

DFARS rule delegates the authority to DoD contracting officers.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98-577 and publication for public comment is not required. However, comments from small entities concerning the affected DFARS subparts will be considered in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 99-D008.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 232 and 237

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 232 and 237 are amended as follows:

1. The authority citation for 48 CFR Parts 232 and 237 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 232—CONTRACT FINANCING

2. Section 232.703-3 is added to read as follows:

232.703-3 Contracts crossing fiscal years.

(b) The contracting officer may enter into a contract, exercise an option, or place an order under a contract for severable services for a period that begins in one fiscal year and ends in the next fiscal year if the period of the contract awarded, option exercised, or order placed does not exceed 1 year (10 U.S.C. 2410a).

PART 237—SERVICE CONTRACTING

3. Section 237.106 is revised to read as follows:

237.106 Funding and term of service contracts.

(1) Personal service contracts for expert or consultant services shall not exceed 1 year. The nature of the duties must be—

- (i) Temporary (not more than 1 year); or
- (ii) Intermittent (not cumulatively more than 130 days in 1 year).

(2) The contracting officer may enter into a contract, exercise an option, or place an order under a contract for severable services for a period that begins in one fiscal year and ends in the next fiscal year if the period of the contract awarded, option exercised, or order placed does not exceed 1 year (10 U.S.C. 2410a).

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA-99-5416]

RIN 2127-AH36

Federal Motor Vehicle Theft Prevention Standard; Final Listing of Model Year 2000 High-Theft Vehicle Lines

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule announces NHTSA's determination for model year (MY) 2000 high-theft vehicle lines that are subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard, and high-theft lines that are exempted from the parts-marking requirements because the vehicles are equipped with antitheft devices determined to meet certain statutory criteria for MY 2000, pursuant to the statute relating to motor vehicle theft prevention.

EFFECTIVE DATE: The amendment made by this final rule is effective May 25, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Motor Vehicle Theft Group, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. Ms. Proctor's telephone number is (202) 366-0846. Her fax number is (202) 493-2739.

SUPPLEMENTARY INFORMATION: The "Anti Car Theft Act of 1992," P. L. 102-519, amended the law relating to the parts-marking of major component parts on designated high-theft vehicle lines and other motor vehicles. The Anti Car Theft Act amended the definition of "passenger motor vehicle" in 49 U.S.C. § 33101(10) to include a "multipurpose passenger vehicle or light duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight." Since "passenger motor vehicle" was previously defined to

include passenger cars only, the effect of the Anti Car Theft Act is that certain multipurpose passenger vehicle (MPV) and light-duty truck (LDT) lines may be determined to be high-theft vehicles subject to the Federal motor vehicle theft prevention standard (49 CFR Part 541).

The purpose of the theft prevention standard is to reduce the incidence of motor vehicle theft by facilitating the tracing and recovery of parts from stolen vehicles. The standard seeks to facilitate such tracing by requiring that vehicle identification numbers (VINs), VIN derivative numbers, or other symbols be placed on major component vehicle parts. The theft prevention standard requires motor vehicle manufacturers to inscribe or affix VINs onto covered original equipment major component parts, and to inscribe or affix a symbol identifying the manufacturer and a common symbol identifying the replacement component parts for those original equipment parts, on all vehicle lines selected as high-theft.

The Anti Car Theft Act also amended 49 U.S.C. § 33103 to require NHTSA to promulgate a parts-marking standard applicable to major parts installed by manufacturers of "passenger motor vehicles (other than light duty trucks) in not to exceed one-half of the lines not designated under 49 U.S.C. § 33104 as high-theft lines." Section 33103(a) further directed NHTSA to select only lines not designated under § 33104 of this title as high theft lines. NHTSA lists each of these selected lines in Appendix B to Part 541. Since § 33103 did not specify marking of replacement parts for below-median lines, the agency does not require marking of replacement parts for these lines. NHTSA published a final rule amending 49 CFR Part 541 to include the definitions of MPV and LDT, and major component parts. See 59 F.R. 64164, December 13, 1995.

49 U.S.C. § 33104(a)(3) specifies that NHTSA shall select high-theft vehicle lines, with the agreement of the manufacturer, if possible. Section 33104(d) provides that once a line has been designated as likely high-theft, it remains subject to the theft prevention standard unless that line is exempted under § 33106. Section 33106 provides that a manufacturer may petition to have a high-theft line exempted from the requirements of § 33104, if the line is equipped with an antitheft device as standard equipment. The exemption is granted if NHTSA determines that the antitheft device is likely to be as effective as compliance with the theft

prevention standard in reducing and deterring motor vehicle thefts.

The agency annually publishes the names of the lines which were previously listed as high-theft, and the lines which are being listed for the first time and will be subject to the theft prevention standard beginning in a given model year. It also identifies those lines that are exempted from the theft prevention standard for a given model year under § 33104. This listing also identifies those lines (except light-duty trucks) in Appendix B to Part 541 that have theft rates below the 1990/1991 median theft rate but are subject to the requirements of this standard under § 33103.

On July 15, 1998, the final listing of high-theft lines for the MY 1999 vehicle lines was published in the **Federal Register** (63 FR 38096). The final listing identified four vehicle lines that were listed for the first time and became subject to the theft prevention standard beginning with the 1999 model year.

Subsequent to publishing the MY 1999 listing, the agency was also informed that six vehicle lines, the Chrysler Executive Sedan/Limousine, the Ferrari 308, the Mazda GLC, the Suzuki Samarai, the Toyota Starlet and the Volkswagen Rabbit ceased production prior to becoming subject to the theft prevention standard. Therefore, these lines have been deleted from Appendix A of this listing. Additionally, prior to this listing, Jaguar Cars informed the agency that the XJ40 nameplate was used only as a bodystyle codename for the XJ line prior to introduction of the vehicle. Jaguar Cars also informed the agency that the XJ6 nameplate erroneously listed in Appendix A should also be deleted because it represents a six-cylinder model of the XJ car line and not a new vehicle line. Therefore, the Jaguar XJ40 and XJ6 vehicle nameplates have been deleted from Appendix A of this listing.

For MY 2000, the agency identified five new vehicle lines that are likely to be high-theft lines, in accordance with the procedures published in 49 CFR Part 542. The new lines are the Daewoo Nubira, the Daewoo Korando (MPV), the Honda S2000, the Nissan Xterra (MPV) and the Toyota Echo. In addition to these five vehicle lines, the list of high-theft vehicle lines includes all lines previously designated as high-theft and listed for prior model years.

The list of lines that have been exempted by the agency from the parts-marking requirements of Part 541 includes high-theft lines newly exempted in full beginning with MY 2000. The three vehicle lines newly exempted in full are the Ford Taurus,

the General Motors Pontiac Grand Am and the Nissan Altima. Additionally, three petitions for modifications to existing antitheft systems installed in lines partially exempted by the agency were granted full exemptions from the parts-marking requirements. Beginning with MY 2000, the three partially exempted lines, the General Motors Buick LeSabre, Cadillac Deville and Pontiac Bonneville are exempted from the parts-marking requirements in full. Additionally, subsequent to publishing the MY 1999 listing of high-theft and exempted lines, the agency granted the Ford Motor Company an exemption from the parts-marking requirements of the theft prevention standard for its Mustang car line beginning with the 1999 model year. Therefore, the Ford Mustang car line has been added to Appendix A–I of this listing. Furthermore, Appendix A–I has been amended to reflect a nameplate change for the General Motors Chevrolet Lumina/Monte Carlo car line. The Chevrolet Lumina/Monte Carlo nameplate has been changed to Chevrolet Impala/Monte Carlo beginning with MY 2000.

Additionally, the agency became aware that ten vehicle lines, the Ferrari Testarossa, the Ford Festiva, the General Motors' Chevrolet Celebrity, Chevrolet Sprint and Oldsmobile Custom Cruiser, the Mazda Navajo, the Nissan Axxess, the Porsche 944, the Volvo 760 and the Volkswagen Fox ceased production prior to becoming subject to the theft prevention standard in MY 1997. Therefore, these lines have been deleted from Appendix B of this listing. The Land Rover Range Rover (MPV) has also been removed from Appendix B because it is rated at more than 6,000 pounds gross vehicle weight.

The vehicle lines listed as being subject to the parts-marking standard have previously been designated as high-theft lines in accordance with the procedures set forth in 49 CFR Part 542. Under these procedures, manufacturers evaluate new vehicle lines to conclude whether those new lines are likely to be high theft. The manufacturer submits these evaluations and conclusions to the agency, which makes an independent evaluation; and, on a preliminary basis, determines whether the new line should be subject to the parts-marking requirements. NHTSA informs the manufacturer in writing of its evaluations and determinations, together with the factual information considered by the agency in making them. The manufacturer may request the agency to reconsider the preliminary determinations. Within 60 days of the receipt of these requests, the agency

makes its final determination. NHTSA informs the manufacturer by letter of these determinations and its response to the request for reconsideration. If there is no request for reconsideration, the agency's determination becomes final 45 days after sending the letter with the preliminary determination. Each of the new lines on the high-theft list has been the subject of a final determination under either 49 U.S.C. § 33103 or § 33104.

The vehicle lines listed as being exempt from the standard have previously been exempted in accordance with the procedures of 49 CFR Part 543 and 49 U.S.C. § 33106.

Similarly, the low-theft lines listed as being subject to the parts-marking standard have previously been designated in accordance with the procedures set forth in 49 U.S.C. § 33103.

Therefore, NHTSA finds for good cause that notice and opportunity for comment on these listings are unnecessary. Further, public comment on the listing of selections and exemptions is not contemplated by 49 U.S.C. Chapter 331.

For the same reasons, since this revised listing only informs the public of previous agency actions and does not impose additional obligations on any party, NHTSA finds for good cause that the amendment made by this notice should be effective as soon as it is published in the **Federal Register**.

Regulatory Impacts

1. Costs and Other Impacts

NHTSA has analyzed this rule and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The agency has also considered this notice under Executive Order 12866. As already noted, the selections in this final rule have previously been made in accordance with the provisions of 49 U.S.C. § 33104, and the manufacturers of the selected lines have already been informed that those lines are subject to the requirements of 49 CFR Part 541 for MY 2000. Further, this listing does not actually exempt lines from the requirements of 49 CFR Part 541; it only informs the general public of all such previously granted exemptions. Since the only purpose of this final listing is to inform the public of actions for MY 2000 that the agency has already taken, a full regulatory evaluation has not been prepared.

2. Regulatory Flexibility Act

The agency has also considered the effects of this listing under the

Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As noted above, the effect of this final rule is simply to inform the public of those lines that are already subject to the requirements of 49 CFR Part 541 for MY 2000. The agency believes that the listing of this information will not have any economic impact on small entities.

3. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, the agency has considered the environmental impacts of this rule, and determined that it will not have any significant impact on the quality of the human environment.

4. Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this final rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

5. Civil Justice Reform

This final rule does not have a retroactive effect. In accordance with § 33118 when the Theft Prevention Standard is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part. 49 U.S.C. § 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. § 32909. Section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 541

Administrative practice and procedure, Labeling, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Part 541 is amended as follows:

PART 541—[AMENDED]

1. The authority citation for Part 541 continues to read as follows:

Authority: 49 U.S.C. 33102–33104 and 33106; delegation of authority at 49 CFR 1.50.

2. In Part 541, Appendices A, A–I, A–II and B are revised. Appendices A, A–I, A–II and B are revised to read as follows:

APPENDIX A TO PART 541—LINES SUBJECT TO THE REQUIREMENTS OF THIS STANDARD

Manufacturer	Subject lines
ALFA ROMEO	Milano 161. 164.
BMW	Z3. 6 Car Line.
CHRYSLER	Chrysler Cirrus. Chrysler Fifth Avenue/Newport. Chrysler Laser. Chrysler LeBaron/Town & Country. Chrysler LeBaron GTS. Chrysler's TC. Chrysler New Yorker Fifth Avenue. Chrysler Sebring. Chrysler Town & Country. Dodge 600. Dodge Aries. Dodge Avenger. Dodge Colt. Dodge Daytona. Dodge Diplomat. Dodge Lancer. Dodge Neon. Dodge Shadow. Dodge Stratus. Dodge Stealth. Eagle Summit. Eagle Talon. Jeep Cherokee (MPV). Jeep Grand Cherokee (MPV). Jeep Wrangler (MPV). Plymouth Caravelle. Plymouth Colt. Plymouth Laser. Plymouth Gran Fury. Plymouth Neon. Plymouth Reliant. Plymouth Sundance. Plymouth Breeze.
CONSULIER	Consulier GTP.
DAEWOO	Korando (MPV). ¹ Nubira. ¹
FERRARI	Mondial 8. 328.
FORD	Ford Aspire. Ford Escort. Ford Probe. Ford Thunderbird. Lincoln Continental. Lincoln Mark. Lincoln Town Car. Mercury Capri. Mercury Cougar. Merkur Scorpio. Merkur XR4Ti.

APPENDIX A TO PART 541—LINES SUBJECT TO THE REQUIREMENTS OF THIS STANDARD—Continued

Manufacturer	Subject lines
GENERAL MOTORS	Buick Electra. Buick Reatta. Buick Skylark. Chevrolet Malibu. Chevrolet Nova. Chevrolet Blazer (MPV). Chevrolet Prizm. Chevrolet Venture (MPV). ² Chevrolet S–10 Pickup. Geo Storm. Chevrolet Tracker (MPV). GMC Jimmy (MPV). GMC Safari (MPV). GMC Sonoma Pickup. Oldsmobile Achieva (MYs 1997–1998). ³ Oldsmobile Bravada. Oldsmobile Cutlass. Oldsmobile Cutlass Supreme (MYs 1988–1997). ⁴ Oldsmobile Intrigue. Pontiac Fiero. Pontiac Grand Prix. Saturn Sports Coupe.
HONDA	Accord. CRV (MPV). Odyssey (MPV). Passport. Prelude. S2000. ¹ Acura Integra.
HYUNDAI	Accent. Sonata. Tiburon.
ISUZU	Amigo. Impulse. Rodeo. Stylus. Trooper/Trooper II. VehiCross (MPV). ⁵
JAGUAR	XJ.
KIA MOTORS	S–II.
LOTUS	Elan.
MASERATI	Biturbo. Quattroporte 228.
MAZDA	626. MX–3. MX–5 Miata. MX–6.
MERCEDES-BENZ ...	190 D. 190 E. 260E (1987–1989). 300 SE (1988–1990). 300 TD (1987). 300 SDL (1987). 300 SEL 420 SEL (1987–1990). 560 SEL (1987–1990). 560 SEC (1987–1990). 560 SL.

APPENDIX A TO PART 541—LINES SUBJECT TO THE REQUIREMENTS OF THIS STANDARD—Continued

Manufacturer	Subject lines
MITSUBISHI	Cordia. Eclipse. Mirage. Montero (MPV). Montero Sport (MPV). Tredia. 3000GT.
NISSAN	240SX. Pathfinder. Sentra/200SX. Xterra. ¹
PEUGEOT	405.
PORSCHE	924S.
SUBARU	XT. SVX. Forester. Legacy.
SUZUKI	X90. Sidekick (MYs 1997–1998). ⁶ Vitara (MPV).
TOYOTA	Toyota 4-Runner (MPV). Toyota Avalon. Toyota Camry. Toyota Celica. Toyota Corolla/Corolla Sport. Toyota Echo. ¹ Toyota MR2. Toyota RAV4 (MPV). Toyota Sienna (MPV). Toyota Tercel. Lexus RX300 (MPV).
VOLKSWAGEN	Audi Quattro. Volkswagen Scirocco.

¹ Lines added for MY 2000.

² Replaced the Chevrolet Lumina Minivan nameplate beginning with MY 1997.

³ Renamed the Oldsmobile Alero beginning with MY 1999.

⁴ Renamed the Oldsmobile Intrigue beginning with MY 1998.

⁵ Line added for MY 1999.

⁶ Renamed the Suzuki Vitara beginning with MY 1999 (includes Vitara and Grand Vitara models).

APPENDIX A-I—HIGH-THEFT LINES WITH ANTITHEFT DEVICES WHICH ARE EXEMPTED FROM THE PARTS-MARKING REQUIREMENTS OF THIS STANDARD PURSUANT TO 49 CFR PART 543

Manufacturer	Subject lines
AUSTIN ROVER	Sterling.

APPENDIX A-I—HIGH-THEFT LINES WITH ANTITHEFT DEVICES WHICH ARE EXEMPTED FROM THE PARTS-MARKING REQUIREMENTS OF THIS STANDARD PURSUANT TO 49 CFR PART 543—Continued

Manufacturer	Subject lines
BMW	3 Car Line. 5 Car Line. 7 Car Line. 8 Car Line.
CHRYSLER	Chrysler Conquest. Chrysler Imperial.
FORD	Mustang. ¹ Taurus. ²
GENERAL MOTORS	Buick LeSabre. Buick Park Avenue. Buick Regal/Century. Buick Riviera. Cadillac Allante. Cadillac Deville. Cadillac Seville. Chevrolet Cavalier. Chevrolet Corvette. Chevrolet Lumina/Monte Carlo (MYs 1996–1999). ³ Oldsmobile Alero. Oldsmobile Aurora. Oldsmobile Toronado. Pontiac Bonneville. Pontiac Grand Am. ² Pontiac Sunfire.
HONDA	Acura CL. Acura Legend (MYs 1991–1996). ⁴ Acura NSX. Acura RL. Acura SLX. Acura TL. Acura Vigor (MYs 1992–1995).
ISUZU	Impulse (MYs 1987–1991).
JAGUAR	XK8.
MAZDA	929. RX–7. Millenia.
MERCEDES-BENZ ...	124 Car Line (the models within this line are): 260E. 300D. 300E. 300CE. 300TE. 400E. 500E.

APPENDIX A-I—HIGH-THEFT LINES WITH ANTITHEFT DEVICES WHICH ARE EXEMPTED FROM THE PARTS-MARKING REQUIREMENTS OF THIS STANDARD PURSUANT TO 49 CFR PART 543—Continued

Manufacturer	Subject lines
	129 Car Line (the models within this line are): 300SL. 500SL. ⁵ 600SL. ⁶ SL320. SL500. SL600. 202 Car Line (the models within this line are): C220. C230. C280. C36. C43. Galant. Starion. Diamante. Nissan Altima. ² Nissan Maxima. Nissan 300ZX. Infiniti I30. Infiniti J30. Infiniti M30. Infiniti QX4. Infiniti Q45.
MITSUBISHI	911. 928. 968. Boxster. 900. 9000.
NISSAN	Toyota supra. Toyota Cressida. Lexus ES. Lexus GS. Lexus LS. Lexus SC. Audi 5000S. Audi 100/A6. Audi 200/S4/S6. Audi Cabriolet. Volkswagen Cabrio. Volkswagen Corrado. Volkswagen Golf/GTI. Volkswagen Jetta/Jetta III. Volkswagen Passat.
PORSCHE	
SAAB	
TOYOTA	
VOLKSWAGEN	

¹ Exempted in full beginning with MY1999.
² Exempted in full beginning with MY 2000.

³ Renamed Chevrolet Impala/Monte Carlo beginning with MY 2000.

⁴ Renamed the Acura RL beginning with MY 1997.

⁵ Renamed the SL500 beginning with MY 1994.

⁶ Renamed the SL600 beginning with MY 1994.

APPENDIX A-II TO PART 541—HIGH-THEFT LINES WITH ANTITHEFT DEVICES WHICH ARE EXEMPTED IN-PART FROM THE PARTS-MARKING REQUIREMENTS OF THIS STANDARD PURSUANT TO 49 CFR PART 543

Manufacturers	Subject lines	Parts to be marked
GENERAL MOTORS	Cadillac Eldorado	Engine, Transmission.
	Cadillac Sixty Special ¹	Engine, Transmission.
	Oldsmobile Ninety-Eight	Engine, Transmission.
	Pontiac Firebird	Engine, Transmission.
	Chevrolet Camaro	Engine, Transmission.
	Oldsmobile Eighty-Eight	Engine, Transmission.

¹ Renamed the Cadillac Concours beginning with MY 1994.

APPENDIX B—PASSENGER MOTOR VEHICLE LINES (EXCEPT LIGHT-DUTY TRUCKS) WITH THEFT RATES BELOW THE 1990/91 MEDIAN THEFT RATE, SUBJECT TO THE REQUIREMENTS OF THIS STANDARD

Manufacturer	Subject lines
Ford	Crown Victoria. Mercury Grand Marquis.
General Motors	Mercury Sable. Chevrolet Astro (MPV). GMC Safari (MPV).
Honda	Civic.

Issued on May 18, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

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BILLING CODE 4910-59-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 970703165-9117-03; I.D. 062397A]

RIN 0648-AK00

Taking and Importing Marine Mammals; Taking of Marine Mammals Incidental to Power Plant Operations

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

ACTION: Final rule.

SUMMARY: NMFS, upon application from North Atlantic Energy Service Corporation (North Atlantic), issues regulations to govern the unintentional take of small numbers of seals incidental to routine operations of the Seabrook Station nuclear power plant, Seabrook, NH (Seabrook Station). Issuance of regulations governing unintentional incidental takes in

connection with particular activities is required by the Marine Mammal Protection Act (MMPA) when the Secretary of Commerce (Secretary), after notice and opportunity for comment, finds, as here, that such takes will have a negligible impact on the species and stocks of marine mammals and will not have an unmitigable adverse impact on the availability of them for subsistence uses. This rulemaking does not authorize this activity; such authorization is under the jurisdiction of the Nuclear Regulatory Commission and is not within the jurisdiction of the Secretary. Rather, these regulations authorize the unintentional incidental take of marine mammals in connection with such activities and prescribe methods of taking and other means of affecting the least practicable adverse impact on the species, and its habitat, and on the availability of the species for subsistence uses.

DATES: Effective from July 1, 1999, through June 30, 2004.

ADDRESSES: A copy of the application, Environmental Assessment (EA) and other available documents may be obtained by writing to Donna Wieting, Acting Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring MD 20910-3226, or by telephoning the contacts listed below (see FOR FURTHER INFORMATION CONTACT: NOAA Desk Officer, Washington, DC 20503).

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, NMFS, (301) 713-2055, or Scott Sandorf, Northeast Regional Office, NMFS, (978) 281-9388.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS 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 regulations issued.

Permission may be granted for periods of 5 years or less if NMFS finds that the

taking will have a negligible impact on the species or stock(s) of marine mammals, will not have an unmitigable adverse impact on the availability of these species for subsistence uses, and if regulations are prescribed setting forth the permissible method of taking and the requirements pertaining to the monitoring and reporting of such taking.

Summary of Request

On June 16, 1997, NMFS received an application for an incidental, small take exemption under section 101(a)(5)(A) of the MMPA from North Atlantic to take marine mammals incidental to routine operations of the Seabrook Station. Seabrook Station is a single unit, 1,150 megawatt nuclear power generating facility located in Seabrook, NH. Cooling water for plant operations is supplied by three intake structures approximately 1 mile (1.6 km) offshore in about 60 feet (18.3 m) of water. During normal power operations, about 469,000 gallons per minute are drawn through the intakes to a 19-foot (5.8 m) diameter, 3-mile long (4.8 km) tunnel beneath the seafloor and into large holding bays (called forebays) at the power plant. Lethal takes of harbor seals (*Phoca vitulina*), gray seals (*Halichoerus grypus*), harp seals (*Phoca groenlandica*), and hooded seals (*Cystophora cristata*) are known to have occurred and are expected to continue to occur as the animals enter the cooling water intake structures and apparently drown enroute to the forebays.

Each of the three seawater intake structures consists of a velocity cap that is connected to the subterranean intake tunnel by vertical risers. The velocity intake caps are 30 feet (9.1 m) in diameter and rest, mushroom-like, on top of 9-foot (2.7 m) diameter risers that vertically descend 110 feet (33.5 m) to connect with the horizontal intake tunnel. The bottom of the horizontal intake cap opening is 10 feet (3.05 m) above the ocean bottom, and the intake openings are covered by vertical bars that are spaced 16 in. (40.6 cm) apart. The intent of the vertical bars is to reduce the amount of large debris that can enter the intake. The purpose of the