

secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6))

**CONTACT PERSON FOR MORE INFORMATION:** Persons interested in obtaining more information should contact either Brenda Hardnett or John Lindburg at (202) 401-3736.

Dated: January 11, 2000.

**John A. Lindburg,**

*Legal Counsel and Acting Executive Director.*

[FR Doc. 00-1016 Filed 1-11-00; 4:36 pm]

**BILLING CODE 8230-01-M**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[Docket 1-2000]

#### Foreign-Trade Zone 22—Chicago, IL; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Illinois International Port District, grantee of FTZ 22, requesting authority to expand its zone in the Chicago, Illinois area, within the Chicago Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on January 4, 2000.

FTZ 22 was approved on October 29, 1975 (Board Order 108, 40 FR 51242; 11/4/75). The zone was expanded in 1987 (Board Order 353, 52 FR 12217; 4/15/87) and 1992 (Board Order 614, 57 FR 61044 12/23/92). It currently consists of four sites in the Chicago, Illinois, area:

*Site 1:* (19 acres)—within the Port's 2,250-acre Lake Calumet Harbor Terminal facility;

*Site 2:* (578 acres)—industrial park at One Diversatech Drive in Manteno, Illinois;

*Site 3:* (175,000 sq. ft.)—warehouse and open storage facility located within the southern portion of a 340,000 square foot warehouse complex at 703 Foster Avenue, Bensonville, Illinois, operated by Gotoh Distribution Services, Inc. (expires 12/31/00); and

*Site 4:* (8 acres) at Gerry Drive and Hansen Court in Wood Dale, Illinois, 6 miles west of O'Hare International Airport, owned and operated by Meiko America, Inc.

The applicant is now requesting authority to expand Site 3 to include the

entire Foster Avenue parcel (8 acres) within the zone project on a permanent basis. The facility will continue to be operated as a FTZ public warehouse facility by Gotoh Distribution Services, Inc.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is March 14, 2000. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to March 29, 2000).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, 610 S. Canal Street, Chicago, Illinois 60607

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 4008, 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: January 5, 2000.

**Dennis Puccinelli,**

*Acting Executive Secretary.*

[FR Doc. 00-972 Filed 1-13-00; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 011100B]

#### Submission for OMB Review; Proposed Information Collection; Request for Comments

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Commercial Harvesters and Recreational Party and Charter Boat Socio-cultural and Economic Data Collection Pilot Study.

*OMB Approval Number:* None.

*Agency Form Number:* None.

*Type of Request:* New Collection.

*Burden Hours:* 793 hours.

*Number of Respondents:* 323 (but multiple responses).

*Average Hours Per Response:* Ranges between 15 and 20 minutes depending on the requirement.

*Needs and Uses:* This information collection will request social, economic and cultural information from fishing enterprises affected by the management of federal commercial fisheries on the east coast. This pilot study will determine the best and most efficient ways to collect data to ensure that national goals, objectives and requirements of the Magnuson-Stevens Act are met. The information is vital in assessing the economic and social effects of fishery management decisions and regulations on fishing enterprises.

*Affected Public:* Businesses or other for-profit organizations, individuals.

*Frequency:* Quarterly, semi-annually.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482-3272, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: January 6, 2000.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 00-956 Filed 1-13-00; 8:45 am]

**BILLING CODE 3510-22-F**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 010599B]

#### Small Takes of Marine Mammals Incidental to Specified Activities; Seismic Retrofit of the Richmond-San Rafael Bridge, San Francisco Bay, CA

**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) has been issued to the California Department of Transportation (CALTRANS) to take small numbers of Pacific harbor seals and possibly California sea lions, by harassment, incidental to seismic retrofit construction of the Richmond-San Rafael Bridge (the Bridge), San Francisco Bay, (the Bay) CA.

**DATES:** This authorization is effective from September 1, 2000, through August 31, 2001.

**ADDRESSES:** A copy of the application and an Environmental Assessment (EA) may be obtained by writing to Donna Wieting, Chief, Marine Mammal Conservation 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 R. Hollingshead, Office of Protected Resources, NMFS, (301) 713-2055, or Christina Fahy, Southwest Regional Office, NMFS, (562) 980-4023.

**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 November 9, 1998, NMFS received an application from CALTRANS, requesting reauthorization of an IHA issued on December 16, 1997 (62 FR 6704, December 23, 1997). This authorization would be for the possible harassment of small numbers of Pacific harbor seals (*Phoca vitulina*) and possibly some California sea lions (*Zalophus californianus*) incidental to seismic retrofit construction of the Bridge.

The Bridge is being seismically retrofitted to withstand a future severe earthquake. Construction is scheduled to extend through December 2003. A detailed description of the work planned is contained in the Final Natural Environmental Study/Biological Assessment for the Richmond-San Rafael Bridge Seismic Retrofit Project. (CALTRANS, 1996). Among other things, seismic retrofit work will include excavation around pier bases, hydro-jet cleaning, installation of steel casings around the piers with a crane, installation of micro-piles, and installation of precast concrete jackets. Foundation construction will require approximately 2 months per pier, with construction occurring on more than one pier at a time. In addition to pier retrofit, superstructure construction and tower retrofit work will also be carried out. Because seismic retrofit construction between piers 52 and 57 has the potential to disturb harbor seals hauled out on Castro Rocks, a reauthorization of the IHA is warranted.

The duration for the seismic retrofit of foundation and towers on piers 52 through 57, which did not take place as planned during 1998, will be approximately 7 to 8 months.

**Comments and Responses**

A notice of receipt of the application and proposed authorization was published on February 16, 1999 (64 FR 7627), and a 30-day public comment period was provided on the application and proposed authorization. Comments were received from two environmental organizations, two research scientists, and one Federal agency.

On May 19, 1999, CALTRANS requested a delay in the issuance of the IHA with an effective date of September 1, 1999. On July 7, 1999, CALTRANS requested a modification of condition 5(d) that was contained in its 1997 IHA to allow pile installation during the night for construction of the Concrete Trestle Section (CTS) of the Bridge, provided the noise does not exceed 86 dBA at the edge of the work exclusion zone at Castro Rocks. NMFS review of this request is also contained in this section. Finally, in December, 1999, CALTRANS informed NMFS that work on the Bridge would not begin until September, 2000.

*Comment 1:* Earthwatch provided detailed scientific evidence and information that the stock of Pacific harbor seals (*Phoca vitulina richardsii*) should be considered by NMFS as a separate population stock, including reduced gene flow with other populations, and geographic and demographic isolation.

*Response:* The scientific evidence and information provided by Earthwatch has been forwarded to NMFS scientists for review and evaluation. If experts on harbor seal genetics agree that the data support the conclusion, NMFS will present the case to the Pacific Scientific Review Group before revising the stock assessment reports to change Pacific harbor seal stock structure.

*Comment 2:* Earth Island Institute (EII)/Earthlaw letters contend that the Boat Exclusion Zone (BEZ), which is a mitigation requirement in the prior IHA, has no scientific basis and does little to eliminate seal disturbance due to boat traffic. Scientific information from Bolinas Lagoon indicates that harbor seals often flush into the water when boats or other craft come within 200 m (656.2 ft) of a haulout site, and using that example, Earthlaw contends that boats will come close enough to Castro Rocks to flush harbor seals approximately 95 percent of the time. Data summarized by EII suggest that an exclusion zone of 200 m (656.2 ft) will

still result in at least a partial flush of seals of between 24 and 63 percent of the time.

*Response:* The requirement of the MMPA is that, through mitigation, impacts on marine mammals be reduced to the lowest level practicable; it is not a requirement to eliminate those impacts. The 1997 IHA required the northern boundary of the exclusion zone to be located 76 m (250 ft) from the most northern tip of Castro Rocks and the southern boundary to be located 76 m (250 ft) from the most southern tip of Castro Rocks. The eastern boundary was located 91 m (300 ft) from the most eastern tip of Castro Rocks and the western boundary was located 91 m (300 ft) from the most western tip of Castro Rocks. These distances were greater than initially proposed (see 62 FR 46480, September 3, 1997). In actuality, the BEZ is a rectangle with minimum distances set at 109 m (357.6 ft) to the west of the haulout site, 182 m (597 ft) to the east, 80 m (262.5 ft) to the north and 48 m (157.5 ft) to the south.

Data collected by the harbor seal survey team at Castro Rocks indicate that watercraft passing within 100 m (328 ft) of the haul-out site caused at least a partial flush 30 percent of the time. Watercraft passing between 100 and 200 m (328 and 656.2 ft) from the rocks caused at least a partial flush 20 percent of the time. Combined, watercraft passing within 200 m (656.2 ft) of the rocks caused at least a partial flush 27 percent of the time. While Earthlaw references Bolinas Lagoon to justify a minimum BEZ for Castro Rocks, harbor seal responses to disturbance vary depending upon location. Bolinas Lagoon is a different situation and may not be comparable to Castro Rocks (Sarah Allen, pers commun. to the harbor seal survey team). For example, at Castro Rocks, harbor seals located on the rocks closest to the shipping channel to the west of the haulout appear to have habituated to the presence of boats within the channel. However, the behavior of the watercraft, in conjunction with the distance, often dictates whether seals are disturbed (Green and Grigg, 1999; see Suryan and Harvey, 1999).

As a result of the comment however, NMFS reviewed the dimensions of the BEZ and determined that the northern and southern boundaries do not conform with NMFS guidelines for California that boats must remain at least 91 m (300 ft) from seals and sealions that are on land or rocks. As a result the northern and southern boundaries of the BEZ have been extended in the IHA from 76 m (250 ft)

to 91 m (300 ft). Nevertheless, it should be noted neither the extension of the northern edge of the BEZ, nor the previous BEZ will prohibit work boats from accessing the Bridge from the north side for scheduled work on the Bridge.

*Comment 3:* The IHA requires that the BEZ will be restricted as a controlled access area and will be marked off with buoys and warning signs for the entire year (2–5(b)). Although construction activities have been ongoing for many months now, no warning buoys or signs identifying the BEZ have been installed. NMFS should ensure that buoys and signs are in place before it issues any new IHA.

*Response:* According to CALTRANS, seismic retrofit construction has not begun on the Richmond-San Rafael Bridge. Once construction begins, the buoys and warning signs will be installed and the BEZ will become a controlled access area in accordance with the IHA.

*Comment 4:* The sources of disturbance and the distance between the haul-out and the disturbance event are critical pieces of information since they may be used to evaluate the effectiveness of mitigation. This information should be recorded and provided in the weekly reports. In addition, disturbance events caused by workmen should not be grouped with disturbance caused by natural events. Workman disturbances are directly relevant to potential future impacts and mitigation.

*Response:* Because seismic retrofit work has not yet begun on the Bridge, the instances of recorded "other construction" disturbances (e.g., routine bridge maintenance) in the area of the haul out site are very rare, and were therefore combined with other miscellaneous categories for the purposes of the interim report. Once seismic retrofit work begins, the monitoring protocol will enable CALTRANS observers to distinguish between disturbance which may be caused by the CALTRANS retrofit construction, and those due to all other causes.

*Comment 5:* The monitoring program currently makes no provision for enforcing noise restrictions contained in the IHA. The IHA includes a year-round limit on construction noise of 86 dBA at 50 ft (15 m) between 9 p.m. and 7 a.m. It also includes an unquantified limit on construction noise levels for 24 hours per day in the vicinity of Castro Rocks during the work closure period (pupping/molting season). The limit on construction noise levels during the pupping season needs to be quantified

by NMFS. In addition, for both the nighttime and work closure noise restriction periods, noise levels should be defined in term of dBA at the haulout site.

*Response:* Because NMFS is unaware of any single noise level that will not result in adult and/or pup harbor seals remaining on the beach and still allow work on the Bridge to proceed, at this time NMFS has chosen not to establish sound pressure level (SPL) limits at the Castro Rocks haulout as recommended by Earthlaw. NMFS believes, based on information collected at Vandenberg Air Force Base, that the noise level sufficient for harbor seals to leave the beach is around 80 dBA, but this may depend upon the type of noise, intensity, and duration, which could be different at the Bridge from that experienced by harbor seals at Vandenberg. With a limit of 86 dBA at 50 ft (15 m) for work on the Bridge between 9 p.m. and 7 a.m., NMFS believes that noise levels have been mitigated to the greatest extent practicable. However, NMFS intends to monitor the activity at the Bridge to ensure that 86 dBA is the lowest level practicable. NMFS also believes that the pupping on Castro Rocks during the period of this IHA will be protected from excessive noise levels because work on the Bridge will not begin until September, 2000, and proceed from west to east. CALTRANS does not expect to begin retrofit work in the vicinity of Castro Rocks until approximately August, 2001. This date will allow CALTRANS' biological observers time to assess impacts from construction on harbor seals prior to reaching the area affecting Castro Rocks. NMFS believes that the noise issue is more likely to be relevant in any IHA authorized after August 31, 2001, when work will continue on the portion of the Bridge nearest to Castro Rocks. As a result, NMFS believes that a reassessment of this concern should be made during the next IHA renewal.

Contrary to the statement, NMFS enforces mitigation measures contained in IHAs. Violations of IHAs may result in suspension or revocation of the IHA; it may also result in penalties under the MMPA. However, NMFS does not believe that biological observers, hired by CALTRANS and/or NMFS, should be expected to monitor compliance with Federal or state regulations or permits. Generally, if calibrated sound monitoring equipment is used by an observer(s) in order to quantify the sound pressure level as seals leave the haulout, then that data could later be used during an enforcement proceeding.

*Comment 6:* On July 7, 1999, CALTRANS requested a modification to condition 5(d), that was contained in its 1997 IHA, to allow pile installation during the night (i.e., during the 9 p.m. to 7 a.m. time period) for construction of the CTS of the Bridge, provided the noise does not exceed 86 dBA at the edge of the work exclusion zone at Castro Rocks.

*Response:* NMFS has reviewed the request by CALTRANS and has determined that, because the CTS is located over 2.5 miles (4.0 km) from Castro Rocks it should not have an effect on seals hauled out there. Also, because the 9 p.m. to 7 a.m. pile driving prohibition is a mitigation measure imposed for the welfare of humans, it should not be required as a mitigation measure for marine mammal protection when and where it is not necessary. Data provided by CALTRANS indicated that noise levels from the pile driving equipment planned to be used at the CTS will exceed the 86 dBA at 50 ft SPL limitation. The 86 dBA SPL will be around 200 ft (61 m). Because of the distance between the CTS and Castro Rocks, NMFS does not believe that the noise will be sufficient to flush harbor seals off Castro Rocks. However, because sound monitor equipment on Castro Rocks will monitor noise levels during this time, if, because pile driving will continue after 9 p.m. at the CTS, seals are not able to haul out at night, NMFS may need to amend the IHA, on an emergency basis, to provide additional protection for the harbor seals at Castro Rocks in order for the seals to haul out at night in compensation for disruptions during the daytime. This haul-out ability is apparently important for the seals. This concern was also expressed by two seal biologists during the comment period. As a result, NMFS has conditioned the IHA to limit construction noise levels 86 dBA no greater than 50 ft (15 m) year-round between 9 p.m. and 7 a.m. for all parts of the Bridge other than the CTS. At this time, NMFS has insufficient information to waive this restriction for other sections of the Bridge. Additional waivers would be considered a request for a modification of the IHA, and, as such, would allow the public an opportunity for comment.

*Comment 7:* It has been recommended that monitoring compliance with noise restrictions be conducted by mounting a sound monitor on Rock A at Castro Rocks with a remote recording system.

*Response:* A monitoring recorder will be established on Castro Rocks to correlate SPLs with animal behavior.

*Comment 8:* Ongoing monitoring of only two of the alternative haul-out sites

in the Bay is insufficient to determine whether harbor seals use alternative haulout sites as a result of disturbance at Castro Rocks. EII recommends aerial counts, conducted three times per season, over the entire Bay to determine whether seals are using other primary or secondary haul-out sites in the Bay due to disturbance at Castro Rocks. Unless all haulout sites are monitored, CALTRANS will not be able to determine whether a decline in numbers at Castro Rocks due to Project disturbance is resulting in a decline in the overall harbor seal population in the Bay. Given the budget for the Project, 12 aerial surveys per year will not be unduly burdensome or prohibitively expensive, and will provide a much better understanding of Bay harbor seal movement and status, as well as increased general knowledge of the species (see 50 CFR § 216.104) - monitoring should increase general knowledge of the species).

*Response:* In the 1997/1998 IHA, NMFS required CALTRANS to monitor harbor seal behavior on at least one additional haulout. CALTRANS established monitoring programs on two alternative haulouts, at Yerba Buena Island and Mowry Slough. Yerba Buena Island is in the central Bay, Mowry Slough is in the southern part of the Bay. In addition, seal biologists are monitoring the haulout at Corte Madera. Because these four haulouts have the largest populations of seals, and because other haul-outs cannot contain large numbers of seals, if seals abandon Castro Rocks, it is likely that they will haul out on one or more of these three haulouts.

At this time, NMFS scientists do not believe that aerial surveys will provide sufficient scientific information on the impacts from construction at the Bridge to warrant the expense. Primarily, aerial surveys will detect only that portion of the harbor seal population that has hauled out at the time of the overflight and at altitudes necessary to avoid startling seals (1,000 ft (305 m)), pups would not be detectable. Secondly, without additional studies, such as a mark-recapture study, aerial surveys are unlikely to detect a decline in harbor seal numbers due to a potential short-term abandonment of Castro Rocks. Finally, while aerial surveys would provide information on the current status of Bay harbor seals, a cause-and-effect relationship between the construction work at the Bridge, and a decline in harbor seals, if one occurs, would not be apparent.

*Comment 9:* Earthwatch requests NMFS to provide to them and to the

public copies of all weekly, interim, and final reports.

*Response:* CALTRANS will provide copies of reports to Earthwatch or an organization chosen by Earthwatch to obtain these reports.

*Comment 10:* The monitoring and reporting program adopted in the prior IHA and proposed for the renewal does not provide any feedback mechanism for corrective action where the Project activities are resulting in significant increased disturbance to harbor seals using Castro Rocks. Such a corrective action mechanism is critical to prevent the permanent loss of this key haulout site. Once harbor seals abandon a site, there is a good likelihood that they will never return to it.

Accordingly, the IHA should contain a defined and enforceable procedure to be followed whenever the weekly data demonstrates a significant reduction in haulout site use at Castro Rocks. Once the corrective action provision is triggered, Earthlaw recommends that operations in the vicinity of Castro Rocks be temporarily halted for a period of at least 48 hours, during which time survey monitors, NMFS and Caltrans review the data to determine what is causing the reduced site use and develop appropriate mitigating measures. Such a situation could occur at any time of the year.

*Response:* NMFS will not require CALTRANS to stop work if seal disturbances are observed because, it has been informed, certain construction operations cannot be stopped in progress without jeopardizing the structural integrity of the Bridge. In addition, stopping construction will simply extend the period for harbor seal disturbance. While NMFS does not believe that harbor seals will permanently abandon Castro Rocks since disturbance at that location is already frequent, NMFS does recognize that seismic retrofit on the portion of the Bridge closest to Castro Rocks is likely to result in frequent flushing of seals off the Rocks, and possibly short-term abandonment. This period may last 7–8 months (the period estimated for retrofit construction) or longer. In part because of the limited 6-month work period, CALTRANS expects this work will take 2 years. With nighttime noise restrictions, NMFS believes that seals will be able to remain in the vicinity of Castro Rocks and haul-out during this quieter time period. If seals fail to haul out at night, and do not appear to be utilizing other nearby haulouts, NMFS will meet with CALTRANS staff and marine mammal observers to determine whether additional mitigation measures are practicable. Because any new

mitigation measures imposed through the IHA would be on an emergency basis for the protection of harbor seals, advance notice and comment will not be provided.

NMFS does not anticipate long-term abandonment of Castro Rocks as existing traffic noise from the Bridge, commercial activities at the Chevron Long Wharf, and considerable recreational boating and commercial shipping that currently occur within the area have not caused long-term abandonment. However, if long-term abandonment were to occur at Castro Rocks, which is the haulout location for approximately 25 percent of the Bay harbor seals, this should not result in more than a negligible impact on either Bay harbor seals, or on the Pacific harbor seal stock itself. These animals are likely to either haul-out at other Bay haulouts or leave the Bay. As a result, NMFS does not expect the incidental harassment of harbor seals from construction activities at the Bridge to have more than a negligible impact on the Pacific Coast harbor seal stock.

Furthermore, if any unauthorized marine mammal taking (e.g., serious injury or mortality) occurs as a result of seismic retrofit construction activities, CALTRANS will be subject to the penalties of the MMPA and NMFS will reevaluate the appropriateness of the IHA before CALTRANS reapplies for a new IHA next year, based on required reports (see Reporting section).

*Comment 11:* In its May 19, 1999, letter CALTRANS requested that the IHA reauthorization be delayed until September, 1999.

*Response:* NMFS noted that in its November, 1998 IHA application that CALTRANS' work schedule did not include seismic retrofit work on the Bridge until the summer of 1999. In its

May 19, 1999, letter CALTRANS noted that work would not begin until February, 2000. That was later amended to September, 2000. Because construction work would not begin prior to this time, and work would progress from the west to east, marine mammals would not be subject to incidental harassment prior to that month and therefore, an IHA is unnecessary prior to that time. As a result, NMFS has made the IHA effective for 1 year commencing on September 1, 2000. It should be noted that this effective date in no way amends the February 15 through July 31 work restrictions on work in the water and on retrofit work on the Bridge between piers 52 through 57; instead, it authorizes the incidental harassment of harbor seals and California sea lions

while work proceeds on other portions of the Bridge.

#### **Description of Habitat and Marine Mammals Affected by the Activity**

A description of the Bay ecosystem and its associated marine mammals can be found in the CALTRANS application (CALTRANS 1997) and CALTRANS (1996).

Castro Rocks are a small chain of rocky islands located next to the Bridge and approximately 1500 ft (460 m) north of the Chevron Long Wharf. They extend in a southwesterly direction for approximately 800 ft (240 m) from pier 55. The rocks start at about 55 ft (17 m) from pier 55 and end at approximately 250 ft (76 m) from pier 53. The chain of rocks is exposed during low tides and inundated during high tide.

#### *Marine Mammals*

General information on harbor seals and other marine mammal species found in Central California waters can be found in Barlow *et al.* (1995). The marine mammals likely to be found in the Bridge area are limited to the California sea lion and harbor seal.

The California sea lion primarily uses the Central San Francisco Bay area to feed. California sea lions are periodically observed at Castro Rocks. No pupping or regular haulouts occur in the project area.

The harbor seal is the only marine mammal species expected to be found in the Bridge area. A detailed description of harbor seals was provided in the 1997 notification of proposed authorization (62 FR 46480, September 3, 1997) and is not repeated here. Corrections and clarifications to the proposed authorization were provided in the notice of IHA issuance (62 FR 67045, December 23, 1997).

#### *Potential Effects on Marine Mammals*

The impact to the harbor seals and California sea lions is expected to be disturbance by the presence of workers, construction noise, and construction vessel traffic. Disturbance from these activities is expected to have a short-term negligible impact to a small number of harbor seals and sea lions. These disturbances will be reduced to the lowest level practicable by implementation of the proposed work restrictions and mitigation measures (see Mitigation).

During the work period, harbor seal and, on rare occasions, California sea lion incidental harassment is expected to occur on a daily basis upon initiation of the retrofit work. If harbor seals no longer perceive construction noise and activity as being threatening, they are

likely to resume their regular hauling out behavior. The number of seals disturbed will vary daily depending upon tidal elevations. It is expected that disturbance to harbor seals during peak periods of abundance will not occur since construction activities will not take place within the restricted work area during the peak period (see Mitigation).

Whether California sea lions will react to construction noise and move away from the rocks during construction activities is unknown. Sea lions are generally thought to be more tolerant of human activities than harbor seals and are, therefore, likely to be less affected.

#### *Potential Effects on Habitat*

Short-term impacts of the activities are expected to result in a temporary reduction in utilization of the Castro Rocks haul out site while work is in progress or until seals acclimate to the disturbance. This will not likely result in any permanent reduction in the number of seals at Castro Rocks. The abandonment of Castro Rocks as a harbor seal haul out and rookery is not anticipated since existing traffic noise from the Bridge, commercial activities at the Chevron Long Wharf used for off-loading crude oil, and considerable recreational boating and commercial shipping that currently occur within the area have not caused long-term abandonment. In addition, mitigation measures and proposed work restrictions are designed to preclude abandonment.

Therefore, as described in detail in CALTRANS (1996), other than the potential short-term abandonment by harbor seals of part or all of Castro Rocks during retrofit construction, no impact on the habitat or food sources of marine mammals are likely from this construction project.

#### **Mitigation**

Several mitigation measures to reduce the potential for general noise will be implemented by CALTRANS as part of their activity. General restrictions include: with the exception of the CTS, no piles will be driven (i.e., no repetitive pounding of piles) on the Bridge between 9 p.m. and 7 a.m.; an imposition of a construction noise limit of 86 dBA at 50 ft (15 m) between 9 p.m. and 7 a.m.; and, a limitation on construction noise levels for 24 hrs/day in the vicinity of Castro Rocks during the pupping/molting restriction period.

To minimize potential harassment of marine mammals, NMFS proposes to require CALTRANS to comply with the following mitigation measures: (1) A February 15 through July 31 restriction

on work in the water south of the Bridge center line and retrofit work on the Bridge substructure, towers, superstructure, piers, and pilings from piers 52 through 57; (2) no watercraft will be deployed by CALTRANS employees or contractors, during the year within the exclusion zone located between piers 52 and 57, except for when construction equipment is required for seismic retrofitting of piers 52 through 57; and (3) minimize vessel traffic to the greatest extent practicable in the exclusion zone when conducting construction activities between piers 52 and 57. The boundary of the exclusion zone is rectangular in shape (1700 ft (518 m) by 800 ft (244 m)) and completely encloses Castro Rocks and piers 52 through 57, inclusive. The northern boundary of the exclusion zone will be located 300 ft (91 m) from the most northern tip of Castro Rocks, and the southern boundary will be located 300 ft (91 m) from the most southern tip of Castro Rocks. The eastern boundary will be located 300 ft (91 m) from the most eastern tip of Castro Rocks, and the western boundary will be located 300 ft (91 m) from the most western tip of Castro Rocks. This exclusion zone will be restricted as a controlled access area and will be marked off with buoys and warning signs for the entire year.

### Monitoring

NMFS will require CALTRANS to monitor the impact of seismic retrofit construction activities on harbor seals at Castro Rocks. Monitoring will be conducted by one or more NMFS-approved monitors. CALTRANS is to monitor at least one additional harbor seal haulout within San Francisco Bay to evaluate whether harbor seals use alternative hauling-out areas as a result of seismic retrofit disturbance at Castro Rocks.

The monitoring protocol will be divided into the Work Period Phase (August 1 through February 14) and the Closure Period Phase (February 15 through July 31). During the Work Period Phase and Closure Period Phase, the monitor(s) will conduct observations of seal behavior at least 3 days/week for approximately one tidal cycle each day at Castro Rocks. The following data will be recorded: (1) Number of seals and sea lions on site; (2) date; (3) time; (4) tidal height; (5) number of adults, subadults, and pups; (6) number of individuals with red pelage; (7) number of females and males; (8) number of molting seals; and (9) details of any observed disturbances. Concurrently, the monitor(s) will record general construction activity, location, duration,

and noise levels. At least 2 nights/week, the monitor will conduct a harbor seal census after midnight at Castro Rocks. In addition, during the Work Period Phase and prior to any construction between piers 52 and 57, inclusive, the monitor(s) will conduct baseline observations of seal behavior at Castro Rocks and at the alternative site(s) once a day for a period of 5 consecutive days immediately before the initiation of construction in the area to establish pre-construction behavioral patterns. During the Work Period and Closure Period Phases, the monitor(s) will conduct observations of seal behavior, and collect appropriate data, at the alternative Bay harbor seal haulout at least 3 days/week (Work Period) and 2 days/week (Closure Period), during a low tide.

In addition, NMFS proposes to require that, immediately following the completion of the seismic retrofit construction of the Bridge, the monitor(s) will conduct observations of seal behavior, at Castro Rocks, at least 5 days/week for approximately 1 tidal cycle (high tide to high tide) each day, for one week/month during the months of April, July, October, and January. At least 2 nights/week during this same period, the monitor will conduct an additional harbor seal census after midnight.

### Reporting

CALTRANS will provide weekly reports to the Southwest Regional Administrator (Regional Administrator), NMFS, including a summary of the previous week's monitoring activities and an estimate of the number of harbor seals that may have been disturbed as a result of seismic retrofit construction activities. These reports will provide dates, time, tidal height, maximum number of harbor seals ashore, number of adults, sub-adults and pups, number of females/males, number of redcoats, and any observed disturbances. A description of retrofit activities at the time of observation and any sound pressure levels measurements made at the haulout will also be provided. A draft interim report must be submitted to NMFS by April 30, 2001.

Because seismic retrofit activities are expected to continue beyond the date of expiration of this IHA (presumably under a new IHA), a draft final report must be submitted to the Regional Administrator within 90 days after the expiration of this IHA. A final report must be submitted to the Regional Administrator within 30 days after receiving comments from the Regional Administrator on the draft final report. If no comments are received from

NMFS, the draft final report will be considered to be the final report.

CALTRANS will provide NMFS with a follow-up report on the post-construction monitoring activities within 18 months of project completion in order to evaluate whether haul-out patterns are similar to the pre-retrofit haul-out patterns at Castro Rocks.

### National Environmental Policy Act

NMFS prepared an EA in 1997 that concluded that the impacts of CALTRANS' seismic retrofit construction of the Bridge will not have a significant impact on the human environment. A copy of that EA, which includes the Finding of No Significant Impact is available upon request (see ADDRESSES).

### Conclusions

NMFS has determined that the short-term impact of the seismic retrofit construction of the Bridge, as described in this document, should result, at worst, in the temporary modification in behavior by harbor seals and, possibly, by some California sea lions. While behavioral modifications, including temporarily vacating the haul-out, may be made by these species to avoid the resultant visual and acoustic disturbance, this action is expected to have a negligible impact on the animals. In addition, no take by injury and/or death is anticipated, and harassment takes will be at the lowest level practicable due to incorporation of the mitigation measures mentioned above.

Since NMFS is assured that the taking will not result in more than the incidental harassment (as defined by the MMPA) of small numbers of Pacific harbor seals and, possibly, of California sea lions, 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) have been met and the authorization can be issued.

### Authorization

For the above reasons, NMFS has issued an IHA for a 1-year period beginning September 1, 2000, for the incidental harassment of harbor seals and California sea lions by the seismic retrofit of the Richmond-San Rafael Bridge, San Francisco Bay, California, provided the above mentioned mitigation, monitoring and reporting requirements mentioned earlier are incorporated.

Dated: January 8, 2000.

**Donald R. Knowles,**

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

[FR Doc. 00-953 Filed 1-13-00; 8:45 am]

**BILLING CODE 3510-22-F**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 011100A]

#### New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Capacity Committee. Recommendations from the Committee will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** The meeting will be held on February 2, 2000, at 9:30 a.m.

**ADDRESSES:** The meeting will be held at the Rhode Island Department of Environmental Management Foundry Offices, 235 Promenade Street, 4<sup>th</sup> Floor, Room C, Providence, Rhode Island; telephone: (401) 222-6605 ext. 2412.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Howard, Executive Director, telephone: (978) 465-04922.

**SUPPLEMENTARY INFORMATION:** The Committee will continue its exploration of fishing capacity issues. The Committee will begin to review available information that may indicate the status of capacity in New England fisheries. Committee members will also begin to prioritize the problems caused by excess capacity in New England fisheries, and will begin to identify possible solutions to identified problems. The Committee will also review the number of permits held by vessels in order to characterize the amount of flexibility that fishermen have to move between fisheries.

Although non-emergency issues not contained in this agenda may come before the Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery

Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

#### Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, New England Fishery Management Council, 50 Water Street, Newburyport, Massachusetts 01950; telephone: (978) 465-0492 at least 5 days prior to the meeting dates.

Dated: January 11, 2000.

**Richard W. Surdi,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 00-954 Filed 1-13-00; 8:45 am]

**BILLING CODE 3510-22-F**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 010400B]

#### Endangered Species; Permits

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

**ACTION:** Receipt of applications for scientific research permits (1229, 1231); issuance of modifications to existing permits (895, 900, 946, 1193, 1213).

**SUMMARY:** Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement:

NMFS has received scientific research permit applications from Northern Wasco County People's Utility District at The Dalles, OR (NWCPU)(1229), and Dr. Llewellyn M. Ehrhart, of the University of Central Florida (LME-UCF) (1231); and NMFS has issued modifications to scientific research and/or enhancement permits to: U.S. Army Corps of Engineers, Walla Walla District at Walla Walla, WA (COE)(895), Northwest Fisheries Science Center, National Marine Fisheries Service at Seattle, WA (NWFSC)(900, 946, 1213), and the Fish Passage Center at Portland, OR (FPC)(1193).

**DATES:** Comments or requests for a public hearing on either of the new applications must be received at the appropriate address or fax number no later than 5:00pm eastern standard time on February 14, 2000.

**ADDRESSES:** Written comments on either of the new applications should be sent

to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application. Comments will not be accepted if submitted via e-mail or the internet. The applications and related documents are available for review in the indicated office, by appointment:

For permits 895, 900, 946, 1193, 1213, and 1229: Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232-2737 (ph: 503-230-5400, fax: 503-230-5435).

For permit 1231: Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, MD 20910 (ph: 301-713-1401, fax: 301-713-0376).

Documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3226 (301-713-1401).

#### FOR FURTHER INFORMATION CONTACT:

For permit 1231: Terri Jordan, Silver Spring, MD (ph: 301-713-1401, fax: 301-713-0376, e-mail: Terri.Jordan@noaa.gov).

For permits 900, 946, 1193, and 1229: Leslie Schaeffer, Portland, OR (ph: 503-230-5433, fax: 503-230-5435, e-mail: Leslie.Schaeffer@noaa.gov).

For permits 895 and 1213: Robert Koch, Portland, OR (ph: 503-230-5424, fax: 503-230-5435, e-mail: Robert.Koch@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222-226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant