

collected at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. See *Federal-Mogul Corporation and The Torrington Company v. United States*, 822 F. Supp. 782 (CIT 1993) and *Floral Trade Council v. United States*, 822 F. Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 CFR 355.22(g)). Therefore, the cash deposit rates for all companies except NHCI are unchanged by the results of these reviews.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company, except from Timminco Limited (which was excluded from the order in the original investigations). Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by these orders are those established in the administrative reviews completed for the most recent POR, conducted pursuant to the statutory provisions that were in effect prior to the URAA amendments. See *Fourth Magnesium Reviews*. This rate shall apply to all non-reviewed companies until a review of a company assigned this rate is requested. In addition, countervailing duties will be assessed on any entries during the period January 1, 1996 through December 31, 1996, for all non-reviewed companies at the cash deposit rates in effect at the time of entry.

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 355.34(d). Timely written notification of return/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.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: August 18, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98-22664 Filed 8-21-98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050198C]

Small Takes of Marine Mammals Incidental to Specified Activities; Tatoosh Island, WA Storage Tank Removal Project

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

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take small numbers of California sea lions, Pacific harbor seals, and Steller sea lions by harassment incidental to removing three underground storage tanks (USTs) and one or two above-ground storage tanks (ASTs) at the Cape Flattery Light Station on Tatoosh Island, Callam County, WA, has been issued to the U.S. Coast Guard's Civil Engineering Unit, Oakland, CA (USCG).

DATES: This authorization is effective from August 31, 1998, through April 29, 1999.

ADDRESSES: A copy of the application and a list of references used in this document may be obtained by writing to the Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning one of the contacts listed here.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, Office of Protected Resources at 301-713-2055, or Brent Norberg, Northwest Regional Office at 206-526-6733.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking 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, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS 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 subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings 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 now defines "harassment" as:

...any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) 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.

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 April 27, 1998, NMFS received a request from the USCG for authorization to take small numbers of California sea lions (*Zalophus californianus*), Pacific harbor seals (*Phoca vitulina*), and Steller sea lions (*Eumetopias jubatus*) by harassment incidental to removing three USTs and one or two ASTs at the Cape Flattery Light Station on Tatoosh Island, Callam County, WA.

The expected impact on marine mammals will be from the noise created by the arrival and departure of heavy-lift, tandem-rotor helicopters. Heavy-lift helicopters will be used to sling equipment and materials to and from the project. The most common heavy-lift helicopters commercially available in the Pacific Northwest are the Boeing 234 Chinook and Vertol 107-II.

Large equipment and materials will be slung 30 to 50 ft (9.1 to 15.2 m) below the helicopter, depending upon the load's dynamics. Personnel, small equipment, and supplies will be carried

internally. Materials removed from the site will include two 500-gallon (1,892.5-ltr) USTs, a 1,000-gallon (3,785-ltr) UST, contaminated water (estimated at 2,000 gallons (7,570 ltrs), contaminated soil (estimated at 15 cubic yards (11.5 m³), a 33,000-gallon (124,905-ltr) AST, and possibly a 2,000-gallon (7,570-ltr) AST.

Removal of the USTs and ASTs will take place over a 3-week period, commencing on or about September 1, 1998. During approximately 4 days of work during that 3-week period, helicopters will make approximately 23 trips to and from the site. It should be noted that this activity is required by 40 CFR part 280 subpart G, Out-of-Service UST Systems and Closure and is necessary to protect the environment from leaking UST/ASTs.

Comments and Responses

A notice of receipt of the application and proposed authorization was published on June 4, 1998 (63 FR 30476), and a 30-day public comment period was provided on the application and proposed authorization. Comments were received from one Federal agency. Information on the activity, the authorization request, and expected impact on marine mammal species, not subject to reviewer comments, can be found in the proposed authorization notice and is not repeated here.

Comment 1: The Marine Mammal Commission (MMC), noting that a biological observer would be required to observe the closest marine mammal haulout whenever helicopters entered or left Tatoosh Island, recommended that a sufficient number of qualified observers be used to verify that no more than the authorized number of animals are harassed and that the effects are negligible.

Response: NMFS disagrees with this recommendation. Because there are 4 haulouts on Tatoosh Island that are used by the three species (two located on the eastern side of the island and two to the northwest of the island) and because the distance between each pair of haulouts is large, it is unlikely that more than one or two haulouts will be affected during an individual flight. The affected haulout(s) will be predicted in advance of the flight, and the observer will monitor the haulout closest to the flight path. With an estimated 23 round-trip flights during the 4 planned flight days, a single observer should be able to systematically survey potentially affected haulouts and, based upon the effects at the haulout most likely to be impacted, to estimate the total taking by helicopter activities.

In addition, it is highly unlikely that the estimated take under the MMPA will be reached since the USCG estimated "worst case scenario" is for the highest number of animals observed on the haulouts and for all animals to leave the shore during all overflights, even when some distance from the flight path. The total number of incidental harassment takes of seals and sea lions is estimated by the applicant at 12,650. The number by species is: Stellers, 6,900; harbor seal, 4,600; and California sea lions, 1,150. This estimate uses 550 animals, the maximum potential number, and 23 flights. NMFS concurs with the USCG that the number should be significantly less because each flight should not have the same impact on each haulout. It is also likely that, as the noise impacts continue, animals will temporarily leave the haulout for other haulouts rather than return only to be driven away again.

Of more concern to NMFS than determining the number of possible harassment takes remain within quota is to ensure that behavioral observations are conducted for all three potentially affected pinniped species, especially Steller sea lions.

Comment 2: The MMC recommended that the work is conducted as scheduled to avoid the seal and sea lion pupping and molting seasons.

Response: NMFS has made a determination that the U.S. Coast Guard activity would have no more than a negligible impact on affected marine mammals based, in part, on the activity not taking place during the pupping and molting seasons. Harbor seal pupping along the coast of Washington occurs in May/June, and the molting season occurs between onset of pupping and 2 to 3 months afterward (Bigg, 1981), averaging about 6 weeks after molting (NMFS, 1992). Harbor seal molting takes approximately 2 months to complete (Stutz, 1967). Pups are weaned at approximately 4 weeks, and nursery sites are then abandoned.

During the pupping and nursing periods, pups could be injured as adults move rapidly to the water or pups become separated from their mothers. Mother-pup separation or desertion is considered a significant cause of pup mortality in harbor seals. As the USCG activity will not take place earlier than September 1, no impact to breeding seals and unweaned young will occur.

During the molting season, seals are generally hauled out for a long period of time, apparently to enhance hair growth by warming of the skin. The seals' metabolic rate is also decreased during molting. The effect of disturbance during the molting season has not been

assessed, but could decrease the fitness of the seal, perhaps making it more susceptible to other mortality factors (Stokes and Jones, 1989). However, NMFS believes that it appears to be minor when compared to the possible effects of disturbances during the pupping and nursing season, and NMFS has concluded that harbor seals are evolutionarily adapted to return to the water during molting without incurring physical or physiological harm. In addition, most molting will have been completed by that time. However, in order to protect breeding harbor seals, the IHA has been written to require work to be completed before May 1, 1999.

Few California sea lion females and no pups have been sighted in Washington State waters, so the breeding stock of this species will not be affected by the USCG activity. For Steller sea lions the nearest breeding sites are in British Columbia and Oregon (NMFS, 1992).

Description of Marine Mammals Affected by the Activity

California sea lions, Pacific harbor seals, and Steller sea lions are the three species expected to be impacted by the UST and AST removal. Information on these species can be found in the notice of proposed authorization (63 FR 30476, June 4, 1998) for this activity. Additional information can be found in Barlow *et al.* (1997).

Potential Effects on Marine Mammals

The noise from the helicopters passing overhead is likely to startle any pinnipeds ashore at the time and result in their leaving the land for the water. Safety concerns will dictate the direction of arrival and departure of helicopters, but it is likely that many flights will be sufficiently close to one or more haulouts that pinnipeds ashore at the time will flee to the water. Hovering, which causes the most noise, will be limited to the time it takes to unsling the equipment at the UST/AST removal site on the top of the island. Except for helicopter operations, all other activities associated with the UST/AST removals will take place either on the mainland or on top of the island and should have no effect on the seals and sea lions.

Seals and sea lions haul out onto dry land for various biological reasons, including sleep, predator avoidance, and thermoregulation. Startle response in harbor seals can vary from a temporary state of agitation by a few individuals to the complete abandonment of the beach area by the entire colony. Normally, when harbor seals are frightened by noise or by the

approach of a boat, plane, human, or potential predator, they will move rapidly to the relative safety of the water. Depending upon the severity of the disturbance, seals may return to the original haulout site immediately, stay in the water for some length of time before hauling out, or haul out in a different area. When disturbances occur late in the day, harbor seals may not haul out again until the next day.

Mitigation

Because access to Tatoosh Island is limited to small boats and foot traffic, use of helicopters is the only identified means to remove the UST/ASTs. The USCG has scheduled the work to avoid the pupping and molting season for harbor seals.

To further protect seals and sea lions, NMFS will require helicopters to remain at the greatest altitude practicable prior to landing on Tatoosh Island, to attain the greatest altitude practicable at time of takeoff, and to avoid direct overflights of the haulouts.

Monitoring and Reporting

During any time that helicopter activities are undertaken, monitoring will be conducted by a minimum of one trained biologist who is approved in advance by NMFS. Observations will be made at the haulout site nearest the planned flight path of the helicopter. If neither seals nor sea lions are ashore at the time of the flight, observations will be made at the next nearest haulout site. The USCG will provide a report to NMFS within 120 days of the completion of the project. This report will provide dates and locations of operations, details of marine mammal sightings, including the number of pinipeds, by species and haulout location, that fled from the beach because of helicopter activities, the number returning subsequent to the disruption, and estimates of the amount and nature of all takes by harassment.

Consultation

Under section 7 of the Endangered Species Act, NMFS has completed consultation on the issuance of an incidental harassment authorization. NMFS has determined that the proposed activity and the issuance of an incidental harassment authorization to the USCG to incidentally harass Pacific harbor seals, California sea lions, and Steller sea lions is not likely to adversely affect any listed species under the jurisdiction of NMFS except the Steller sea lion which while it may be adversely affected, would not result in jeopardizing the continued existence of the stock.

Conclusions

NMFS has determined that the short-term impact of 4 days of helicopter flights over Tatoosh Island is expected to result at worst in a temporary reduction in utilization of the impacted haulout(s) as seals and sea lions leave the beach for the safety of the water. Helicopter activity is not expected to result in any reduction in the number of harbor seals, California sea lions, or Steller sea lions, and these species are expected to continue to occupy the same area. This behavioral change is expected to have no more than a negligible impact on the animals. Additionally, there will not be any impact on the habitat itself. Since NMFS is assured that the taking would not result in more than the incidental harassment (as defined by the MMPA Amendments of 1994) of small numbers of marine mammals, would have only a negligible impact on these stocks, would not have an unmitigable adverse impact on the availability of these stocks for subsistence uses, and would result in the least practicable impact on the stocks, NMFS has determined that the requirements of section 101(a)(5)(D) of the MMPA have been met and the authorization can be issued.

Authorization

Accordingly, NMFS has issued an IHA to the USCG for possible harassment of small numbers of California sea lions, Pacific harbor seals, and Steller sea lions, provided the mitigation, monitoring, and reporting requirements described in the authorization are undertaken.

Dated: August 17, 1998.

Patricia A. Montanio,
Deputy Director, Office of Protected Resources, National Marine Fisheries Service.
[FR Doc. 98-22647 Filed 8-21-98; 8:45 am]
BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081198E]

Gulf of Mexico Fishery Management Council; Public Meeting; Correction

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

ACTION: Notice of a public meeting; correction.

SUMMARY: The location for the teleconference public meeting of the

Gulf of Mexico Fishery Management Council, which is scheduled for August 27, 1998, was published in the **Federal Register** on August 14, 1998. This document lists an addition to that public meeting notice.

DATES: The teleconference will be held Thursday, August 27, 1998. It will begin at 2:00 p.m. eastern standard time (EST) and continue until approximately 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522-8220.

Correction

In the **Federal Register** issue of August 14, 1998, in FR Doc. 98-22028, on page 43678, in the second column, under **ADDRESSES**, in the fourth line, after "TX", add "; and New Orleans, LA", and in the third column, under **SUPPLEMENTARY INFORMATION**, at the end of the first paragraph, the following station is added to the list to read as follows:

Louisiana Department of Wildlife and Fisheries, 1600 Canal Street, Room 301, New Orleans, LA; telephone: (504) 568-5614.

All other previously published information remains unchanged.

Dated: August 18, 1998.

Gary C. Matlock,
Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 98-22629 Filed 8-19-98; 3:57 pm]
BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080798A]

Endangered Species; Permits

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

ACTION: Issuance of scientific research permit 1159.

SUMMARY: Notice is hereby given that on July 27, 1998, NMFS issued scientific research permit 1159 to Robert L. Brownell, NMFS Southwest Fisheries Science Center, to take listed sea turtles for the purpose of scientific research subject to certain conditions set forth therein.

ADDRESSES: The application, permit, and related documents are available for review by appointment in the following offices:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Hwy., Room