

National Marine Fisheries Service (NMFS), 1315 East-West Highway, Silver Spring, MD 20910-3225 or by telephoning one of the contacts listed below. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address and at the Alaska Regional Office, 222 West 7th Avenue, Anchorage, AK 99513.

**FOR FURTHER INFORMATION CONTACT:**

Jaclyn Daly, Office of Protected Resources, NMFS, (301) 713-2289.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the National Marine Fisheries Service (NMFS) to allow, upon 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 and regulations are issued. Under the MMPA, the term "taking" means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill marine mammals.

Authorization may be granted for periods up to 5 years if NMFS finds, after notification 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) for subsistence uses. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. The regulations must include requirements for monitoring and reporting of such taking.

Regulations governing the taking of Cook Inlet beluga whales (*Delphinapterus leucas*), harbor porpoises (*Phocoena phocoena*), killer whales (*Orcinus orca*), and harbor seals (*Phoca vitulina*), by harassment, incidental to in-water pile driving were issued on July 15, 2009 (74 FR 35136), and remain in effect until July 14, 2014. For detailed information on this action, please refer to that document. These regulations include mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during the specified activity.

Consistent with the regulations and associated rule making, NMFS has

issued an LOA to the POA authorizing the incidental take of the four marine mammal species listed above that may result from in-water pile driving and chipping associated with the MTRP. Analysis of effects on those marine mammals and their availability for subsistence uses can be found in the final rule cited above for this action. Issuance of the LOA is based on a finding made in the preamble to the final rule that the total taking by these activities (with mitigation, monitoring, and reporting requirements) will have no more than a negligible impact on the affected species or stocks and will not have an unmitigable adverse impact on their availability for taking for subsistence uses. NMFS further finds the POA will satisfy the requirements in the regulations and LOA, as it has done in a prior take authorization.

As stated in the regulations and LOA, take of marine mammals will be minimized through implementation of the following mitigation measures: (1) if a marine mammal is detected within or approaching the Level A or impact and vibratory pile driving Level B harassment isopleths (200 m, 350m and 1,300 m, respectively) prior to in-water pile driving or chipping, those operations shall be immediately delayed or suspended until the marine mammal moves outside these designated zones or the animal is not detected within 15 minutes of the last sighting; (2) in-water impact pile driving shall not occur during the period from two hours before low tide until two hours after low tide; (3) in-water piles will be driven with a vibratory hammer to the maximum extent possible (i.e., until a desired depth is achieved or to refusal) prior to using an impact hammer; (4) in-water pile driving or chipping shall not occur when conditions restrict clear, visible detection of all waters within harassment zones; (5) A "soft start" technique shall be used at the beginning of each day's in-water pile driving activities or if pile driving has ceased for more than one hour to allow any marine mammal that may be in the immediate area to leave before piling driving reaches full energy; (6) if a group of more than 5 beluga whales or group with a calf is sighted within the Level B harassment isopleths, in-water pile driving shall be suspended; and (7) for operated in-water heavy machinery work other than pile driving or chipping (i.e., dredging, dump scowles, linetug boats used to move barges, barge mounted hydraulic excavators, or clamshell equipment used to place or remove material), if a marine mammal comes within 50 m, those operations

will cease and vessels will reduce to the slowest speed practicable while still maintaining control of the vessel and safe working conditions.

NMFS-approved marine mammal observers (MMOs) will be stationed at the port during all in-water pile driving and chipping. In addition, the POA and MARAD shall employ a scientific marine mammal monitoring team separate from the on-site MMOs to characterize beluga whale abundance, movements, behavior, and habitat use around the Port of Anchorage and observe, analyze, and document potential changes in behavior in response to in-water construction work. This monitoring team is not required to be present during all in-water pile driving operations but will continue monitoring one-year post in-water construction. The on-site MMOs and this marine mammal monitoring team shall remain in contact to alert each other to marine mammal presence when both teams are working.

The POA and MARAD shall submit monthly reports, due the 10th of each month, summarizing all in-water construction activities and marine mammal monitoring sighting sheets. In addition, an annual report shall be due sixty days before expiration of the LOA. This report shall summarize monthly reports and any apparent long or short term impacts the MTRP may be having on marine mammals. This LOA will be renewed annually based on review of the annual monitoring report.

Dated: September 10, 2009.

**James H. Lecky,**

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

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**BILLING CODE 3510-22-S**

**COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED**

**Procurement List Proposed Addition**

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed Addition to Procurement List.

**SUMMARY:** The Committee is proposing to add to the Procurement List a service to be provided by nonprofit agency employing persons who are blind or have other severe disabilities.

*Comments Must Be Received on or Before: 10/19/2009.*

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely

Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202-3259.

**FOR FURTHER INFORMATION CONTACT:** Patricia Briscoe Telephone: (703) 603-7740, Fax: (703) 603-0655, or e-mail [CMTEFedReg@AbilityOne.gov](mailto:CMTEFedReg@AbilityOne.gov).

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed action.

#### Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice for the service will be required to furnish the service listed below from the nonprofit agency employing persons who are blind or have other severe disabilities.

#### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. If approved, the action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

#### End of Certification

The following service is proposed for addition to Procurement List for production by the nonprofit agencies listed:

#### Service

Service Type/Location: Document Management, Portland Habilitation Center, 5312 NE., 148th Avenue, Portland, OR.

NPA: Portland Habilitation Center, Inc., Portland, OR.

Contracting Activity: Department of Agriculture, Forest Service, Gifford

Pinchot National Forest, Vancouver, WA.

**Patricia Briscoe,**

*Deputy Director, Business Operations, Pricing and Information Management.*

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**BILLING CODE 6353-01-P**

#### DEPARTMENT OF DEFENSE

##### Department of the Army; Corps of Engineers

##### Intent To Prepare a Programmatic Environmental Impact Statement for the Chesapeake Bay Oyster Recovery Project, Virginia & Maryland

**AGENCY:** Department of the Army, U.S. Army Corps of Engineers, DOD.

**ACTION:** Notice of intent.

**SUMMARY:** The U.S. Army Corps of Engineers (USACE), Baltimore (NAB) and Norfolk (NAO) Districts published a Notice of Intent (NOI) (71 FR 14857) for the Chesapeake Bay Native Oyster Recovery study on March 24, 2006. That NOI announced that the USACE Baltimore and Norfolk Districts would prepare a single, integrated Native Oyster Restoration Master Plan (NORMP) and Programmatic Environmental Impact Statement (PEIS) for native oyster recovery in the entire Chesapeake Bay (including both Maryland and Virginia). The USACE is undertaking native oyster recovery in the Chesapeake Bay to support efforts to reverse the ongoing decline in oyster resources throughout the Bay.

The USACE is now announcing a major change in the timing of the NORMP and PEIS. The schedule for the NORMP and PEIS was delayed so that the document could be tiered to the "Programmatic EIS for Oyster Restoration in Chesapeake Bay Including the Use of a Native and/or Nonnative Oyster" (PEIS ORCB). The preferred alternative identified in the PEIS recommends "using a combination of alternatives that involves only the native Eastern oyster (*Crassostrea virginica*). Consistent with the preferred alternative, the USACE will expand upon and further develop plans and recommendations for Chesapeake Bay native oyster restoration in the NORMP and PEIS.

**FOR FURTHER INFORMATION CONTACT:** Questions and comments about the NORMP and/or PEIS can be addressed to Mr. Craig Seltzer, Norfolk District U.S. Army Corps of Engineers, ATTN: CENAO-PM-PA, 803 Front Street, Norfolk, VA 23510. E-mail address: [Craig.L.Seltzer@usace.army.mil](mailto:Craig.L.Seltzer@usace.army.mil) and phone number: 757-201-7390 or Ms.

Anna Compton, Baltimore District, U.S. Army Corps of Engineers, ATTN: CENAB-PL-P, 10 S. Howard Street, Baltimore, MD 21201. E-mail address: [Anna.M.Compton@usace.army.mil](mailto:Anna.M.Compton@usace.army.mil) and phone number: 410-962-4633. Please include your name and address in your message.

#### SUPPLEMENTARY INFORMATION:

1. The Baltimore District previously published a NOI (69 FR 68887) for the Chesapeake Bay Native Oyster Recovery study on November 26, 2004. That NOI indicated that the Baltimore District would prepare a Draft EIS for native oyster (*Crassostrea virginica*) recovery activities within Maryland waters of the Chesapeake Bay. A second NOI (71 FR 14857) was published for the Chesapeake Bay Native Oyster Recovery study on March 24, 2006. That NOI announced that the USACE Baltimore and Norfolk Districts would prepare a single, integrated NORMP and PEIS for native oyster recovery in the entire Chesapeake Bay.

2. To the fullest extent possible, the PEIS will be integrated with analyses and consultation required by the Fish and Wildlife Coordination Act of 1958, as amended; the National Historic Preservation Act of 1966, as amended; the Coastal Zone Management Act of 1972, as amended; the Endangered Species Act of 1973, as amended; the Marine Protection, Research and Sanctuaries Act of 1972, as amended; the Clean Water Act of 1977, as amended; and other applicable laws and regulations.

3. The NORMP/PEIS will be written in cooperation with the local sponsors, the Maryland Department of Natural Resources and Virginia Marine Resources Commission.

4. The NORMP/PEIS will incorporate science, policy, and experience from a number of sources to develop a comprehensive approach to oyster restoration in Maryland and Virginia. The purpose of the NORMP is to lay out a road map for a long-term, large-scale restoration of native oysters in the entire Chesapeake Bay. All suitable locations and techniques available for native oyster restoration will be identified and explored, and, if feasible, will be included in the NORMP/PEIS.

5. Previously performed oyster restoration activities by the Baltimore District include the: Creation of new oyster bars and rehabilitation of existing non-productive bars; construction of seed bars for production and collection of seed oysters or "spat"; planting of hatchery produced and seed bar spat on new and rehabilitated bars; and monitoring of implemented projects.