

Prodotti Biologici, or by Associazione Italiana per l'Agricoltura Biologica.

In addition, based on publicly available information, the Department has determined that, as of March 13, 2003, imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by Istituto per la Certificazione Etica e Ambientale ("ICEA") are also excluded from this order. See Memorandum from Audrey Twyman to Susan Kuhbach, dated February 28, 2006, entitled "Recognition of Istituto per la Certificazione Etica e Ambientale ("ICEA") as a Public Authority for Certifying Organic Pasta from Italy" which is on file in the Department's CRU.

The merchandise subject to this order is currently classifiable under item 1902.19.20 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

#### Partial Rescission of Review

If a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review, the Secretary will rescind the review, in whole or in part, pursuant to 19 CFR 351.213(d)(1). In this case, respondents Indalco and Corticella/Combattenti withdrew their respective requests for review within 90 days from the date of initiation. No other interested party requested a review of Indalco or Corticella/Combattenti and we have received no comments regarding their withdrawal. Therefore, consistent with 19 CFR 351.213(d)(1), we are rescinding this review of the antidumping duty order on certain pasta from Italy in part with respect to Indalco and Corticella/Combattenti.

The Department intends to issue assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the publication of this notice. The Department will direct CBP to assess antidumping duties at the cash deposit rate in effect on the date of entry for entries during the period July 1, 2005, through June 30, 2006.

This notice is in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended and 19 CFR 251.213(d)(4).

Dated: July 3, 2007.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

**RIN 0648-XB13**

#### Small Takes of Marine Mammals Incidental to Specified Activities; Naval Explosive Ordnance Disposal School Training Operations at Eglin Air Force Base, Florida

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

**ACTION:** Notice; receipt of application and proposed authorization for incidental harassment of marine mammals; request for comments and information.

**SUMMARY:** NMFS has received a request from Eglin Air Force Base (EAFB) for the take of marine mammals, by Level B harassment, incidental to Naval Explosive Ordnance Disposal School (NEODS) Training Operations at EAFB, Florida. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to the Air Force to take, by Level B harassment, two species of cetaceans at EAFB beginning in October 2007. NMFS is also requesting comments on its intent to promulgate regulations in 2007 governing the take of marine mammals over a 5-year period incidental to the activities described herein. NMFS issued an IHA for these activities in 2005 and 2006. No activities have occurred to date.

**DATES:** Comments and information must be received no later than August 13, 2007.

**ADDRESSES:** Comments on the application should be addressed 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. The mailbox address for providing email comments is *PR1.0648-XB13@noaa.gov*. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet 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:** Jaclyn Daly, Office of Protected Resources, NMFS, (301) 713-2289, ext. 144.

#### 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) if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may 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 certain subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking 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 of marine mammals by harassment. With respect to military readiness activities, the MMPA defines "harassment" as:

(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].

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 June 7, 2007, NMFS received an application from EAFB requesting re-authorization for the harassment of Atlantic bottlenose dolphins (*Tursiops truncatus*) and Atlantic spotted dolphins (*Stenella frontalis*) incidental to NEODS training operations at EAFB, Florida, in the northern Gulf of Mexico (GOM). Each of up to six missions per year would include up to 5 live detonations of approximately 5-lb (2.27-kg) net explosive weight charges to occur in approximately 60-ft (18.3-m) deep water from one to three nm (1.9 to 5.6 km) off shore. Because this activity will be a multi-year activity, NMFS also plans to develop proposed regulations for NEODS training operations at EAFB.

### Specified Activities

The mission of NEODS is to train personnel to detect, recover, identify, evaluate, render safe, and dispose of unexploded ordnance (UXO) that constitutes a threat to people, material, installations, ships, aircraft, and operations. The NEODS proposes to utilize three areas within the Eglin Gulf Test and Training Range (EGTTR), consisting of approximately 86,000 mi<sup>2</sup> (222,739 km<sup>2</sup>) within the GOM and the airspace above, for Mine Countermeasures (MCM) detonations, which involve mine-hunting and mine-clearance operations. The detonation of small, live explosive charges disables the function of the mines, which are inert for training purposes. The proposed training would occur approximately one to three nautical miles (nm) (1.9 to 5.6 km) offshore of Santa Rosa Island (SRI) six times annually, at varying times within the year.

Each of the six training classes would include one or two "Live Demolition Days." During each set of Live Demolition Days, five inert mines would be placed in a compact area on the sea floor in approximately 60 ft (18.3 m) of water. Divers would locate the mines by hand-held sonars. The AN/PQS-2A acoustic locator has a sound pressure level (SPL) of 178.5 re 1  $\mu$ Pascal @ 1 meter and the Dukane Underwater Acoustic Locator has a SPL of 157-160.5

re 1  $\mu$ Pascal @ 1 meter. Because output from these sound sources would attenuate to below any current threshold for protected species within approximately 10-15 m, noise impacts are not anticipated and are not addressed further in this analysis.

Five charges packed with five lbs (2.3 kg) of C-4 explosive material will be set up adjacent to each of the mines. No more than five charges will be detonated over the 2-day period. Detonation times will begin no earlier than 2 hours after sunrise and end no later than 2 hours before dusk and charges utilized within the same hour period will have a maximum separation time of 20 minutes. Mine shapes and debris will be recovered and removed from the water when training is completed. A more detailed description of the work proposed is contained in the application which is available upon request (see **ADDRESSES**).

### Military Readiness Activity

NEODS supports the Naval Fleet by providing training to personnel from all four armed services, civil officials, and military students from over 70 countries. The NEODS facility supports the Department of Defense Joint Service Explosive Ordnance Disposal training mission. The Navy and the Marine Corps believe that the ability of Sailors and Marines to detect, characterize, and neutralize mines from their operating areas at sea, on the shore, and inland, is vital to their doctrines.

The Navy believes that an array of transnational, rogue, and subnational adversaries now pose the most immediate threat to American interests. Because of their relative low cost and ease of use, mines will be among the adversaries' weapons of choice in shallow-water situations, and they will be deployed in an asymmetrical and asynchronous manner. The Navy needs organic means to clear mines and obstacles rapidly in three challenging environments: shallow water; the surf zone; and the beach zone. The Navy also needs a capability for rapid clandestine surveillance and reconnaissance of minefields and obstacles in these environments. The NEODS mission in the GOM offshore of EAFB is considered a military readiness activity pursuant to the National Defense Authorization Act (NDAA)(Public Law 108-136).

### Marine Mammals and Habitat Affected by the Activity

Marine mammal species that potentially occur within the EGTTR include several species of cetaceans and the West Indian manatee. While a few manatees may migrate from southern

Florida to Louisiana in the summer, they primarily inhabit coastal and inshore waters and rarely venture offshore. Dwarf and pygmy sperm whales, while present in the Gulf of Mexico, are pelagic species and not usually found close to shore. NEODS missions are conducted one to three nm (5.6 km) from shore and effects on manatees, dwarf, and pygmy sperm whales are therefore considered very unlikely and not discussed further in this analysis.

Cetacean abundance estimates for the project area are derived from GulfCet II aerial surveys conducted from 1996 to 1998 over a 70,470 km<sup>2</sup> area, including nearly the entire continental shelf region of the EGTTR, which extends approximately 9 nm (16.7 km) from shore. The dwarf and pygmy sperm whales are not included in this analysis because their potential for being found near the project site is remote. Although Atlantic spotted dolphins do not normally inhabit nearshore waters, they are included in the analysis to ensure conservative mitigation measures are applied. The two marine mammal species expected to be affected by these activities are the bottlenose dolphin (*Tursiops truncatus*) and the Atlantic spotted dolphin (*Stenella frontalis*). Descriptions of the biology and local distribution of these species can be found in the application (see **ADDRESSES** for availability); other sources such as Wursig *et al.* (2000), and the NMFS Stock Assessments, can be viewed at: [http://www.NMFS.noaa.gov/pr/PR2/Stock\\_Assessment\\_Program/sars.html](http://www.NMFS.noaa.gov/pr/PR2/Stock_Assessment_Program/sars.html).

### Atlantic Bottlenose Dolphins

Atlantic bottlenose dolphins are distributed worldwide in tropical and temperate waters and occur in the slope, shelf, and inshore waters of the GOM. Based on a combination of geography and ecological and genetic research, Atlantic bottlenose dolphins have been divided into many separate stocks within the GOM. The exact structure of these stocks is complex and continues to be revised as research is completed. According to the 2005 NOAA stock assessment report, bottlenose dolphins inhabiting water less than 20 m (66 ft) deep are divided into 36 separate inshore or coastal stocks while animals in water 20-200 m (66 to 656 ft) deep constitute 3 continental shelf stocks. However, coastal and continental shelf stocks may overlap. The proposed action would occur on the ocean floor at a depth of approximately 60 ft (18 m) and, therefore, has the potential to affect both the continental shelf and coastal stocks. Activities are not expected to

affect the oceanic stock of bottlenose dolphins in the GOM.

Continental shelf stock assessments were estimated using data from vessel surveys conducted between 1998 and 2001 (at 20- to 200-m (66- to 656-ft) depths). The minimum population estimate for the northern GOM continental shelf stock of the Atlantic bottlenose dolphin is 20,414 (Waring *et al.*, 2005).

Distinct inshore stocks are provisionally identified in each of 33 areas of contiguous, enclosed or semi-enclosed bodies of water adjacent to the Gulf of Mexico (GOM) based on descriptions of relatively discrete dolphin "communities" in some of these areas (Waring *et al.*, 2005). 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 (dolphins from different communities do interbreed)." The most recent inshore stock assessment surveys were conducted aerially in 1993. Two bodies of water north of the project area are thought to support distinct communities, the Pensacola Bay and the Choctawhatchee Bay. Population size estimates for most of the inshore stocks are greater than 8 years old and therefore the current population size for each stock is considered unknown. Previous abundance in Pensacola Bay and Choctawhatchee Bay was estimated as 33 and 242 animals, respectively.

Texas A&M University and NMFS conducted GulfCet II aerial surveys in an area including the EGTTR from 1996 to 1998. Density estimates were calculated using abundance data collected from the continental shelf area of the EGTTR. In an effort to provide better species conservation and protection, estimates were adjusted to incorporate temporal and spatial variations, surface and submerged variations, and overall density confidence. The adjusted density estimate for Atlantic bottlenose dolphins within the project area is 0.810 individuals/km<sup>2</sup>. A small number of dolphins could not be identified specifically as Atlantic bottlenose or Atlantic spotted and their estimated density was 0.053 individuals/km<sup>2</sup>.

#### *Atlantic Spotted Dolphins*

Atlantic spotted dolphins are endemic to the tropical and warm temperate waters of the Atlantic Ocean and can be found from the latitude of Cape May, New Jersey south along mainland shores to Venezuela, including the GOM and Lesser Antilles. In the GOM, Atlantic

spotted dolphins occur primarily in continental shelf waters 10 to 200 m (33 to 656 ft) deep out to continental slope waters less than 500 m (1640.4 ft) deep. One recent study presents strong genetic support for differentiation between GOM and western North Atlantic management stocks, but the Gulf of Mexico stock has not yet been further subdivided.

Abundance was estimated in the most recent assessment of the northern GOM stock of the Atlantic spotted dolphin using combined data from continental shelf surveys (20 to 200 m (66 to 656 ft) deep) and oceanic surveys (200 m (656 ft)) to offshore extent of U.S. Exclusive Economic Zone) conducted from 1996 to 2001. The minimum population estimate for the northern GOM is 24,752 Atlantic spotted dolphins (Waring *et al.*, 2005).

Density estimates for the Atlantic spotted dolphin within the EGTTR were calculated using abundance data collected during the GulfCet II aerial surveys. In an effort to provide better species conservation and protection, estimates were adjusted to incorporate temporal and spatial variations, surface and submerged variations, and overall density confidence. The adjusted density estimate for Atlantic spotted dolphins within the project area is 0.677 individuals/km<sup>2</sup>. A small number of dolphins could not be identified specifically as Atlantic bottlenose or Atlantic spotted and their estimated density was 0.053 individuals/km<sup>2</sup>.

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

The primary potential impact to the Atlantic bottlenose and the Atlantic spotted dolphins occurring in the EGTTR from the proposed detonations is Level B harassment from noise. In the absence of any mitigation or monitoring measures, there is a very small chance that a marine mammal could be injured or killed when exposed to the energy generated from an explosive force on the sea floor. However, NMFS believes the proposed mitigation measures will preclude this possibility in the case of this particular activity. Analysis of NEODS noise impacts to cetaceans was based on criteria and thresholds initially presented in U.S. Navy Environmental Impact Statements for ship shock trials of the SEAWOLF submarine and the WINSTON CHURCHILL vessel and subsequently adopted by NMFS.

Non-lethal injurious impacts (Level A Harassment) are defined in EAFB's application and this proposed IHA as tympanic membrane (TM) rupture and the onset of slight lung injury. The threshold for Level A Harassment

corresponds to a 50 percent rate of TM rupture, which can be stated in terms of an energy flux density (EFD) value of 205 dB re 1  $\mu\text{Pa}^2$  s. TM rupture is well-correlated with permanent hearing impairment (Ketten (1998) indicates a 30 percent incidence of permanent threshold shift (PTS) at the same threshold). The zone of influence (ZOI) (farthest distance from the source at which an animal is exposed to the EFD level referred to) for the Level A Harassment threshold is 52 m (172 ft).

Level B (non-injurious) Harassment includes temporary (auditory) threshold shift (TTS), a slight, recoverable loss of hearing sensitivity. One criterion used for TTS is 182 dB re 1  $\mu\text{Pa}^2$  s maximum EFD level in any 1/3-octave band above 100 Hz for toothed whales (e.g., dolphins). The ZOI for this threshold is 230 m (754 ft). A second criterion, 23 psi, has recently been established by NMFS to provide a more conservative range for TTS when the explosive or animal approaches the sea surface, in which case explosive energy is reduced, but the peak pressure is not. The ZOI for 23 psi is 222 m (728 ft) (NMFS will apply the more conservative of these two).

Level B Harassment also includes behavioral modifications resulting from repeated noise exposures (below TTS) to the same animals (usually resident) over a relatively short period of time. Threshold criteria for this particular type of harassment are currently still being considered. One recommendation is a level of 6 dB below TTS (see 69 FR 21816, April 22, 2004), which would be 176 dB re 1  $\mu\text{Pa}^2$ s. Due, however, to the infrequency of the detonations, the potential variability in target locations, and the continuous movement of marine mammals off the northern Gulf, NMFS believes that behavioral modification from repeated exposures to the same animal is highly unlikely.

#### **Numbers of Marine Mammals Estimated to be Harassed**

Estimates of the potential number of Atlantic bottlenose dolphins and Atlantic spotted dolphins to be harassed by the training were calculated using the number of distinct firing or test events (maximum 30 per year), the ZOI for noise exposure, and the density of animals that potentially occur in the ZOI. The take estimates provided here do not include mitigation measures, which are expected to further minimize impacts to protected species and make injury or death highly unlikely.

The estimated number of Atlantic bottlenose dolphins and Atlantic spotted dolphins potentially taken through exposure to the Level A

Harassment threshold (205 dB re 1  $\mu\text{Pa}^2\text{s}$ ), are less than one (0.21 and 0.18, respectively) annually.

For Level B Harassment, two separate criteria were established, one expressed in dB re 1  $\mu\text{Pa}^2\text{s}$  maximum EFD level in any 1/3-octave band above 100 Hz, and one expressed in psi. The estimated numbers of Atlantic bottlenose dolphins and Atlantic spotted dolphins potentially taken through exposure to 182 dB are 3.96 and 3.30 individuals, respectively. The estimated numbers potentially taken through exposure to 23 psi are also 4 and 3 individuals, respectively.

#### **Possible Effects of Activities on Marine Mammal Habitat**

The Air Force anticipates no loss or modification to the habitat used by Atlantic bottlenose dolphins or Atlantic spotted dolphins in the EGTTR. The primary source of marine mammal habitat impact resulting from the NEODS missions is noise, which is intermittent (maximum 30 times per year) and of limited duration. The effects of debris (which will be recovered following test activities), ordnance, fuel, and chemical residues were analyzed in the NEODS Biological Assessment and the Air Force concluded that marine mammal habitat would not be affected.

#### **Proposed Mitigation and Monitoring**

Mitigation will consist primarily of surveying and taking action to avoid detonating charges when protected species are within the ZOI. A trained, NMFS-approved observer will be staged from the highest point possible on a support ship and have proper lines of communication to the Officer in Tactical Command. The survey area will be 460 m (1509 ft) in every direction from the target, which is twice the radius of the ZOI for Level B Harassment (230 m (755 ft)). To ensure visibility of marine mammals to observers, NEODS missions will be delayed if whitecaps cover more than 50 percent of the surface or if the waves are greater than 0.91 m (3 feet) (Beaufort Sea State 4).

Pre-mission monitoring will be used to evaluate the test site for environmental suitability of the mission. Visual surveys will be conducted two hours and one hour continuing to 5 minutes prior to the mission to verify that the ZOI (230 m (755 ft)) is free of visually detectable marine mammals and large schools of fish, and that the weather is adequate to support visual surveys. The observer will plot and record sightings, bearing, and time for all marine mammals

detected, which would allow the observer to determine if the animal is likely to enter the test area during detonation. If a marine mammal appears likely to enter the test area during detonation, if large schools of fish are present, or if the weather is inadequate to support monitoring, the observer will declare the range fouled and the tactical officer will implement a hold until monitoring indicates that the test area is and will remain clear of detectable marine mammals.

Monitoring of the test area will continue throughout the mission until the last detonation is complete. The mission would be postponed if:

(1) Any marine mammal is visually detected within the ZOI (230 m (755 ft)). The delay would continue until the animal that caused the postponement is confirmed to be outside the ZOI (visually observed swimming out of the range).

(2) Any marine mammal is detected in the ZOI and subsequently is not seen again. The mission would not continue until the last verified location is outside of the ZOI and the animal is moving away from the mission area.

(3) Large schools of fish are observed in the water within of the ZOI. The delay would continue until large schools are confirmed to be outside the ZOI.

In the event of a postponement, pre-mission monitoring would continue as long as weather and daylight hours allow. If a charge failed to explode, mitigation measures would continue while operations personnel attempted to recognize and solve the problem (detonate the charge).

Post-mission monitoring is designed to determine the effectiveness of pre-mission mitigation by reporting any sightings of dead or injured marine mammals. Post-detonation monitoring, concentrating on the area down current of the test site, would commence immediately following each detonation and continue for at least two hours after the last detonation. The monitoring team would document and report to the appropriate marine animal stranding network any marine mammals killed or injured during the test and, if practicable, recover and examine any dead animals. The species, number, location, and behavior of any animals observed by the teams would be documented and reported to the Officer in Tactical Command.

#### **Reporting**

The Air Force will notify NMFS 2 weeks prior to initiation of each training session. Any takes of marine mammals other than those authorized by the IHA,

as well as any injuries or deaths of marine mammals, will be reported to the Southeast Regional Administrator, NMFS, within 24 hours. A summary of mission observations and test results, including dates and times of detonations as well as pre- and post-mission monitoring observations, will be submitted to the Southeast Regional Office (NMFS) and to the Division of Permits, Conservation, and Education, Office of Protected Resources (NMFS) within 90 days after the completion of the last training session.

#### **Endangered Species Act**

In a Biological Opinion issued on October 25, 2004, NMFS concluded that the NEODS training missions and their associated actions are not likely to jeopardize the continued existence of threatened or endangered species under the jurisdiction of NMFS or destroy or adversely modify critical habitat that has been designated for those species. NMFS has issued an incidental take statement (ITS) for sea turtles pursuant to section 7 of the Endangered Species Act. The ITS contains reasonable and prudent measures with implementing terms and conditions to minimize the effects of this take. This proposed IHA action is within the scope of the previously analyzed action and does not change the action in a manner that was not considered previously.

#### **National Environmental Policy Act**

In 2005, NMFS prepared an Environmental Assessment (EA) on the Issuance of Authorizations to Take Marine Mammals, by Harassment, Incidental to Naval Explosive Ordnance Disposal School Training Operations at Eglin Air Force Base, Florida, and subsequently issued a Finding of No Significant Impact (FONSI). This proposed IHA action is within the scope of the previously analyzed action and does not change the action in a manner that was not considered previously. Therefore, preparation of an EIS on this action is not required by section 102(2) of the NEPA or its implementing regulations.

#### **Preliminary Conclusions**

NMFS proposes to issue an IHA to the USAF for the NEODS training missions to take place at EAFB over a 1-year period. The proposal to issue this IHA is contingent upon adherence to the previously mentioned mitigation, monitoring, and reporting requirements. NMFS has preliminarily determined that the impact of the NEODS training, which entails up to six missions per year, including up to five live detonations per mission of

approximately 5-lb (2.27 kg) net explosive weight charges to occur in approximately 60-foot (18 m) deep water from one to three nm off shore, will result in the Level B harassment of a few Atlantic bottlenose dolphins and Atlantic spotted dolphins and; therefore, would have a negligible impact on these marine mammal species and stocks. Dwarf and pygmy sperm whales and manatees are unlikely to be found in the area and, therefore, will not be affected. While behavioral modifications may be made by Atlantic bottlenose dolphins and Atlantic spotted dolphins to avoid the resultant acoustic stimuli, there is virtually no possibility of injury or mortality when the potential density of dolphins in the area and extent of mitigation and monitoring are taken into consideration. The effects of the NEODS training are expected to be limited to short-term and localized TTS-related behavioral changes.

Due to the infrequency and localized nature of these activities, the estimated number of marine mammals, relative to the population size, potentially taken by harassment is small (less than 0.0002 percent for each species, and perhaps 1–2 percent of an inshore stock of bottlenose dolphin if one of them were harassed). In addition, no take by injury and/or death is anticipated. No rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near the NEODS test sites.

#### Information Solicited

NMFS requests interested persons to submit comments and information concerning this request (see **ADDRESSES**). Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: July 6, 2007.

**James H. Lecky,**

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

[FR Doc. E7–13424 Filed 7–11–07; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XB14**

#### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Construction and Operation of Offshore Oil and Gas Facilities in the Beaufort Sea, Alaska

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

**ACTION:** Notice of issuance of a letter of authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notice is hereby given that NMFS has issued a letter of authorization (LOA) to BP Exploration (Alaska), Inc. (BP) to take marine mammals incidental to the production of offshore oil and gas at the Northstar development in the Beaufort Sea off Alaska.

**DATES:** This Authorization is effective from July 7, 2007, through July 6, 2008.

**ADDRESSES:** The LOA and supporting documentation may be obtained by writing to P. Michael Payne, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, or by telephoning one of the contacts listed here.

**FOR FURTHER INFORMATION CONTACT:** Candace Nachman or Kenneth R. Hollingshead (301) 713–2289, or Bradley Smith (907) 271–3023.

**SUPPLEMENTARY INFORMATION:** Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on request, the incidental, but not intentional, taking of small numbers 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 by NMFS and regulations are issued. Under the MMPA, the term “take” means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill marine mammals.

Authorization, in the form of annual LOAs, may be granted for periods up to 5 years if NMFS finds, after notice and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) of marine mammals for subsistence uses. In addition, NMFS must prescribe

regulations setting forth the permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses. The regulations also must include requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking of marine mammals incidental to construction and operation of the offshore oil and gas facility at Northstar were made effective on April 6, 2006 (71 FR 11314, March 7, 2006), and remain in effect until April 6, 2011. These regulations include mitigation, monitoring, and reporting requirements. The six species of marine mammals that BP may take in small numbers during construction and operation of the Northstar facility are bowhead whales (*Balaena mysticetus*), gray whales (*Eschrichtius robustus*), beluga whales (*Delphinapterus leucas*), ringed seals (*Phoca hispida*), spotted seals (*Phoca largha*), and bearded seals (*Erignathus barbatus*).

Impacts on marine mammals may occur through noise from barge, helicopter traffic, drilling, and other noise sources on the island facility. Impacts may also result if there is an oil spill resulting from production. While noise impacts on marine mammals will be low (activities on Northstar Island will make less noise than that from standard jack-up rigs, the concrete island drilling structure, or seismic activity), marine mammals will likely hear the noise at distances up to 10 km (6.2 mi) from the island. In addition, there may be some harassment (including injury or mortality) of ringed seals during winter ice-road construction. No take is authorized for an oil spill.

As oil spills are highly unlikely, impacts on marine mammals from an oil spill are also unlikely to take place. However, in order to mitigate the potential for impacts on bowheads and the subsistence use of bowheads, BP will not drill into oil-bearing strata during periods of open water or broken ice, essentially the time period between June 13 and ending with the presence of 18 inches of continuous ice cover for one-half mile in all directions. Mitigation has been proposed by BP to the North Slope Borough native community to ensure that, in the event that an oil spill does occur, it will not have an unmitigable adverse impact on the subsistence use of the bowhead whale.

Additionally, take of marine mammals will also be minimized through implementation of the following mitigation measures: (1)