysis and issued an interim final rule to allow flexibility in the Navy's training program, as long as the effects on marine mammal species and their habitat are within the scope of NMFS' analysis conducted in 2009 for the initial final rules governing authorization of these actions (see Planned Activities for 2011 section above).

Authorization

The Navy complied with the requirements of the 2010 LOAs. Based on our review of the record, NMFS has determined that the marine mammal take resulting from the 2010 military readiness training and research activities falls within the levels previously anticipated, analyzed, and authorized, and was likely lower given the fact that Navy conducted fewer operations in 2010 than originally planned. Further, the level of taking authorized in 2011 for the Navy's training exercises at VACAPES, JAX, and CHPT range complexes is consistent with our previous findings made for the total taking allowed under these range complexes regulations. Finally, the record supports NMFS' conclusion that the total number of marine mammals taken by the 2011 training exercises at VACAPES, JAX, and CHPT range complexes will have no more than a negligible impact on the affected species or stock of marine mammals and will not have an unmitigable adverse impact

on the availability of these species or stocks for taking for subsistence uses. Accordingly, NMFS has issued three one-year LOAs for Navy training exercises conducted at these East Coast range complexes from June 5, 2011, through June 4, 2012.

Dated: June 1, 2011.

James H. Lecky,

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

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DEPARTMENT OF DEFENSE

Department of the Navy

Cancellation of the Notice of Intent To Prepare a Programmatic Environmental Impact Statement for the Proposed Geothermal Development Program, Naval Air Facility El Centro, Imperial County, CA

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy (DoN) announces the cancellation of its Notice of Intent to prepare a Programmatic Environmental Impact Statement (PEIS) for the proposed Geothermal Development Program, Naval Air Facility El Centro, Imperial County, CA, as published in the **Federal Register**, May 5, 2008 (73 FR 87). It has been determined that preparation of a PEIS is not appropriate at this time when considering the current project scale and stage of geothermal energy development at Superstition Mountain on Naval Air Facility El Centro. The DoN will develop an internal document known as an environmental and operational feasibility study. This internal document will analyze the environmental and operational framework within which a geothermal development may proceed and will provide the DoN with information required to determine the DoN's geothermal energy program needs at Naval Air Facility El Centro. Should geothermal development be indicated as feasible and a project to be developed, the appropriate level of National Environmental Policy Act analysis and process will be performed.

FOR FURTHER INFORMATION CONTACT:

Steven Bjornstad, United States Navy Geothermal Program Office (PW-8), Naval Air Weapons Station, 429 East Bowen Road, Mail Stop 4011, China Lake, CA 93555-6108, telephone: 760-939-4048, e-mail: steven.bjornstad@navy.mil.

Dated: June 1, 2011.

D. J. Werner,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

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DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. CD-006]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to BSH Home Appliances Corporation from the Department of Energy Residential Clothes Dryer Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of the decision and order (Case No. CD-006) that grants to BSH Home Appliances Corporation (BSH) a waiver from the DOE clothes dryer test procedure. The waiver pertains to the specified models of condensing residential clothes dryer specified in BSH's petition. Condensing clothes dryers cannot be tested using the currently applicable DOE test procedure. Under today's decision and order, BSH shall be not be required to test and rate its specified models of residential condensing clothes dryer pursuant to this test procedure.

DATES: This Decision and Order is effective June 8, 2011.

FOR FURTHER INFORMATION CONTACT: Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-9611; E-mail: AS_Waiver_Requests@ee.doe.gov.

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of General Counsel, Mail Stop GC-71, 1000 Independence Avenue, SW., Washington, DC 20585-0103, (202) 586-7796; E-mail: Elizabeth.Kohl@hq.doe.gov.

SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR), Section 430.27(l), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants BSH a waiver from the applicable residential clothes dryer test procedure at 10 CFR part 430 subpart B, appendix

D, for the two models of condensing clothes dryer specified in its petition.

DOE notes that it has promulgated a final test procedure for clothes dryers that provides a mechanism for testing condensing clothes dryers. (76 FR 972, January 6, 2011). Use of this test procedure will be required on the compliance date of any amended standards for clothes dryers. DOE has also published a direct final rule establishing amended standards for clothes dryers, which establishes standards for condensing clothes dryers. (76 FR 22454, April 21, 2011). Absent adverse comment that the Secretary determines may provide a reasonable basis for withdrawal of the direct final rule, DOE has proposed that the standards would become effective on January 1, 2015. (76 FR 26656, May 9, 2011). Use of the final test procedure would also be required on that date.

Issued in Washington, DC, on May 31, 2011.

Kathleen Hogan,

Deputy Assistant Secretary for Energy Efficiency, Office of Technology Development, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: BSH Home Appliances Corporation (Case No. CD-006).

Background

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94-163 (42 U.S.C. 6291-6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the residential clothes washers that are the focus of this notice.¹ Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for clothes dryers is contained in 10 CFR part 430, subpart B, appendix D.

DOE's regulations contain provisions allowing a person to seek a waiver from the test procedure requirements for covered consumer products if at least

one of the following conditions is met:

(1) The petitioner's basic model contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics. 10 CFR 430.27(b)(1)(iii).

The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

The waiver process also allows any interested person who has submitted a petition for waiver to file an application for an interim waiver of the applicable test procedure requirements. 10 CFR 430.27(a)(2). The Assistant Secretary will grant an interim waiver request if it is determined that the applicant will experience economic hardship if the interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(g).

On December 28, 2009, BSH filed a petition for waiver from the test procedures applicable to its Bosch WTC82100US and Bosch WTE86300US product models of condensing clothes dryer. The applicable test procedures are contained in 10 CFR part 430, subpart B, appendix D—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers. BSH seeks a waiver from the applicable test procedure for its Bosch WTC82100US and Bosch WTE86300US product models because, BSH asserts, design characteristics of these models prevent testing according to the currently prescribed test procedure, as described in greater detail in the following paragraph.

In support of its petition, BSH claims that the current clothes dryer test procedures apply only to vented clothes dryers because the test procedures require the use of an exhaust restrictor on the exhaust port of the clothes dryer during testing. Because condenser

¹ For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.