DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–890]

Notice of Amended Final Determination of Sales at Less Than Fair Value/Pursuant to Court Decision: Wooden Bedroom Furniture from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: On April 5, 2006, the United States Court of International Trade (''Court'') sustained the final remand determination made by the Department of Commerce (''the Department'') pursuant to the Court's remand of the amended final determination of the investigation of wooden bedroom furniture from the People's Republic of China (''PRC''). *See Guangzhou Maria Yee Furnishings Ltd., et al. v. United States*, Ct. No. 05–00065, Slip Op. 06–44 (Ct. Int'l Trade April 5, 2006) (''*Maria Yee Order*''). This case arises out of the Department's *Final Determination of Sales at Less Than Fair Value: Wooden Bedroom Furniture From the People's Republic of China*, 69 FR 67313 (November 17, 2004) (''*Final Determination*''), as amended, 70 FR 329 (January 4, 2005) (''*Amended Final Determination*''). Because the litigation in this matter is concluded, the Department is issuing an amended final determination in accordance with the CIT's decision.

EFFECTIVE DATE: June 22, 2006.

FOR FURTHER INFORMATION CONTACT: Eugene Degnan, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–0414.

SUPPLEMENTARY INFORMATION:

Background

On November 17, 2004, the Department published its notice of final determination in the investigation of wooden bedroom furniture from the PRC. *See Final Determination*. On January 4, 2005, the Department published its notice of amended final determination in the investigation of wooden bedroom furniture from the PRC. *See Amended Final Determination*.

In *Guangzhou Maria Yee Furnishings, Ltd., et al. v. United States*, Ct. No. 05–00065, Slip Op. 05–158 (CIT December 14, 2005), the Court remanded the Department's determination to reject, as untimely, certain information submitted by Guangzhou Maria Yee Furnishings Ltd. and Pyla HK Ltd.) (''Maria Yee''). The Court found that the Department's method of notice to parties of the requirement and deadline to submit a response to Section A of the Department's questionnaire was not reasonable, and remanded this case to the Department for further consideration consistent with the Court's opinion, and in light of the Court's decision in *Decca Hospitality Furnishings, LLC v. United States*, 391 F. Supp. 2d 1298 (2005).

The remand redetermination explained that, in accordance with the Court's opinion, the Department must analyze the evidence presented by Maria Yee to determine whether it is eligible for a separate rate. Accordingly, on December 27, 2005, the Department reopened the record and requested that Maria Yee re–submit a copy of its initial July 2, 2004, submission, which it did on December 28, 2005. Additionally, the Department issued one supplemental questionnaire to Maria Yee to address a few deficiencies found in its December 28, 2005, submission. Maria Yee submitted timely and complete responses to these questionnaires. On February 10, 2006, the Department issued its draft results of redetermination pursuant to remand for comment by the interested parties. On February 14, 2006, Maria Yee submitted comments in response to the Department's draft results of redetermination. No other party filed comments. On March 1, 2006, the Department issued its final results of redetermination pursuant to remand to the Court. Based on our analysis of Maria Yee's evidence, we determined that Maria Yee qualifies for a separate rate in the investigation of wooden bedroom furniture from the PRC. *See Final Results of Redetermination Pursuant to Court Remand*, March 1, 2006.

On April 5, 2006, the Court ruled that the Department's remand determination is supported by substantial evidence, and affirmed the Department's remand results in their entirety. *See Maria Yee Order*. Granting a separate rate to Maria Yee changes it's antidumping duty rate from the PRC–wide rate of 198.08 percent to the Section A respondent rate of 6.65 percent.

On April 27, 2006, consistent with the decision in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990), the Department notified the public that the CIT's decision was not ''in harmony'' with the Department's final determination. *See Wooden Bedroom Furniture from the People's Republic of China: Notice of Court Decision Not in Harmony*, 71 FR 24840 (April 27, 2006).

Amended Final Determination

There is now a final and conclusive court decision in the court proceeding and we are thus amending the *Amended Final Determination* to reflect the results of our remand determination.

The revised dumping margin is as follows:

Company	Weighted–Average Margin (Percent)
Maria Yee	6.65

U.S. Customs and Border Protection will require a cash deposit rate of 6.65 percent for subject merchandise exported by Maria Yee and entered, or withdrawn from warehouse, for consumption on or after the effective date of this notice. This cash deposit requirement shall remain in effect until publication of the final results of an administrative review of this order.

This notice is published in accordance with sections 735(d) and 777(i) of the Tariff Act of 1930, as amended.

Dated: June 16, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–9876 Filed 6–21–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041806B]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Surf Zone Testing/ Training and Amphibious Vehicle Training and Weapons Testing

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

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

SUMMARY: On November 29, 2005, NMFS received a request from Eglin Air Force Base (Eglin AFB), for authorization to harass marine mammals, incidental to conducting surf zone testing/training and amphibious vehicle training and weapons testing off the coast of Santa Rosa Island (SRI). As

a result of this request, NMFS is proposing to issue a 1–year authorization to take marine mammals by Level B harassment incidental to this activity. NMFS will propose regulations at a later date that would govern these incidental takes under a Letter of Authorization (LOA) issued to Eglin for a period of up to 5 years after the 1–year IHA expires. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on the Eglin AFB application and NMFS' proposal to issue an authorization to Eglin AFB to incidentally take, by harassment, two species of cetaceans for a period of 1 year.

DATES: Comments and information must be postmarked no later than July 24, 2006.

ADDRESSES: Comments should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226. The mailbox address for providing email comments on this action is *PR1.041806B@noaa.gov*. Comments sent via email, including all attachments, must not exceed a 10–megabyte file size. A copy of the application and a list of references used in this document may be obtained by writing to this address, by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) and is also available at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*. A copy of the *Santa Rosa Island Mission Utilization Plan Programmatic Environmental Assessment* (SRI Mission PEA) (U.S. Air Force, 2005) is available by writing to the Department of the Air Force, AAC/EMSN, Natural Resources Branch, 501 DeLeon St., Suite 101, Eglin AFB, FL 32542–5133.

FOR FURTHER INFORMATION CONTACT: Shane Guan, NMFS, 301–713–2289, ext 137.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and 101(a)(5)(D) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*) (MMPA) direct the Secretary of Commerce (Secretary) 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 are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization shall 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 if the permissible methods of taking and requirements pertaining to the mitigation, 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 marine mammals by harassment. With respect to ''military readiness activities,'' the MMPA defines ''harassment'' as follows:

> (i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B harassment].

Summary of Request

On November 21, 2005, Eglin AFB petitioned NMFS for an authorization under section 101(a)(5) of the MMPA for the taking, by harassment, of marine mammals incidental to programmatic mission activities on Eglin's SRI property, including the shoreline of the Gulf of Mexico (Gulf or GOM) to a depth of 30 feet (9.1 meters). The distance from the island shoreline that corresponds to this depth varies from approximately 0.5 mile (0.8 km) at the western side of the Air Force property to 1.5 miles (2.4 km) at the eastern side, extending out into the inner continental shelf.

Activities conducted within the sound are addressed in the *Estuarine and Riverine Areas Programmatic Environmental Assessment* (U.S. Air Force, 2003a). The proposed action is for the 46th Test Wing Commander to establish a mission utilization plan for SRI based on historical and anticipated future use. Current and future operations are categorized as either testing or training and include: (1) Surf Zone Testing/Training; (2) Landing Craft Air Cushion (LCAC) Training and Weapons Testing; (3) Amphibious Assaults; and (4) Special Operations Training.

Description of Activities

Surf Zone Testing/Training

Eglin AFB proposes to establish Surf Zone Test Areas (SZTAs) on SRI to support major surf zone test exercises. Specific and dedicated areas on SRI would be utilized to perform these exercises. Major surf-zone test exercises include neutral (inert) systems and live (containing explosive material) systems, which would be detonated in shallow water.

Current and proposed future surf zone activities would involve detonations of mine clearing line charges and bombs for obstacle clearing. These activities include line-charge mine clearance testing, shallow water assault breaching (SABRE) mine clearing testing, and beach obstacle clearing and neutralization.

In the line-charge mine clearance testing, the Naval Surface Warfare Center Panama City (NSWCPC) conducted a line-charge test in the past as a precursor to other tests to evaluate the effectiveness of underwater mine countermeasure and clearing techniques.

The Navy's SABRE explosive net clearing weapon is in development with testing ongoing at Eglin's Shallow Water Mine Pond Facility. Testing of the SABRE system would involve launching of a line charge subsystem propelled by rocket motors. This could require closure of some areas of the GOM and Choctawhatchee Bay waters to accommodate a 2.5–mile, 110–degree safety fan if these tests are conducted on the eastern portion of SRI.

The beach obstacle clearing and neutralization involve simultaneous detonations of multiple bombs in the surf zone, which NSWCPC would evaluate to assess their effects on obstacles and mines as a potential beach-clearing tactic.

Concentrating surf zone detonation activities within specified areas may reduce the environmental impacts associated with these activities as well as standardize the logistics, operational planning, and safety procedures. The designated test/training areas would accommodate both historical and expanded activities. Navy personnel would establish the areas within current usage guidelines similar to the numerous test areas as described in the *AAC Technical Facilities Manual (Volume II Land Test Areas)* (U.S. Air Force, 1996).

Amphibious Vehicle Training and Weapon Testing

Amphibious vehicles include the LCAC and the Amphibious Assault Vehicle (AAV). Both of these vehicles have the capability to transit through the land/water interface and are utilized in a variety of mission types.

The LCAC is a high-speed fully amphibious landing craft capable of traveling over both land and water, providing transition of personnel and equipment over the land-water interface. The LCAC is also used in the neutralization of beach obstacles and hostile watercraft, with test/training activities typically involving live/inert testing of various firing mechanisms in concert with travel through the land-water interface and across beach environments. In 1998 and 2000, the Navy conducted LCAC training and weapon testing on SRI involving live fire and tank transport.

The proposed expansion of LCAC training and testing is related to the need for expanded special operations and amphibious assault training and testing activities. Expanded LCAC activities would involve increased use of the LCAC for both inert training activities and live fire testing and training. The LCAC would utilize specific areas for crossing between the Gulf to Santa Rosa Sound, and for firing weapons systems.

In addition, several organizations have a need to initiate or expand their current work in or around the SRI. The Marine Corps has a need to use the island to perform amphibious assault exercises. These activities would typically involve a coordinated mission utilizing large landing craft such as AAVs and LCACs, varying numbers of troops and personnel, and aircraft. Landing craft and personnel would be dropped into the ocean several miles or several thousand yards off shore and traverse to the island. Upon reaching the island, the assault force would breach the shoreline, set up a perimeter or staging area, and either proceed to an objective or remain on site.

Special Operations Training

Eglin proposes to increase Special Operations training within established maneuver areas and the additional establishment of LCAC live fire and crossover areas on the island. Increased special operations training would involve covert beach landings and assaults and other mission training activities. These exercises could involve full-scale beach assaults involving dozens of troops and landing craft, or small-scale exercises involving dropping off personnel in rubber boats within the proposed action area. Personnel would navigate in, conduct a covert landing on the beach, and capture a target on the island or proceed to transit the island and go to the mainland.

Surf zone testing/training activities and amphibious vehicle testing/training activities would be intermittent yet ongoing, and therefore Eglin AFB has also made a request for a take authorization under section 10(a)(5)(A) of the MMPA for a time period of five years. These activities would occur within the proposed action area, which includes the Gulf-side shoreline of SRI seaward to a depth of 30 feet (91 m). The distance from the shoreline that corresponds to this depth varies from approximately 0.5 mile (0.8 km) at the western side of the Air Force property to 1.5 miles (2.4 km) at the eastern side, extending into the inner continental shelf.

Training involving live fire exercises would be carried out a maximum twice per year (one during daytime and/or one at night). These missions would involve special operations personnel, an LCAC, or an AAV on the north shore of the island or in Santa Rosa Sound firing a at target located on SRI. The target would be a hardended structure of steel or wood. The angle of firing would be toward the ground and ricocheting would be minimal due to the sandy substrate. The NSWCPC would use low-range, high-fragmentation munitions at the maneuver areas to allow for more realistic training scenarios. The NSWCPC would direct live fire toward the Gulf.

Description of Marine Mammals Affected by the Activity

Marine mammal species potentially occurring within the proposed action area include the Atlantic bottlenose dolphin (*Tursiops truncatus*), the Atlantic spotted dolphin (*Stenella frontalis*), and the Florida manatee (*Trichechus manatus latirostris*). General information on Florida manatee can be found in the *Florida Manatee Recovery Plan* (US Fish and Wildlife Service, 2001).

Atlantic bottlenose dolphins are distributed continuously throughout the continental shelf, coastal, and bay-sound waters of the northern GOM and along the U.S. mid-Atlantic coast. The identification of a biologically-meaningful ''stock'' of bottlenose dolphins in the GOM is complicated by the high degree of behavioral variability exhibited by this species (Wells, 2003). Currently, bottlenose dolphins in the U.S. GOM are managed as 38 different stocks: one northern GOM oceanic stock, one northern GOM continental shelf stock, three northern GOM costal stocks (western, northern, and eastern Gulf), and 33 bay, sound, and estuarine stocks (NMFS, 2005). The identification of these stocks is based on descriptions of relatively discrete dolphin communities in these waters. A community includes resident dolphins that regularly share large portions of their ranges, exhibit similar distinct genetic profiles, and interact with each other to a much greater extent than with dolphins in adjacent waters. Bottlenose dolphin communities do not constitute closed demographic populations, as individuals from adjacent communities are known to interbreed. Nevertheless, the geographic nature of these areas and long-term stability of residency patterns suggest that many of these communities exist as functioning units of their ecosystems, and under the MMPA must be maintained as such.

Within the proposed action area, at least three Atlantic bottlenose dolphin stocks are expected to occur: the northern GOM northern coastal, the Pensacola Bay/East Bay stock, and the Choctawhatchee Bay stock (NMFS, 2005). There has been no population assessment for any of these stocks for more than eight years. The relatively high number of bottlenose dolphin deaths that occurred during mortality events (mostly from stranding) since 1990 raises a concern that some of the stocks are stressed. Each of these stocks is listed as a strategic stock under the MMPA.

The Atlantic spotted dolphin is endemic to the Atlantic Ocean in temperate to tropical waters (Perrin *et al.*, 1994). In the GOM, this species occurs primarily from continental shelf waters 10–200 m (32.8 – 656.2 ft) deep to slope waters <500 m (1,640 ft) deep (Fulling *et al.*, 2003). Atlantic spotted dolphins were seen in all seasons during GulfCet aerial surveys of the northern GOM from 1992 to 1998 (Hansen et al., 1996; Mullin and Hoggard, 2003). It has been suggested that this species may move inshore seasonally during spring, but data supporting this hypothesis are limited (Fritts et al., 1983). The best available abundance estimate for the northern GOM stock of the Atlantic spotted dolphin is 30,947 (NMFS, 2005).

More detailed information on the Atlantic bottlenose and spotted dolphins can be found in the NMFS Stock Assessment Reports at: *http://www.nmfs.noaa.gov/pr/sars/species.htm*.

Potential Impacts to Marine Mammals

Potential impacts to marine mammals may occur due to underwater noise and direct physical impacts (DPI). Noise is produced by underwater detonations in the surf zone and by the operation of amphibious vehicles. DPI could result from collisions with amphibious vehicles and from ordnance live fire. However, with implementation of the mitigation actions discussed later in this document, the potential for impacts to marine mammals are anticipated to be de minimus (U.S. Air Force, 2005).

Explosive criteria and thresholds for assessing impacts of explosions on marine mammals were discussed by NMFS in detail in its issuance of an IHA for Eglin's Precision Strike Weapon testing activity (70 FR 48675, August 19, 2005) and are not repeated here. Please refer to that document for this background information.

Estimation of Take and Impact

Surf Zone Detonation

Surf zone detonation noise impacts are considered within two categories: overpressure and acoustics. Underwater explosive detonations produce a wave of pressure in the water column. This pressure wave potentially has lethal and injurious impacts, depending on the proximity to the source detonation. Humans and animals receive the acoustic signature of noise as sound. Beyond the physical impacts, acoustics may cause annoyance and behavior modifications (Goertner, 1982).

Estimating the impacts to marine mammals from underwater detonations were discussed by NMFS in detail in its notice of receipt of application for an IHA for Eglin's Air-to-Surface Gunnery mission in the Gulf (71 FR 3474, January 23, 2006) and is not repeated here. Please refer to that document for this background information.

A maximum of one surf zone testing/training mission would be completed per year. The impact areas of the proposed action are derived from mathematical calculations and models that predict the distances to which threshold noise levels would travel. The equations for the models consider the amount of net explosive, the properties of detonations under water, and environmental factors such as depth of the explosion, overall water depth, water temperature, and bottom type.

The end result of the analysis is an area known as the Zone of Influence (ZOI). A ZOI is based on an outward radial distance from the point of detonation, extending to the limit of a particular threshold level in a 360–degree area. Thus, there are separate ZOIs for mortality, injury (hearing-related injury and slight, non-fatal lung injury), and harassment (temporary threshold shift, or TTS, and sub-TTS). Given the radius, and assuming noise spreads outward in a spherical manner, the entire area ensonified (i.e., exposed to the specific noise level being analyzed) is estimated.

The radius of each threshold is shown for each shallow water surf zone mine clearing system in Table 1. The radius is assumed to extend from the point of detonation in all directions, allowing calculation of the affected area.

The number of takes is calculated by applying marine mammal density to the ZOI (area) for each detonation type. Species density for most cetaceans is based on adjusted GulfCet II aerial survey data, which is shown in Table 2. GulfCet II data were conservatively adjusted upward to approximately two standard deviations to obtain 99 percent confidence, and a submergence correction factor was applied to account for the presence of submerged, uncounted animals. However, the actual number of marine mammal takes would be even smaller, since up to half of the ZOI would be over land and very shallow surf, which is not considered marine mammal habitat.

TABLE 1.—ZONES OF IMPACT FOR UNDERWATER EXPLOSIVE FROM FOUR MINE CLEARING SYSTEMS (ACOUSTIC UNITS ARE RE 1 MICROPA^2)

Threshold	Criteria	ZOI Radius (m)			
		SABRE 232 lb NEW	MK–5 MCS 1,750 lb NEW	DET 130 lb	MK–82 ARRAY 1,372 lb
176 dB 1/3 Octave SEL*	Level B Behavior	1,440	2,299	1,252	2,207
182 dB 1/3 Octave SEL	Level B TTS Dual Criterion	961	1,658	796	1,544
205 dB SEL	Level A PTS	200	478	155	436
23 psi	Level B Dual Criteria	857	1,788	761	1,557
13 psi-msec	Level A Injury	60	100	58	86
30.5 psi-msec	Mortality	45	68	42	60

* SEL - Sound energy level

TABLE 2.—CETACEAN DENSITIES FOR GULF OF MEXICO SHELF REGION

Species	Individuals/km^2	Dive profile - % at surface	Adjusted density (Individuals/km^2)*
Bottlenose dolphin	0.148	30	0.810
Atlantic spotted dolphin	0.089	30	0.677
Bottlenose or Atlantic dolphin	0.007	30	0.053
Total	0.244		1.54

* Adjusted for undetected submerged animals to approximately two standard deviations.

Table 3 lists the noise-related dolphin take estimates resulting from surf zone detonations associated with the Perferred Alternative of the PEA. The take numbers represent the combined total of Atlantic bottlenose and Atlantic spotted dolphins, and do not consider any mitigation measures. Implementation of mitigation measures discussed below would significantly decrease the number of takes. Discussion of the amount of take reduction is provided below.

TABLE 3.—PREFERRED ALTERNATIVE TAKE ESTIMATES FROM NOISE IMPACTS TO DOLPHINS (ACOUSTIC UNITS ARE RE 1 MICROPA ^{2})

Threshold	Criteria	SABRE	MK–5 MCS	DET	MK–82 Array	Total Takes *
176 dB 1/3 Octave SEL	Sub-TTS	10	26	8	24	68
182 dB 1/3 Octave SEL	Level B Harassment TTS (dual criterion)	5	13	3	12	33
23 psi	Level B TTS (dual criterion)	4	15	3	12	34
205 dB Total SEL	Level A PTS	0	1	0	1	2
13 psi-msec	Level A Non-lethal Injury	0	0	0	0	0
30.5 psi-msec	Mortality	0	0	0	0	0

* Estimated exposure with no mitigation measures in place

Noise from LCAC

Noise resulting from LCAC operations was considered under a transit mode of operation. The LCAC uses rotary air screw technology to power the craft over the water, therefore, noise from the engine is not emitted directly into the water. The Navy's acoustic in-water noise characterization studies show the noise emitted from the LCAC into the water is very similar to that of the MH–53 helicopter operating at low altitudes. Based on the Air Force's Excess Sound Attenuation Model for the LCAC's engines under ground runup condition, the data estimate that the maximum noise level (98 dBA) is at a point 45 degrees from the bow of the craft at a distance of 61 m (200 ft) in air. Maximum noise levels fall below 90 dBA at a point less than 122 meters (400 ft) from the craft in air (U.S. Air Force, 1999).

Due to the large difference of acoustic impedance between air and water, much of the acoustic energy would be reflected at the surface. Therefore, the effects of noise from LCAC to marine mammals would be negligible.

Collision with Vessels

During the time that amphibious vehicles are operating in (or, in the case of LCACs, just above) the water, encounters with marine mammals are possible. A slight possibility exists that such encounters could result in a vessel physically striking an animal. However, this scenario is considered very unlikely. Dolphins are extremely mobile and have keen hearing and would likely leave the vicinity of any vehicle traffic. The largest vehicles that would be moving are LCACs, and their beam measurement can be used for conservative impact analyses. The operation which potentially uses the largest number of LCACs is Amphibious Ready Group/Marine Expeditionary Unit (ARG/MEU) training. Based on analysis in the *ARG/MEU Readiness Training Environmental Assessment* (U.S. Air Force, 2003b), LCAC activities (over 10 days) could potentially impact 22.25 square miles of the total water surface area. The estimated number of bottlenose dolphins in this area is 6.9, with an approximately equal number of Atlantic spotted dolphins. These species would easily avoid collision because the LCACs produce noise that would be detected some distance away, and therefore would be avoided as any other boat in the Gulf. In addition, AAVs move very slowly and would be easily avoided. The potential for amphibious craft colliding with marine mammals and causing injury or death is therefore considered remote.

Live Fire Operations

Live fire operations with munitions directed towards the Gulf have the potential to impact marine mammals (primarily bottlenose and Atlantic spotted dolphins). Cetacean abundance estimates for the study area are derived from CulfCet II aerial surveys in the eastern Gulf waters (Davis *et al.*, 2000). To provide a more conservative impact analysis, density estimates have been adjusted to account for submerged individuals. The percent of time that an animal is submerged versus at the surface was obtained from Moore and Clarke (1998), and used to determine an adjusted density for each species. The result shows an estimated animal density of 1.54 animals/km^2 (Table 2).

A maximum of two live fire operations would be conducted in a year, and are associated with expanded Special Operations training on SRI. Small caliber weapons between 5.56 mm and .50 caliber with low-range munitions would be allowed only within designated live fire areas. The average range of the munitions is approximately 1 km (0.54 nm). If a given live fire area was 1 km (0.54 nm) wide, then approximately 1.5 dolphins could be vulnerable to a munitions strike. However, even the largest live fire area on SRI is considerably less than 1 km (0.54 nm) wide. If live fire is conservatively estimated to originate from a section of beach 0.2 km (0.11 nm) wide, only 0.3 dolphins would be within the area of potential DPI. Finally, the mitigation measures discussed below would further reduces the likelihood of direct impacts to marine mammals due to live fire operations.

In addition, given the infrequency of the surf zone detonation (maximum of once per year) and the amphibious vehicle and weapon testing (maximum of twice per year), NMFS believes there is no potential for long-term displacement or behavioral impacts of marine mammals within the proposed action area.

Mitigation

Eglin AFB would employ a number of mitigation measures in an effort to substantially decrease the number of animals potentially affected. Visual monitoring of the operational area can be a very effective means of detecting the presence of marine mammals. This is particularly true of the species most likely to be present (bottlenose and Atlantic spotted dolphins) due to their tendency to occur in groups, their relatively short dive time, and their relatively high level of surface activity. In addition, the water clarity in the northeastern GOM is typically very high. It is often possible to view the entire water column in the water depth that defines the study area (30 feet or 9.1 m).

For the surf zone testing/training, missions would only be conducted under daylight conditions of suitable visibility and sea state of number three or less. Prior to the mission, a trained observer aboard a helicopter would survey (visually monitor) the test area, which is a very effective method for detecting sea turtles and cetaceans. In addition, shipboard personnel would provide supplemental observations when available. The size of the area to be surveyed would depend on the specific test system, but it would correspond to the ZOI for Level B behavior harassment (176 dB 1/3 octave

SEL) listed in Table 1. The survey would be conducted approximately 250 feet (76 m) above the sea surface to allow observers to scan a large distance. If a marine mammal is sighted within the ZOI, the mission would be suspended until the animal is clear of this area. In addition, to reduce the potential impacts to sea turtles and manatees, surf zone testing would be conducted between 1 November and 1 March whenever possible.

Navy personnel (NSWCPC) would only conduct live fire testing with sea surface conditions of sea state 3 or less on the Beaufort scale, which is when there is about 33 – 50 percent of surface whitecaps with 0.6 – 0.9 m (2 – 3 ft) waves. During daytime missions, small boats would be used to survey for marine mammals in the proposed action area before and after the operations. If a marine mammal is sighted within the target or closely adjacent areas, the mission would be suspended until the area is clear. No mitigation for marine mammals would be feasible for nighttime mission, however, given the remoteness of impact, the potential that a marine mammal is injured or killed is unlikely.

Monitoring and Reporting

The Eglin AFB will train personnel to conduct aerial surveys for protected species. The aerial survey/monitoring team would consist of an observer and a pilot familiar with flying transect patterns. A helicopter provides a preferable viewing platform for detection of protected marine species. The aerial observer must be experienced in marine mammal surveying and be familiar with species that may occur in the area. The observer would be responsible for relaying the location (latitude and longitude), the species if known, and the number of animals sighted. The aerial team would also identify large schools of fish, jellyfish aggregations, and any large accumulation of Sargassum that could potentially drift into the ZOI. Standard line-transect aerial surveying methods would be used. Observed marine mammals and sea turtles would be identified to species or the lowest possible taxonomic level possible.

The aerial and (potential) shipboard monitoring teams would have proper lines of communication to avoid communication deficiencies. Observers would have direct communication via radio with the lead scientist. The lead scientist reviews the range conditions and recommends a Go/No-Go decision to the Officer in Tactical Command, who makes the final Go/No-Go decision.

Stepwise mitigation procedures for SRI surf zone missions are outlined below. All zones (mortality, injury, TTS) would be monitored.

Pre-mission Monitoring

The purposes of pre-mission monitoring are to (1) evaluate the test site for environmental suitability of the mission (e.g., relatively low numbers of marine mammals and turtles, few or no patches of Sargassum, etc.) and (2) verify that the ZOI is free of visually detectable marine mammals, sea turtles, large schools of fish, large flocks of birds, large Sargassum mats, and large concentrations of jellyfish (the latter two are possible indicators of turtle presence). On the morning of the test, the lead scientist would confirm that the test site can support the mission and that the weather is adequate to support observations.

(1) One Hour Prior to Mission

Approximately one hour prior to the mission, or at daybreak, the appropriate vessel(s) would be on-site near the location of the earliest planned mission point. Personnel onboard the vessel would assess the suitability of the test site, based on visual observation of marine mammals and sea turtles. This information would be relayed to the Lead Scientist.

(2) Fifteen Minutes Prior to Mission

Aerial monitoring would commence at the test site 15 minutes prior to the start of the mission. The entire ZOI would be surveyed by flying transects through the area. Shipboard personnel would also monitor the area as available. All marine mammal sightings would be reported to the Lead Scientist, who would enter all pertinent data into a sighting database.

(3) Go/No-Go Decision Process

The Lead Scientist would record sightings and bearing for all protected species detected. This would depict animal sightings relative to the mission area. The Lead Scientist would have the authority to declare the range fouled and recommend a hold until monitoring indicates that the ZOI is and will remain clear of detectable animals.

The mission would be postponed if any marine mammal or sea turtle is visually detected within the ZOI for Level B behavioral harassment. The delay would continue until the marine mammal or sea turtle is confirmed to be outside the ZOI for Level B behavioral harassment on its own.

In the event of a postponement, pre-mission monitoring would continue as long as weather and daylight hours allow. Aerial monitoring is limited by fuel and the on-station time of the monitoring aircraft.

Post-mission Monitoring

Post-mission monitoring is designed to determine the effectiveness of pre-mission mitigation by reporting any sightings of dead or injured marine mammals or sea turtles. Post-detonation monitoring would commence immediately following each detonation and continue for 15 minutes. The helicopter would resume transects in the area of the detonation, concentrating on the area down current of the test site.

The monitoring team would attempt to document any marine mammals or turtles that were found dead or injured after the detonation, and, if practicable, recover and examine any dead animals. The species, number, location, and behavior of any animals observed by the observation teams would be documented and reported to the Lead Scientist.

Post-mission monitoring activities would also include coordination with marine animal stranding networks. The NMFS maintains stranding networks along coasts to collect and circulate information about marine mammal and sea turtle standings.

In addition, NMFS proposes to require Eglin to monitor the target area for impacts to marine mammals and to report on its activities on an annual basis. Accordingly, NMFS' Biological Opinion on this action has recommended certain monitoring measures to protect marine life. NMFS proposes to require the same requirements under an IHA:

(1) Eglin will develop and implement a marine species observer-training program in coordination with NMFS. This program will primarily provide expertise to Eglin's testing and training community in the identification of protected marine species during surface and aerial mission activities in the GOM. Additionally, personnel involved in the surf zone and amphibious vehicle and weapon testing/training would participate in the proposed species observation training. Observers would receive training in protected species survey and identification techniques through a NMFS-approved training program.

(2) Eglin would track their use of the surf zone and amphibious vehicle and weapon testing/training for test firing missions and protected resources (marine mammal/sea turtle) observations, through the use of an observer training sheet.

(3) A summary annual report of marine mammal/sea turtle observations

and surf zone and amphibious vehicle and weapon testing/training activities would be submitted to the NMFS Southeast Regional Office (SERO) and the Office of Protected Resources by January 31 of each year.

(4) If any marine mammal or sea turtle is observed or detected to be deceased prior to testing, or injured or killed during live fire, a report must be made to the NMFS by the following business day.

(5) Any unauthorized takes of marine mammals (i.e., serious injury or mortality) must be immediately reported to the NMFS representative and to the respective stranding network representative.

ESA

Consultation under section 7 of the ESA on Eglin AFB activities was completed on December 17, 1998. On March 18, 2005, NMFS Southeast Regional Office received a letter from the U.S. Air Force (USAF), Eglin AFB, requesting initiation of formal consultation on all potential environmental impacts to ESA-listed species from all Eglin AFB mission activities on SRI and within the surf zone near SRI. These missions include the surf zone detonation and amphibious vehicle and weapon testing/training. A NMFS Biological Opinion issued on October 12, 2005, concluded that the surf zone and amphibious vehicle and weapon testing/training are unlikely to jeopardize the continued existence of species listed under the ESA that are within the jurisdiction of NMFS or destroy or adversely modify critical habitat. The proposed IHA to Eglin is a federal action; accordingly, prior to issuance of an IHA, NMFS will determine whether additional consultation is necessary.

NEPA

In March, 2005, the USAF prepared the *Santa Rosa Island Mission Utilization Plan Programmatic Environmental Assessment* (SRI Mission PEA). NMFS is reviewing this PEA and will either adopt it or prepare its own NEPA document before making a determination on the issuance of an IHA and rulemaking. A copy of Eglin's PEA for this activity is available upon written request (see **ADDRESSES**).

Preliminary Conclusions

NMFS has preliminarily determined that the surf zone and amphibious vehicle and weapon testing/training that are proposed by Eglin AFB off the coast of SRI, is unlikely to result in the mortality or serious injury of marine mammals (see Tables 2 and 3) and, would result in, at worst, a temporary modification in behavior by marine mammals. While behavioral modifications may be made by these species as a result of these surf zone detonation and amphibious vehicle training activities, any behavioral change is expected to have a negligible impact on the affected species. Also, given the infrequency of these testing/training missions (maximum of once per year for surf zone detonation and maximum of twice per year for amphibious assault training involving live fire), there is no potential for long-term displacement or long-lasting behavioral impacts of marine mammals within the proposed action area. In addition, the potential for temporary hearing impairment is very low and would be mitigated to the lowest level practicable through the incorporation of the mitigation measures mentioned in this document.

Proposed Authorization

NMFS proposes to issue an IHA to Eglin AFB for conducting surf zone and amphibious vehicle and weapon testing/training off the coast of SRI in the northern GOM provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed activity is unlikely to result in serious injury or mortality to marine mammals; would have no more than a negligible impact on the affected marine mammal stocks; and would not have an unmitigable adverse impact on the availability of stocks for subsistence uses.

Information Solicited

NMFS requests interested persons to submit comments and information concerning this proposed IHA and Eglin's application for incidental take regulations (see **ADDRESSES**). NMFS requests interested persons to submit comments, information, and suggestions concerning both the request and the structure and content of future regulations to allow this taking. NMFS will consider this information in developing proposed regulations to authorize the taking.

Dated: June 16, 2006.

James H. Lecky,

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

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CONSUMER PRODUCT SAFETY COMMISSION

Submission for OMB Review; Comment Request—Requirements for Electrically Operated Toys and Children's Articles

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In the **Federal Register** of April 4, 2006 (71 FR 16766), the Consumer Product Safety Commission published a notice in accordance with provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) to announce the agency's intention to seek extension of approval of the collection of information required in the Requirements for Electrically Operated Toys or Other Electrically Operated Articles Intended for Use by Children (16 CFR Part 1505). No comments were received in response to that notice. By publication of this notice, the Commission announces that it has submitted to the Office of Management and Budget (OMB) a request for extension of approval of that collection of information without change for three years from the date of approval by OMB.

The regulations in Part 1505 establish performance and labeling requirements for electrically operated toys and children's articles to reduce unreasonable risks of injury to children from electric shock, electrical burns, and thermal burns associated with those products. Section 1505.4(a)(3) of the regulations requires manufacturers and importers of electrically operated toys and children's articles to maintain records for three years containing information about: (1) Material and production specifications; (2) the quality assurance program used; (3) results of all tests and inspections conducted; and (4) sales and distribution of electrically operated toys and children's articles.

The records of testing and other information required by the regulations allow the Commission to determine if electrically operated toys and children's articles comply with the requirements of the regulations in Part 1505. If the Commission determines that products fail to comply with the regulations, this information also enables the Commission and the firm to: (i) Identify specific lots or production lines of products which fail to comply with applicable requirements; and (ii) notify distributors and retailers in the event those products are subject to recall.