

The Navy estimates the number of hauled out seals within the lagoon using census data obtained during ground-based surveys of the lagoon by staff of the Point Mugu Environmental Division. To estimate the likely potential numbers of harbor seals that might be hauled out within the lagoon during the September period of the activity, the Navy calculated using the low counts in September from 2003–2008, as low counts are usually associated with higher tides when the activity is planned to occur. The mean number of low counts is 57 seals. Take would be expected at the beginning of the exercise as boats are put into the water and seals would be slowly moved off the haul-out. Using mean low numbers for the month of September since 2003, 57 seals could be disturbed and move into the water each time the boats are launched (days 2–4). Seals would likely move to a mudflat away from the boom exercise activity. However once boats are finished deploying the boom and boats return to shore, seals may return to mudflats in the immediate area. In the event NBVC staff need to return to the water to check or adjust the boom, there is a possibility there could be another displacement of seals from the mudflats in the project area. NBVC has projected that it may be necessary to return to the site three times during the day, meaning that there would be three opportunities for seals to return to the exercise area each day (57 seals x 3 movements x 3 days), which would equal 513 individual displacement events (i.e., takes). If the boom placement is successful, it would likely lead to fewer disturbance events. However, if the boom placement is problematic, this could result in additional disturbance events. Moreover, these numbers are likely overestimations of actual take estimates, as harbor seal counts are not conducted during high tide events due to low numbers of seals. Therefore, based on these considerations, NMFS has authorized 513 takes of harbor seals by Level B behavioral harassment incidental to NBVC Point Mugu's boom exercise drill.

#### **Negligible Impact and Small Numbers Analysis and Determination**

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." In making a negligible impact determination, NMFS considers: (1) the number of anticipated mortalities; (2) the number and nature of

anticipated injuries; (3) the number, nature, and intensity, and duration of Level B harassment; and (4) the context in which the takes occur.

No injuries or mortalities are anticipated to occur as a result of NBVC Point Mugu's boom exercise drills, and none are authorized. Takes will be limited to Level B behavioral harassment over a 3 day period in the month of September (which may possibly slip to October or November, depending on contractor availability). As mentioned previously, NMFS estimates that 513 harbor seal takes may occur as a result of the activity. It is possible that some individual animals may be taken more than once if the animal returns to the site on one of the later days of the exercise.

There is no habitat of significance for this species. While Mugu Lagoon is one of the few mainland pupping sites for harbor seals, the activity will occur outside of the harbor seal pupping season of February through April. While these haul-out sites are used for resting throughout the year, few (if any) seals are expected to be found on the haul-outs during the drill because the activity will occur at high tide when most animals are in the water. Additionally, there are other haul-out sites in other parts of the lagoon that seals can use during the exercise. The activity is not expected to impact rates of recruitment or survival of harbor seals since no mortality (which would remove individuals from the population) or injury are anticipated to occur. Only short-term Level B behavioral harassment is anticipated to occur over a very short period of time (maximum of 3 days), occurring at very limited times of the day. Additionally, the activity would occur at a time of year when breeding does not occur.

Harbor seals are not listed as threatened or endangered under the ESA. Additionally, the California stock of harbor seals is not listed as depleted under the MMPA. Survey counts conducted by NBVC Point Mugu Environmental Division staff indicate that numbers of harbor seals have increased with an average of 83 seals in 1992 to an average of 231 seals in 2006.

The most recent SAR for the California stock of harbor seals provides a population estimate of 34,233 individuals (Carretta *et al.*, 2009). The take estimate of 513 individuals represents 1.5 percent of the stock size. This estimate does not take into account that survey data is collected during lower tides when more animals are likely to be present on the haul-out sites and the fact that three events may not need to occur per day on each of the

three days. Therefore, it is estimated that 1.5 percent of the California stock of harbor seals will be taken by Level B behavioral harassment during the planned exercise if no animals are taken more than once.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS finds that NBVC Point Mugu's boom deployment exercise will result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking from the boom deployment exercise will have a negligible impact on the affected species or stocks.

#### **Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses**

There are no relevant subsistence uses of marine mammals implicated by this action.

#### **Endangered Species Act (ESA)**

No species listed under the ESA are expected to be affected by these activities. Therefore, NMFS has determined that a section 7 consultation under the ESA is not required.

#### **National Environmental Policy Act (NEPA)**

In compliance with the NEPA of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity is categorically excluded from the requirement to prepare an environmental assessment or an environmental impact statement.

#### **Authorization**

As a result of these determinations, NMFS has issued an IHA to NBVC Point Mugu for the take of harbor seals incidental to boom deployment exercises at Point Mugu, California, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: September 10, 2009.

**James H. Lecky,**

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

[FR Doc. E9–22329 Filed 9–15–09; 8:45 am]

BILLING CODE 3510–22–S

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## **DEPARTMENT OF EDUCATION**

### **Notice of Proposed Information Collection Requests**

**AGENCY:** Department of Education.

**SUMMARY:** The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before November 16, 2009.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 11, 2009.

**Angela C. Arrington,**  
Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

**Office of Special Education and Rehabilitative Services**

*Type of Review:* Extension.

*Title:* State Plan for Independent Living (SPIL).

*Frequency:* Every three years.

*Affected Public:* Federal Government; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:*

Responses: 56.

Burden Hours: 3,360.

*Abstract:* States wishing to receive funding under the State Independent Living Services (SILS) and Centers for Independent Living (CIL) programs must submit an approvable three-year State Plan for Independent Living (SPIL) to the Rehabilitation Services Administration (RSA). The purpose of these programs is to promote the independent living philosophy—based on consumer control, peer support, self-help, self-determination, equal access and individual and systems advocacy—to maximize the leadership, empowerment, independence and productivity of individuals with significant disabilities and to promote and maximize the integration and full inclusion of individuals with significant disabilities into the mainstream of American society. The SPIL encompasses the activities planned by the State to achieve its specified independent living objectives and reflects the State's commitment to comply with all applicable statutory and regulatory requirements during the three years covered by the plan.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 4133. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202-4537. Requests may also be electronically mailed to [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov) or faxed to 202-401-0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. E9-22338 Filed 9-15-09; 8:45 am]

**BILLING CODE 4000-01-P**

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