

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****Availability of Seats for the Monterey Bay National Marine Sanctuary Advisory Council**

**AGENCY:** National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

**ACTION:** Notice and request for applications.

**SUMMARY:** The Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary) is seeking applicants for the following seats on its Sanctuary Advisory Council: Business/Industry, Commercial Fishing (alternate) and Recreational Fishing (alternate). Applicants chosen for these seats should expect to serve until February 2010. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the Sanctuary.

**DATES:** Applications are due by July 6, 2007.

**ADDRESSES:** Application kits may be obtained from Nicole Capps at the Monterey Bay National Marine Sanctuary, 299 Foam Street, Monterey, California 93940. Completed applications should be sent to the same address.

**FOR FURTHER INFORMATION CONTACT:** Nicole Capps at (831) 647-4206, or [Nicole.Capps@noaa.gov](mailto:Nicole.Capps@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The MBNMS Advisory Council was established in March 1994 to assure continued public participation in the management of the Sanctuary. Since its establishment, the Advisory Council has played a vital role in decisions affecting the Sanctuary along the central California coast.

The Advisory Council's twenty voting members represent a variety of local user groups, as well as the general public, plus seven local, state and federal governmental jurisdictions. In addition, the respective managers or superintendents for the four California National Marine Sanctuaries (Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary and the

Monterey Bay National Marine Sanctuary) and the Elkhorn Slough National Estuarine Research Reserve sit as non-voting members.

Four working groups support the Advisory Council: The Research Activity Panel ("RAP") chaired by the Research Representative, the Sanctuary Education Panel ("SEP") chaired by the Education Representative, the Conservation Working Group ("CWG") chaired by the Conservation Representative, and the Business and Tourism Activity Panel ("BTAP") chaired by the Business/Industry Representative, each dealing with matters concerning research, education, conservation and human use. The working groups are composed of experts from the appropriate fields of interest and meet monthly, or bi-monthly, serving as invaluable advisors to the Advisory Council and the Sanctuary Superintendent.

The Advisory Council represents the coordination link between the Sanctuary and the state and federal management agencies, user groups, researchers, educators, policy makers, and other various groups that help to focus efforts and attention on the central California coastal and marine ecosystems.

The Advisory Council functions in an advisory capacity to the Sanctuary Superintendent and is instrumental in helping develop policies, program goals, and identify education, outreach, research, long-term monitoring, resource protection, and revenue enhancement priorities. The Advisory Council works in concert with the Sanctuary Superintendent by keeping him or her informed about issues of concern throughout the Sanctuary, offering recommendations on specific issues, and aiding the Superintendent in achieving the goals of the Sanctuary program within the context of California's marine programs and policies.

**Authority:** 16 U.S.C. Sections 1431, *et seq.* (Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: June 4, 2007.

**Daniel J. Basta,**

*Director, National Marine Sanctuary Program, National Ocean Service, National Oceanic and Atmospheric Administration.*

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**BILLING CODE 3510-NK-M**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[I.D. 050107J]

**Incidental Takes of Marine Mammals During Specified Activities; Maintenance Dredging Around Pier 39, San Francisco, California**

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

**ACTION:** Notice; issuance of incidental harassment authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA) and its implementing regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the Bay Marina Management Incorporated (BMMI) to take small numbers of marine mammals, by Level B Harassment only, incidental to dredging on the west side of the Pier 39 Marina on the San Francisco, CA waterfront.

**DATES:** Effective from June 1, 2007, through May 31, 2008.

**ADDRESSES:** A copy of the IHA and the application are available by writing to Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning the contact listed here. A copy of the application containing a list of references used in this document may be obtained by writing to this address, by telephoning the contact listed here (**FOR FURTHER INFORMATION CONTACT**) or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Jolie Harrison, Office of Protected Resources, NMFS, (301) 713-2289, ext 166.

**SUPPLEMENTARY INFORMATION:****Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct 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.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), 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 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."

Section 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. Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) 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 [Level B harassment].

Section 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 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 September 14, 2006, NMFS received a request from BMMI to re-issue an IHA for the take, by harassment, of small numbers of California sea lions (*Zalophus californianus*) and Pacific harbor seals (*Phoca vitulina*) incidental to the maintenance dredging the I, J, and K Docks on the west side of Pier 39 Marina on the San Francisco waterfront, California. NMFS issued an IHA for these activities in October, 2005 (70 FR 69955); however, BMMI was unable to complete the work by the time the 2005 IHA expired on October 16, 2006. Therefore BMMI has asked for a new IHA to cover the completion of the previously analyzed and authorized action.

#### Description of the Activity

BMMI will complete the maintenance dredging begun before the previous IHA expired using a small, self-contained clamshell-style crane barge between docks I, J, and K at the Pier 39 west marina. These maintenance measures are necessary to maintain safe navigation depths at the marina, which currently has reduced water depths attributed to the accretion of bay sediment. The dredging at Pier 39 will remove sediment to create water depths in the project area of 9 ft (-2.7 m) Mean Lower Low Water (MLLW), plus an additional two-foot overdredge allowance. Dredging design area limits (footprints) include the faces, approaches, and entrance channels to each berthing area up to the limit of the adjacent pier. Dredging will occur between June 1 and November 30 to avoid impacts to steelhead trout and chinook salmon.

The dredging operations at the Pier 39 west marina will occur in the summer of 2007. The complete project, none of which was conducted under the previous IHA, is expected to take approximately one to two weeks to complete. No work will be conducted that was not already analyzed in the previous IHA. Dredge machinery will operate from 8 a.m. to 3:30 p.m. daily. Approximately 13,000 yd<sup>3</sup> (9,939 m<sup>3</sup>) of material will be removed. Dredged material will be tested for pollutants and toxins by the Dredge Material Management Office prior to approval to begin dredging, and dredged materials will be deposited in accordance with local, state and Federal regulations. Once removed, the dredged material will be transferred to Piers 96/98, which are owned and operated by the Port of San Francisco, and from there it will be disposed of at an approved upland disposal site.

The proposed dredging of the Pier 39 west berthing area will focus on the channels and slips of I and J docks and half of the channel between J and K docks. The original K dock was destroyed by the combined weight of hundreds of California sea lions that frequently use the area as a haul-out. Pier 39 replaced the damaged dock with a number of ten by twelve-foot floats for the sea lions to use. Since there are no actual berthing sites at K dock, no dredging will be necessary in the area immediately surrounding or under K dock. The crane barge will be situated at the furthest distance possible from K dock during each dredging episode. The closest that the barge will be to the K dock haul-out is when dredging the channel between J and K docks. When

the barge is dredging this channel it will be moored to the bayside of J dock and extend the clamshell dredge arm out into the channel, towards K dock. Since the distance between J and K docks is 100 ft (30 m) and the barge is 30 ft (9 m) wide, it will never be positioned closer than 50 ft (15 m) to K dock at any time during the dredging project.

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

The marine mammal species known to be present at the Pier 39 Marina area are the California sea lion (*Zalophus californianus*) and the Pacific harbor seal (*Phoca vitulina*). Since 1993, a single adult male Steller sea lion (*Eumetopias jubatus*) has been observed hauled out on K dock intermittently during the months of July and August, and occasionally in September (30 sightings in the last 10 years). However, this project will not affect the Steller sea lion because dredging activities will be halted if a Steller sea lion is observed.

Additional information on these species can be found in Marine Mammal Stock Assessment Reports, which are available online at: [http://www.nmfs.noaa.gov/prot\\_res/PR2/Stock\\_Assessment\\_Program/sars.html](http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/sars.html).

#### California Sea Lions

California sea lions range from southern Mexico to southwestern Canada. In the United States, they breed during July after pupping in late May to June, primarily in the Channel Islands of California. Most individuals breed on the Channel Islands off southern California and off Baja and mainland Mexico, although a few pups have been born on Ano Nuevo Island and this year a pup was born on the docks at Monterey and subsequently transferred to Ano Nuevo Island with its mother. Following the breeding season on the Channel Islands, most adult and sub-adult males migrate northward to central and northern California and to the Pacific Northwest, while most females and young animals either remain on or near the breeding grounds throughout the year or move southward or northward, as far as Monterey Bay.

Since nearing extinction in the early 1900's, the California sea lion population has increased and is now growing at a rate of 5.4 to 6.1 percent per year (based on pup counts) with an estimated minimum population of 138,881 animals. Actual population numbers may be as high as 237,000 to 244,000 animals. The population is not listed as "endangered" or "threatened" under the Endangered Species Act (ESA), nor is this species listed as

“depleted” or as a “strategic stock” under the MMPA.

California sea lions first appeared at Pier 39 in September 1989. Numbers of hauled-out sea lions were relatively low the first year and K Dock was only used as a haul out from late summer through the winter. Within a few years, larger numbers of sea lions were observed at K Dock and they began using the haul-out throughout the year. The Marine Mammal Center (MMC) began monitoring California sea lions at Pier 39 in the late 1990's and counts indicate peak usage of K dock at Pier 39 in May and early June, just prior to the breeding season. Although numbers decrease during mid-summer (when most adults relocate to the rookeries for pupping and breeding) some sea lions of all age classes remain in the area and continue to haul out at Pier 39. Within the dredging work window (June 1 to November 30) the largest numbers of California sea lions are found at K Dock in the late summer and fall. The highest number of individuals ever observed at once between June 1 and November 30 at Pier 39 to date was 1244, in August of 2003. If the number of individuals observed at one count is averaged by month, from June to November, since 2000, the averages range from 169 for July to 709 in September. Since monitoring began in 1991, only 10 California sea lion pups have been observed at Pier 39, in 1997 and 1998. These pups, which were all weaned, most likely hauled out at K Dock due to el Niño, and pups are not expected at the project site in “normal” years.

#### *Pacific Harbor Seals*

Although not commonly observed at Pier 39, Pacific harbor seals have been documented as visitors to K dock numerous times in the past decade. Harbor seals range from Baja California in Mexico northward to the Aleutian Islands of Alaska. The population estimate for the California stock is 34,233 individuals (Caretta *et al.*, 2005) and is relatively stable.

Harbor seals inhabit coastal waters within their range and prefer sheltered bays and inlets to the exposed coastline. Daily haul-out behavior of harbor seals is typically dependent on the tides, weather and time of day. Harbor seals exhibit seasonal variation in reproductive timing depending on geography. The pupping season for California populations is in the spring, with populations in the San Francisco Bay typically bearing young from March 15 through May 31 (Green *et al.*, 2001). There are two active pupping sites in the San Francisco Bay, Mowry Slough in the South Bay and Castro Rocks in

the North Bay. Pups have been observed at Yerba Buena Island and Corte Madera Marsh in the San Francisco Bay. No births have been witnessed at these locations, but Yerba Buena is thought to be a potential pupping site. No harbor seal pups have ever been seen at Pier 39.

Annual counts of harbor seals at Pier 39 range from 0 seals observed in 1999 and 2004, to a high of nine observations in 2000 for a total of 28 observations between 1997–2004. No more than two harbor seals have been observed hauled out simultaneously at any given time at K Dock. No harbor seals have been observed hauling out at Pier 39 July through September. No pups have been observed at Pier 39. Observations by MMC volunteers indicate that observed harbor seals at Pier 39 tend to distance themselves from the California sea lions hauling out in the vicinity.

#### **Potential Effects of Activities on Marine Mammals**

The applicant is authorized to take small numbers of California sea lions and Pacific harbor seals, by Level B harassment only, incidental to the dredging activities described previously. Level B harassment may occur if hauled animals flush the haulout and/or move to increase their distance from dredging-related activities, such as noise associated with dredging, presence of a crane barge, the presence of workers, or unfamiliar activity in proximity to the haulout site. This disturbance from acoustic and visual stimuli is the principal means of marine mammal taking associated with these activities.

Sudden brief noises have been shown to elicit startle reactions in some pinnipeds. Novel looming visual stimuli may induce similar startle reactions in pinnipeds. Daily engine starts and movements of the dredge bucket and vessel may induce startled and/or flight behavior in marine mammals using K dock as a haul out. However, this area has become a tourist spot for viewing sea lions, and the current population of animals utilizing K dock is accustomed to human activities and regular noise levels from people, traffic, use of nearby boat slips, and other marine operations. If animals do flush into the water, they may return to the haul-out site immediately, stay in the water for a length of time and then return to the haul-out, or temporarily haul-out at another site. Many factors contribute to the degree of behavioral modification, if any, including seasonality, group composition of the pinnipeds, type of activity they are engaged in and what noises they may be accustomed to experiencing. Short-term reactions such as startle or alert reactions are unlikely

to disrupt behavior patterns such as migrating, breeding, feeding and sheltering, nor would they be likely to result in serious injury to marine mammals.

The small, self-contained, clamshell dredge used for this activity may produce noise of a sufficient level to behaviorally harass marine mammals at K dock. Measured sound exposure levels (SELs) of similar equipment ranged between 75–88 dBA (re 20 microPa) measured at 50 feet (the closest distance that the dredge unit will be to K dock) (Boeing, 2005). Results of an ongoing study at Vandenberg Air Force Base of the effects of rocket launches on pinnipeds indicate that the percentage of Pacific harbor seals leaving the haul-out increases with noise level up to an SEL of approximately 100 dBA, after which almost all seals leave, although recent data have shown that an increasing percentage of seals have remained on shore during the noise, and those that remain are adults. Though harbor seals are more sensitive to audio stimuli than sea lions, these results indicate that animals are flushed at an SEL less than 100 dBA, and it is possible that marine mammals at K Dock may modify their behavior as a result of the lesser dredge noise.

If startle reactions were accompanied by large-scale movements of marine mammals, such as stampedes into the water, the disruption could escalate into Level A harassment and could result in injury of individuals, especially if pups were present. However, due to the uniqueness of this particular haul-out area, the unlikely presence of pups, and the required shut-down procedures should pups be sighted, NMFS believes there is a very low likelihood of such injury occurring at the Pier 39 site. Specifically, the haul-out consists of many separate floating platforms that can hold up to about 25 marine mammals each. If disrupted to the point of flushing off the platforms, pinnipeds can quickly leap or roll into the water in any direction off the relatively small platforms, avoiding a dangerous stampede-like situation that may occur at normal haul-out locations such as exposed rocks. Additionally, marine mammal pups use this haul-out very infrequently (approximately 10 pups have been sighted at K Dock, in 1997 and 1998, during el Niño), further reducing potential harm to the species.

Over the last 13 years, BMMI has observed that sea lions either ignore various unfamiliar intrusions and remain hauled out, or adapt to them and eventually become habituated and return to their normal behavior.

Disturbance from these dredging activities is expected to have a only a short-term negligible impact to a small number of California sea lions relative to their population size and a few Pacific harbor seals. At a maximum, short-term impacts are expected to result in a temporary reduction in utilization of K dock as a haulout site while work is in progress or until seals habituate to the disturbance. The project is not expected to result in any permanent reduction in the number of animals at Pier 39. NMFS agrees with BMMI that effects will be limited to short-term and localized behavioral changes falling within the MMPA definition of Level B harassment.

#### Comments and Responses

On October 17, 2006, NMFS published in the **Federal Register** a notice of a proposed IHA for BMMI's request to take marine mammals incidental to maintenance dredging at Pier 39, and requested comments regarding this request (71 FR 61207). During the 30-day public comment period, NMFS received one comment from the Marine Mammal Commission (Commission), which recommended that NMFS issue the authorization as proposed.

#### Mitigation

To minimize disturbance of marine mammals from visual and acoustic stimuli associated with the dredging activities, BMMI will use a small (relative to the range of sizes of equipment that could accomplish the task) clamshell dredge that can easily target the specific areas to be dredged. The smaller equipment will also minimize the amount of turbidity resulting from the dredging activities. The dredge material will be immediately loaded onto a barge and transported to a nearby terrestrial disposal site at Piers 96 and 98, which will allow for a shorter project duration.

When not in use, the clamshell dredge and dredge barge will be parked as far as feasible from the K Dock. After starting engines in morning, the clamshell dredge will be moved as slowly as possible to the area to be dredged and the dredge head lowered slowly and carefully into the water.

As mentioned previously, if a Steller sea lion of any age or a marine mammal pup of any species is spotted at any time during dredging operations, operations will cease until the animal has left the area.

#### Monitoring

The K dock haulout will be monitored periodically during dredging activities

by two NMFS-approved observers according to the following schedule:

(1) During the week prior to the commencement of dredging activities, morning counts will be taken every morning at the same time. One afternoon count will be taken at approximately the same time the dredging is scheduled to stop in the following days.

(2) During the dredging operations:

- One count will be taken every morning before dredging work begins and every afternoon once operations cease.

- On the first day of dredging and on one other day near the end of dredging operations, monitors will be present all day (starting one hour before operations begin and remaining until 2 hours after operations cease) and they will document specific behaviors as they relate to specific aspects of the dredging operations and other activities. An additional count will be conducted 2 hours after dredging operations cease. Rates of departure and arrival of animals from/to the haulout will be noted.

(3) Following completion of the dredging:

- Morning counts (taken at approximately same time as those taken previously (See (1)) will be made every day for a week.

- An afternoon count will be conducted the day after dredging ceases and on the last day of the post-dredging monitoring.

(4) During all monitoring periods the following data will be recorded: date, time, observer, tidal height, species present, maximum number of animals hauled out, number of adults and sub-adults, number of males and females (if possible), any observed behavioral disturbances to the animals, and the number of animals disturbed (for example, if animals flushed, reports should include the number of animals that returned to the water, and those that remained hauled out). During periods of dredging a description of dredging activities will also occur (including location of dredge, i.e., between J and K Docks, or between I and J Docks).

#### Reporting

A draft report will be submitted to the NMFS Southwest Assistant Regional Administrator for Protected Resources and to the NMFS Division of Permits, Conservation, and Education, Office of Protected Resources, within 90 days after project completion. A final report will be submitted within 30 days of receiving NMFS' comments, if any, on the draft report. The Report will contain, analyze, and summarize the

information required under Monitoring, above. BMMI will share data collected as a result of these monitoring activities with other interested parties, such as the Marine Mammal Center and other boat marinas.

#### Numbers of Marine Mammals Expected to be Harassed

The effects of the authorized dredging activities are expected to be limited to short-term startle responses and localized behavioral changes. NMFS anticipates that small numbers of California sea lions and Pacific harbor seals will effected.

The highest number of California sea lions ever counted at one time on the K Dock between June 1 and November 30 was 1244 individuals in August 2003. The average number of individuals counted at one time within the work window since 2000 is lowest in July (169) and highest in September (709). Based on an average of 169 to 709 animals over the maximum of 14 days, NMFS estimates that California sea lions could be exposed to audio or visual stimulus likely to cause harassment between 2360 and 9930 times. However, based on review of the Pier 39 observer logs maintained over the last 14 years, which indicate that sea lions may remain in the area and haul out for several days in a row at the K dock, NMFS estimates that between 1180 to 4965 individual California sea lions (approximately 0.5 to 2 percent of the population) will be harassed. These are small numbers relative to the size of the affected species or stock.

The highest total number of harbor seals ever seen in one month between June 1 and November 30 was 3 in November of 1997. NMFS anticipates that no more than 3 Pacific harbor seals will be harassed by this activity (less than 0.01 percent of the population). These are small numbers relative to the size of the affected species or stocks.

#### Potential Effects of the Authorized Activities on Marine Mammal Habitat

NMFS anticipates that the proposed action will result in minor and short-term effects on marine mammal habitat, including a temporary increase in the turbidity in the area of the dredging and a temporary decrease in the quality of K dock as a haul-out site as a result of increased visual and audio stimuli.

#### Potential Effects of Proposed Activities on Subsistence Needs

There are no subsistence uses for California sea lions or Pacific harbor seals in California waters, and thus, there are no anticipated effects on their availability for subsistence uses.

**Endangered Species Act (ESA)**

The only ESA-listed species that could potentially be affected by this activity (if not for the required mitigation) are steelhead trout, Chinook salmon, and Steller sea lions.

Though a single Steller sea lion has infrequently been sighted at the K Dock, BMMI plans to cease dredging operations immediately if one is seen, and not begin dredging again until the animal has left the area of its own volition. NMFS does not anticipate any impacts to Steller sea lions to result from the issuance of the IHA. In the 1998 programmatic Biological Opinion addressing dredging in San Francisco Bay, NMFS established a June 1 to November 30 work window for dredging activities in the San Francisco Bay to avoid impacts to steelhead trout and Chinook salmon. BMMI proposes to dredge between June 1 and November 30, and therefore NMFS does not anticipate any impacts to ESA-listed species.

**National Environmental Policy Act (NEPA)**

NMFS prepared an Environmental Assessment (EA) on the Issuance of an IHA for the Dredging at Pier 39 and issued a Finding of No Significant Impact on October 13, 2005. A copy of the EA and FONSI are available upon request (see **ADDRESSES**).

**Conclusions**

Based on the preceding information, NMFS has determined that the completion of the dredging activities described in this document and authorized in the 2007 IHA may result in short-term and localized changes in behavior by small numbers of California sea lions and Pacific harbor seals. In addition, no take by injury or death is anticipated, and take by harassment will be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document. While behavioral modifications may be made by the pinnipeds, including temporarily vacating the K Dock haulout, NMFS has determined that these takings will have a negligible impact on California sea lions and Pacific harbor seals.

**Authorization**

NMFS has issued an IHA to BMMI for the take, by Level B harassment only, of small numbers of California sea lions and Pacific harbor seals incidental to the completion of the previously authorized maintenance dredging around I, J, and K Docks at Pier 39 in San Francisco, provided the previously

mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: May 30, 2007.

**James H. Lecky,**

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

[FR Doc. E7-11313 Filed 6-11-07; 8:45 am]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****Publication of North American Datum of 1983 State Plane Coordinates in Feet in Minnesota**

**AGENCY:** National Geodetic Survey (NGS), National Oceanic Service (NOS), National Oceanic and Atmospheric Administration.

**ACTION:** Notice.

**SUMMARY:** The National Geodetic Survey (NGS) will publish North American Datum of 1983 (NAD 83) State Plane Coordinate (SPC) grid values in both meters and U.S. Survey Feet (1 ft = 1200/3937 m) in Minnesota, for all well defined geodetic survey control monuments maintained by NGS in the National Spatial References System (NSRS) and computed from various geodetic positioning utilities. The adoption of this standard is implemented in accordance with NGS policy and a request from the Minnesota Department of Transportation, the Minnesota Society of Professional Surveyors, the Minnesota GIS/LIS Consortium, the Minnesota Association of County Surveyors and the Minnesota Governor's Council on Geographic Information.

**DATES:** Individuals or organizations wishing to submit comments on the Publication of North American Datum of 1983 State Plane Coordinates in feet in Minnesota, should do so by July 12, 2007.

**ADDRESSES:** Written comments should be sent to the attention of David Doyle, Chief Geodetic Surveyor, Office of the National Geodetic Survey, National Oceanic Service (N/NGS2), 1315 East-West Highway, Silver Spring, Maryland, 20910, fax 301-713-4324, or via e-mail [Dave.Doyle@noaa.gov](mailto:Dave.Doyle@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to David Doyle, Chief Geodetic Surveyor, National Geodetic Survey (N/NGS2), 1315 East-West Highway, Silver Spring, MD 20910; Phone: (301) 713-3178.

**SUPPLEMENTARY INFORMATION:**

**Abstract**

In 1991, NGS adopted a policy that defines the conditions under which NAD 83 State Plane Coordinates (SPCs) would be published in feet in addition to meters. As outlined in that policy, each state or territory must adopt NAD 83 legislation (typically referenced as Codes, Laws or Statutes), which specifically defines a conversion to either U.S. Survey or International Feet as defined by the U.S. Bureau of Standards in Federal Register Notice 59-5442. To date, 48 states have adopted the NAD 83 legislation however, for various reasons, only 33 included a specific definition of the relationship between meters and feet. This lack of uniformity has led to confusion and misuse of SPCs as provided in various NGS products, services and tools, and created errors in mapping, charting and surveying programs in numerous states due to inconsistent coordinate conversions.

Dated: May 30, 2007.

**David B. Zilkoski,**

*Director, Office of National Geodetic Survey,  
National Ocean Service.*

[FR Doc. 07-2887 Filed 6-11-07; 8:45 am]

**BILLING CODE 3510-JE-M**

**DEPARTMENT OF EDUCATION****Submission for OMB Review; Comment Request**

**AGENCY:** Department of Education.

**SUMMARY:** The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before July 12, 2007.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to [oira\\_submission@omb.eop.gov](mailto:oira_submission@omb.eop.gov) or via fax to (202) 395-6974. Commenters should include the following subject line in their response "Comment: [insert OMB number], [insert abbreviated collection name, e.g., "Upward Bound Evaluation"]". Persons submitting comments electronically should not submit paper copies.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of