

in the prior **Federal Register** Notices (65 FR 52069 and 66 FR 58990).

Therefore, MBDA's prior **Federal Register** notices (65 FR 52069 and 66 FR 41202 and 66 FR 58990) are hereby amended to provide that the National Director or his designee reserves the right to conduct a site visit to applicant organizations receiving an average of at least 70% of the total points available for all four evaluation criterion in order to assist with the application of the selection procedures provided at 65 FR 52083 and 52095 and 66 FR 59000.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), are applicable to this notice.

Executive Order 12866: This notice was determined to be not significant for purposes of E.O. 12866.

Administrative Procedure Act: The provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this notice is a matter relating to public property, loans, grants, benefits, or contracts 5 U.S.C. 553(a)(2),

Regulatory Flexibility Act: Because a notice of proposed rulemaking and opportunities for public comment are not required to be given for this notice by 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 are inapplicable.

Executive Order 13132: This notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Authority: 15 U.S.C. 1512 and Executive Order 11625.

Dated: December 4, 2001.

Juanita E. Berry,

Federal Register Liaison Officer, Minority Business Development Agency.

Ronald N. Langston,

National Director, Minority Business Development Agency.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 011113275-1275-01; I.D. 120401A]

RIN 0648-ZB11

Coral Reef Conservation Program Proposed Implementation Guidelines

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Request for comments on Proposed Implementation Guidelines for the Coral Reef Conservation Program.

SUMMARY: The purpose of this document is to request comments on NOAA's proposed Implementation Guidelines (Guidelines) for the Coral Reef Conservation Program (Program) under the Coral Reef Conservation Act of 2000 (Act). The Act authorizes the Secretary of Commerce (Secretary), through the NOAA Administrator (Administrator) and subject to the availability of funds, to provide matching grants of financial assistance for coral reef conservation projects under the Act (Coral Reef Conservation Program). As per the Act, NOAA has developed this set of proposed Implementation Guidelines for the Program for Fiscal Year (FY) 2002 through FY 2004. NOAA proposes to use several existing grant programs and mechanisms to implement the Program. Final Guidelines and specific Program information including available funding, dates, and detailed application requirements and proposal evaluation criteria will be published annually in a separate **Federal Register** solicitation. NOAA is in the process of developing a National Coral Reef Action Strategy (Strategy), as also required under the Act. The purpose of the Strategy is to provide an implementation plan to advance coral reef conservation, including a basis for funding allocations to be made under the Program. The Final Strategy will be published concurrently with the Final Program Guidelines and the FY 2002 Program Solicitation in the first quarter of calendar year 2002. The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), will be applicable to solicitations under this Program. This document is not a solicitation for FY 2002 project proposals.

DATES: In order to be considered, comments on this document must be

received by NOAA on or before January 14, 2002.

ADDRESSES: Only written comments will be accepted. Please send your comments by mail or fax to: David Kennedy, NOAA Coral Program Coordinator, Office of Response and Restoration, N/ORR, NOAA National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910, Fax: 301-713-4389.

FOR FURTHER INFORMATION CONTACT: Bill Millhouser, Pacific Regional Manager, CPD/OCRM, N/ORM-3, NOAA National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910; 301-713-3155 extension 189, Internet: bill.millhouser@noaa.gov; or Robin Bruckner, Community-based Restoration Coordinator, NOAA Restoration Center, F/HC3, NOAA National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910; 301-713-0174 extension 162, Internet: robin.bruckner@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 *et seq.*) was enacted on December 14, 2000, for the following purposes:

- (1) To preserve, sustain and restore the condition of coral reef ecosystems;
- (2) To promote the wise management and sustainable use of coral reef ecosystems to benefit local communities and the Nation;
- (3) To develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems;
- (4) To assist in the preservation of coral reefs by supporting conservation programs, including projects that involve affected local communities and non-governmental organizations;
- (5) To provide financial resources for those programs and projects; and
- (6) To establish a formal mechanism for the collecting and allocating of monetary donations from the private sector to be used for coral reef conservation projects.

Under section 6403 of the Act, the Secretary, through the NOAA Administrator (Administrator) and subject to the availability of funds, is authorized to provide matching grants of financial assistance for coral reef conservation projects. Section 6408(c) of the Act authorizes up to \$8,000,000 in each of FY 2001 through FY 2004 for projects under the Program.

As required under section 6403(j) of the Act, NOAA has developed this set of proposed Implementation Guidelines for the Program and through this document, is making them available for public review and comment.

NOAA proposes to use several existing grant programs and mechanisms to implement the Program. Each fiscal year the Program will publish a **Federal Register** notice to describe the availability of funds and solicit project proposals. These annual solicitations, beginning in FY 2002, will provide greater detail on the year's program priorities, application process, and proposal evaluation criteria. This document is not a solicitation for project proposals.

II. Electronic Access

The Coral Reef Conservation Act of 2000 can be found on the Internet at: <http://thomas.loc.gov/> (Select Bill Text, then select 106th Congress, search on Bill Number HR 1653, select H.R. 1653.EH). Information on the U.S. Coral Reef Task Force, established June 11, 1998 under Executive Order 13089, can be found at: <http://coralreef.gov>.

III. Coral Reef Conservation Program

The objective of the Program is to provide financial assistance for coral reef conservation projects consistent with the Act and National Coral Reef Action Strategy currently under development. NOAA's role in administering the Program is to strengthen and support the development and implementation of sound coral reef conservation projects, as well as ensure that the most beneficial projects are recommended for funding.

IV. Applicant Eligibility Requirements

As per section 6403(c) of the Act, eligible applicants include: any natural resource management authority of a state or other government authority with jurisdiction over coral reefs or whose activities directly or indirectly affect coral reefs or coral reef ecosystems, or educational or non-governmental institutions with demonstrated expertise in the conservation of coral reefs. Each subcategory of funding under this Program, as described in section VII of this document, encompasses a specific subgroup of eligible applicants, per this section.

As a matter of policy, funding Federal agency activities under this Program will be a low priority unless such activities are an essential part of a cooperative project with other eligible governmental or non-governmental entities.

NOAA agencies are not eligible for funding under this Program, as funding for such activities is provided for under section 6406 of the Act (National Program).

V. Eligible Coral Reef Conservation Activities

As described in section 6403(g) of the Act, projects considered for funding under this Program must be consistent with the National Coral Reef Action Strategy, scheduled to be published concurrently in the **Federal Register** with the FY 2002 solicitation for proposals, in the first quarter calendar year 2002. In addition, per the same section, the Administrator may not approve a project proposal unless it will enhance the conservation of coral reefs by addressing at least one of the following:

- (1) Implementing coral conservation programs which promote sustainable development and ensure effective, long-term conservation of coral reefs;
- (2) Addressing the conflicts arising from the use of environments near coral reefs or from the use of corals, species associated with coral reefs, and coral products;
- (3) Enhancing compliance with laws that prohibit or regulate the taking of coral products or species associated with coral reefs or regulate the use and management of coral reef ecosystems;
- (4) Developing sound scientific information on the condition of coral reef ecosystems or the threats to such ecosystems, including factors that cause coral disease;
- (5) Promoting and assisting to implement cooperative coral reef conservation projects that involve affected local communities, non-governmental organizations, or others in the private sector;
- (6) Increasing public knowledge and awareness of coral reef ecosystems and issues regarding their long term conservation;
- (7) Mapping the location and distribution of coral reefs;
- (8) Developing and implementing techniques to monitor and assess the status and condition of coral reefs;
- (9) Developing and implementing cost-effective methods to restore degraded coral reef ecosystems; or
- (10) Promoting ecologically sound navigation and anchorages near coral reefs.

VI. Program Funding and Distribution

Section 6408(c) of the Act authorizes up to \$8,000,000 for use by the Secretary for each of FY 2001 through FY 2004 for the Coral Reef Conservation Program. The number of individual awards to be made each year will depend on the total amount of funds appropriated for coral reef activities within NOAA and the portion of those funds that are allocated to this Program.

The total annual Program funding amount, suggested ranges for funding requests, and specific funding categories under which an applicant may choose to be considered will be published in the Program's annual *Federal Register* solicitation.

Program funding awarded during any given fiscal year will be distributed, per section 6403(d) of the Act, in the following manner:

- (1) No less than 40 percent of funds available shall be awarded for coral reef conservation projects in the Pacific Ocean within the maritime areas and zones subject to the jurisdiction or control of the United States;
- (2) No less than 40 percent of funds available shall be awarded for coral reef conservation projects in the Atlantic Ocean, Gulf of Mexico and the Caribbean Sea within the maritime areas and zones subject to the jurisdiction or control of the United States; and
- (3) Remaining funds shall be awarded for projects that address emerging priorities or threats, including international priorities or threats, identified by the Administrator. When identifying emerging threats or priorities, the Administrator may consult with the Coral Reef Task Force.

VII. Funding Categories and Mechanisms

In order to ensure adequate funding for each of the purposes envisioned under the Act and provide for a balanced overall Program, existing NOAA programs will be used to award funds in the five funding categories described below. Each of the five categories references the general activity and applicant eligibility requirements associated with proposals submitted therein. Specific activity and applicant eligibility information and proposal evaluation criteria for each category, consistent with Guideline sections IV. Applicant Eligibility Requirements, VI. Funding and Funding Distribution, VIII. Matching Funds, IX. Application Process, and X. Project Review, will be published in each year's solicitation for proposals.

- (1) *U.S. state and territorial government coral reef conservation activities*, as described in section V(1-10) of the Guidelines (section 6403(g) of the Act) for the purposes of comprehensively managing coral reef ecosystems and associated fisheries within their jurisdictions. Eligibility to receive an award is limited to one agency in each state or territory with jurisdiction over coral reefs, as designated by the respective governors. These proposals will be reviewed and awarded by the National Ocean Service

(NOS) Office of Ocean and Coastal Resource Management (OCRM) per guidelines published June 28, 2001 in the **Federal Register** (66 FR 34425), and pursuant to Section 310 of the Coastal Zone Management Act, under title, Coastal Zone Management Administration Awards, CFDA 11.419.

(2) *U.S. state and territorial government coral reef ecosystem monitoring and/or assessment activities*, as described in section V(8) of the Guidelines (section 6403(g)(8) of the Act). Such activities include the collection, analysis, and reporting of long-term coral reef monitoring data pursuant to scientifically valid methodologies and protocols. Eligible applicants are limited to one natural resource management authority in each U.S. state or territory with jurisdiction over coral reefs, as designated by the respective governors. Cooperative agreements between these agencies and the NOS National Centers for Coastal and Ocean Science (NCCOS) will be developed without competition under title, Financial Assistance for National Centers of Coastal Ocean Science, CFDA 11.426.

(3) *U.S. state, territorial, or other governmental and non-governmental entities, not eligible under other categories*, for the purpose of implementing cooperative coral reef conservation, protection, restoration, research, or education projects, as described in section V(1-10) of the Guidelines (section 6403(g) of the Act). These proposals will be reviewed and awarded by the National Marine Fisheries Service (NMFS) Office of Habitat Conservation under title, Habitat Conservation, CFDA 11.463.

(4) *Projects to develop, improve, or amend Fishery Management Plans to conserve, protect and restore coral reef habitats and associated fishery populations within the U.S. Exclusive Economic Zone*; with the overall goal of improving the management of coral reefs and associated organisms through the avoidance of fishing impacts, ecosystem management or similar approaches and practices; as described in section V(3) of the Guidelines (section 6403(g)(3) of the Act). Eligible applicants include Regional Fishery Management Councils with jurisdiction over coral reefs, as established under the Magnuson-Stevens Fishery Conservation and Management Act (16 USC 1801 et seq.). These proposals will be reviewed and awarded by the NMFS Office of Habitat Conservation under title, Habitat Conservation, CFDA 11.463.

(5) *International coral reef conservation projects* for the purpose of

implementing cooperative coral reef conservation activities as described in section V(1-10) of the Guidelines (section 6403(g) of the Act). Eligible applicants include all international governmental and non-governmental entities, including those in the Freely Associated States of the Pacific. These proposals will be reviewed and awarded by the NOS International Programs Office or the NMFS Office of Habitat Conservation, as appropriate, under title, Habitat Conservation, CFDA 11.463.

The annual solicitation will establish the range of funds available and specific evaluation criteria for each of these five categories. NOAA may add additional funding categories in the annual solicitation based on available funding and/or coral reef conservation priorities under the Strategy. Applicants will be required to specify in their application the category(s) under which they are applying for funding. Selected applications may be funded and awards administered by NOAA, through either NMFS or NOS. Generally, one award will be made for each proposal accepted for funding.

NOAA will determine the most appropriate funding mechanisms (grant, cooperative agreement, or interagency agreement) for selected individual projects, in consultation with the applicant, based on the degree of direct NOAA involvement with the project beyond the provision of financial assistance.

Proposals from non-Federal applicants that are selected for funding will be funded either through a project grant or cooperative agreement. Selected Federal proposals will be funded through interagency agreements; however, under the Program, such agreements must include a local sponsor of the coral reef conservation project.

VIII. Matching Funds

As per section 6403(b)(1) of the Act, Federal funds for any coral conservation project funded under this Program may not exceed 50 percent of the total costs of such project. The match may comprise a variety of public and private sources and can include in-kind contributions and other non-cash support. NOAA strongly encourages applicants to leverage as much investment as possible. Federal funds may not be considered as matching funds.

For applicants who cannot meet the match requirement, as per section 6403(b)(2) of the Act, the Secretary may waive all or part of the matching requirement if the Administrator

determines that the project meets the following two requirements:

(1) No reasonable means are available through which an applicant can meet the matching requirement, and

(2) The probable benefit of such project outweighs the public interest in such matching requirement.

Applicants must specify in their proposal the source and amount of the proposed match and may be asked to provide letters of commitment to confirm stated contributions. In the case of a waiver request, the applicant must provide a detailed justification explaining the need for the waiver, as described in section IX(6) of these Guidelines.

Notwithstanding any other provision herein, and in accordance with 48 U.S.C. 1469a(d), this Program shall waive any requirement for local matching funds for any project under \$200,000 (including in kind contributions) to the governments of Insular Areas, defined as the jurisdictions of the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

IX. Application Process

NOAA will publish in the **Federal Register** one annual notification soliciting project proposals, pursuant to these Guidelines. Applications submitted in response to solicitation notices will be screened for eligibility and conformance with the Program Guidelines.

To submit a proposal, a complete NOAA standard grants application package must be filed in accordance with the guidelines in this document and instructions in the Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained the **Federal Register** notice of October 1, 2001 (66 FR 49917).

A more detailed description of specific application requirements will be published in the annual solicitation; however, pursuant to section 6403(e) of the Act and NOAA, each application must include the following elements:

(1) A cover sheet with the name of the individual or entity responsible for conducting the project;

(2) A description of the qualifications of the individual(s) who will conduct the project;

(3) A succinct statement of the purposes of the project, including the specific geographic location where the project will be carried out;

(4) An estimate of the funds and time required to complete the project including: a detailed breakdown by

category of cost estimates as they relate to specific aspects of the project, with appropriate justification for both the Federal and non-Federal shares;

(5) Evidence of support for the project by appropriate representatives of states or other government jurisdictions in which the project will be conducted, including obtaining or proceeding to obtain all applicable State and/or Federal permits, consultations, and consistencies. U.S. state or territorial applicants must also provide evidence of coordination with all relevant state or territorial agencies, including a list of agencies consulted in developing the proposal;

(6) Information regarding the amount of matching funding available to the applicant. In the case of a waiver request, the applicant must provide a detailed justification explaining the need for the waiver including attempts to obtain sources of matching funds, how the benefit of the project outweighs the public interest in providing match, and any other extenuating circumstances preventing the availability of match;

(7) A description of how the project meets one or more the goals and objectives stated in section V of the Guidelines (section 6403(g) of the Act); and

(8) Any other information the Administrator considers to be necessary for evaluating the eligibility of the project for funding under this title.

In order to streamline the application and award process, and to allow NOAA to fully evaluate all coral reef conservation applications in the context of the overall Program, applicants must indicate under which category(s) (as described in section VII of these Guidelines) they are seeking funds, and are encouraged to submit only one comprehensive application per solicitation. The Program will give preference to projects where requested funding will be used to complete proposed coral reef conservation activities within a period of 12 months from the time the awards are distributed.

X. Project Review

As per section 6203(f) of the Act, NOAA will review eligible coral reef conservation proposals using an external governmental review and merit-based peer review. After such reviews, NOAA will implement an internal ranking and selection process. The overall project review and selection process will include the following five steps:

(1) NOAA will request and consider written comments on the proposal from

each Federal agency, state government, or other government jurisdiction, including the relevant regional Fishery Management Councils established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), or any National Marine Sanctuary, with jurisdiction or management authority over coral reef ecosystems in the area where the project is to be conducted. Pursuant to this requirement of the Act, NOAA will apply the following standard in requesting comments:

(A) Proposals for projects in state or territorial waters, including Federal marine protected areas in such waters (e.g. National Marine Sanctuaries), will be submitted to that state or territorial government's designated U.S. Coral Reef Task Force point of contact for comment;

(B) Proposals for projects in Federal waters will be submitted to the relevant Fishery Management Council for comment;

(C) Proposals for projects which require Federal permits will be submitted to the Federal agency which issued the permit for comment;

(D) Proposals for projects in Federal marine protected areas managed by Federal agencies (e.g. National Wildlife Refuges, National Parks, National Marine Sanctuaries, etc.) will be submitted to the respective Federal management authority for comment; and

(E) NOAA will seek comments from other government entities, authorities, and/or jurisdictions, including international entities for projects proposed outside of U.S. waters, as necessary based on the nature and scope of the proposed project.

Specifically, agencies will be requested to comment on: the extent to which the project is consistent with locally established coral reef conservation priorities and projects; whether the project has been coordinated with existing or planned projects; suggestions for improving project coordination and/or technical approach; and appropriate staff points of contact. Each entity will be provided 21 days to review and comment on subject proposals. Comments submitted will be part of the public record.

(2) Each NOAA program office will provide for a merit-based peer review and standardized documentation of that review for proposals considered appropriate for funding under their respective category(s). Each proposal will be reviewed by a minimum of three individuals with knowledge of the subject of the proposal. Each reviewer will submit a separate and individual

review and reviewers will not provide a consensus opinion. The identities of the peer reviewers will be kept anonymous to the degree permitted by law. Specific evaluation criteria for projects submitted under each funding category will be published in each annual **Federal Register** solicitation.

(3) Each NOAA Program Office will subsequently implement an internal review process to rank each proposal that is appropriate for funding under their program based upon consideration of: comments and recommendations from the reviews under paragraphs (1) and (2), and their evaluation of each proposal consistent with the five following criteria:

(A) *Direct Benefit to Coral Reef Resources and Ecosystems*. NOAA will evaluate proposals based on the potential of the project to meet goals and objectives stated in section 6403(g) of the Act.

(B) *Technical Merit and Adequacy of Implementation Plan*. Proposals will be evaluated on the technical feasibility of the project and the qualifications of project leaders and/or partners based on demonstrated abilities to:

(i) Deliver the conservation objective stated in the proposal;

(ii) Provide educational benefits, where appropriate;

(iii) Incorporate assessment of project success in terms of meeting the proposed objectives;

(iv) Demonstrate that the conservation activity will be sustainable and long-lasting;

(v) Provide assurance that implementation of the project will meet all state environmental laws and Federal consistency requirements by obtaining or proceeding to obtain applicable permits and consultations; and

(C) *Past Performance*. Proposals will be evaluated on the previous accomplishments of the applicants in achieving coral reef conservation objectives similar to those outlined in section V. Eligible Coral Reef Conservation Activities of these Guidelines. Applicants submitting their first coral reef conservation project should document past experience in related activities;

(D) *Consistency with the National Coral Reef Action Strategy and the National Action Plan to Conserve Coral Reefs*. Proposals will be evaluated on how well they meet the respective programmatic goals and objectives (e.g. goals and objectives for restoration) outlined in the National Coral Reef Action Strategy, currently under development pursuant to Section 6402 of the Act, and the National Action Plan to Conserve Coral Reefs (U.S. Coral Reef

Task Force, 2000, <http://coralreef.gov>). Applicants are strongly encouraged to review both documents and identify in their application the specific conservation objectives that their project proposal will address; and

(E) *Cost-effectiveness and Budget Justification*. Proposals will be evaluated on their ability to demonstrate that significant benefit will be generated for the most reasonable cost. Projects will also be reviewed in terms of their need for funding and the ability of NOAA funds to act as a catalyst to implement projects and precipitate partnerships and other sources of funding to achieve conservation objectives. Preference will be given to projects that will be completed within a period of 12 months from the time the awards are distributed;

(4) A NOAA review panel made up of representatives from each NOAA program office will review the project rankings from each program office and make consensus-based, final project selections and funding recommendations to be presented to the NOAA Administrator, or his designee, for final approval. The review panel and Administrator, or designee, will ensure that the Act requirements for geographic funding distribution and consistency with the overall Program goals outlined in the Strategy have been met. NOAA reserves the right to consult with applicants, prior to making an award, to determine the exact amount of funds to be awarded, as well as the most appropriate funding category and mechanism under which to consider the project for funding; and

(5) NOAA will provide written notification of a proposal's approval or disapproval to each applicant within 6 months of submitting a coral reef conservation proposal. Similarly, NOAA will also provide written notification of a project's approval to each State or other government jurisdiction that provided comments and/or reviews.

Definitions

In this Program:

(1) Administrator means the Administrator of the National Oceanic and Atmospheric Administration.

(2) Conservation means the use of methods and procedures necessary to preserve or sustain corals and associated species as diverse, viable, and self-perpetuating coral reef ecosystems, including all activities associated with resource management, such as assessment, conservation, protection, restoration, sustainable use, and management of habitat; mapping; habitat monitoring; assistance in the development of management strategies

for marine protected areas and marine resources consistent with the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*); law enforcement; conflict resolution initiatives; community outreach and education; and that promote safe and ecologically sound navigation.

(3) Cooperative Agreement means a legal instrument reflecting a relationship between the Department of Commerce (DoC) and a recipient whenever: (1) the principal purpose of the relationship is to transfer money, property, services or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute, and (2) substantial involvement (e.g. collaboration, participation, or intervention by DoC in the management of the project) is anticipated between DoC and the recipient during performance of the contemplated activity.

(4) Coral means species of the phylum Cnidaria, including--

(A) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Gorgonacea (horny corals), Stolonifera (organpipe corals and others), Alcyonacea (soft corals), and Coenothecalia (blue coral), of the class Anthozoa; and

(B) all species of the order Hydrocorallina (fire corals and hydrocorals) of the class Hydrozoa.

(5) Coral Reef means any reefs or shoals composed primarily of corals.

(6) Coral Reef Ecosystem means coral and other species of reef organisms (including reef plants) associated with coral reefs, and the non-living environmental factors that directly affect coral reefs, that together function as an ecological unit in nature.

(7) Coral Products means any living or dead specimens, parts, or derivatives, or any product containing specimens, parts, or derivatives, of any species referred to in paragraph (3).

(8) Grant means a legal instrument reflecting a relationship between DoC and a recipient whenever: (1) the principal purpose of the relationship is to transfer money, property, services, or anything of value in order to accomplish a public purpose of support or stimulation authorized by Federal statute, and (2) no substantial involvement is anticipated between DoC and the recipient during the performance of the contemplated activity.

(9) Interagency Agreement, for the purposes of these Guidelines, means a written document containing specific provisions of governing authorities,

responsibilities, and funding, entered into between NOAA and another Federal agency where NOAA is funding the other Federal agency, pursuant to the Act.

(10) Secretary means the Secretary of Commerce.

(11) State means any State of the United States that contains a coral reef ecosystem within its seaward boundaries, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, and any other territory or possession of the United States, or separate sovereign in free association with the United States, that contains a coral reef ecosystem within its seaward boundaries. Classification: This is a new Program and will be added to the Catalog of Federal Domestic Assistance under the Coastal Zone Management Act (11.419), Financial Assistance for National Centers for Coastal Ocean Science (11.426), and Habitat Conservation (11.463). The Program uses only the existing NOAA Federal assistance application package requirements per 15 CFR parts 14 and 24.

The program will determine NEPA compliance on a project by project basis.

This action has been determined to be not significant for purposes of Executive Order 12866.

The use of the standard grants application package referred to in this notice involves collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, and SF-LLL have been approved by OMB under the respective control numbers 0348-0043, 0348-0044, 0348-0040, and 0348-0046.

The proposed guidelines also contain new collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. These requirements will be submitted to OMB for approval. Public reporting burden for these collections of information is estimated to average one hour per request for a matching funds waiver (section IX(6) of these Guidelines) and one hour per comment on proposals (section X(1) of these Guidelines), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NOAA Office of Response and Restoration at the ADDRESSES above, and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer).

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

Dated: November 30, 2001.

Scott Gudes,

Acting Under Secretary for Oceans and Atmosphere/Administrator and Deputy Under Secretary

[FR Doc. 01-30383 Filed 12-7-01; 8:45 am]

BILLING CODE 3510-JE-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112101B]

Small Takes of Marine Mammals Incidental to Specified Activities; Repairs at the Carpinteria Oil and Gas Processing Facility, Carpinteria, CA

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

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take small numbers of Pacific harbor seals (*Phoca vitulina richardsi*) by harassment incidental to repairs at the Carpinteria Oil and Gas Processing Facility in Carpinteria, CA., has been issued to Venoco, Inc.

DATES: Effective from November 28, 2001, until November 28, 2002.

ADDRESSES: The application, Wildlife Protection Plans, Project Execution Plans, and IHA are available by writing to Donna Wieting, Chief, Marine

Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3225.

FOR FURTHER INFORMATION CONTACT: Simona P. Roberts, (301) 713-2322, ext. 106 or Christina Fahy, (562) 980-4023.

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 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 either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization may be granted if NMFS finds, based on the best available scientific evidence, that the taking will have a negligible impact on the marine mammal species or stock(s). Negligible impact is defined in regulation (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".

Summary of Request

On June 17, 2001, NMFS received an application from Venoco, Inc., the owner and operator of the Carpinteria Oil and Gas Processing Facility in Carpinteria, CA, requesting an IHA for the take of small numbers of Pacific harbor seals incidental to repair of gas pipeline supports and pier pilings at Casitas Pier.

On October 24, 2001, Venoco notified NMFS that the project had been modified such that only repairs to the gas pipeline supports and not the pier were to be made. In addition, Venoco revised its original Project Execution Plan and Wildlife Protection Plan to better address the issue of acoustic harassment. A detailed description of the work proposed for 2001 is contained in the revised Project Execution Plan, which are available upon request (see ADDRESSES).

Venoco plans to complete all repair activities in a three-week period. However, to account for potential weather and logistical delays and reduce further paperwork, the IHA will be issued for a full 1-year period (November 2001–November 2002).

Comments and Responses

On September 12, 2001 (66 FR 47453), NMFS published a notice of receipt and a 30-day public comment period was provided on the application and proposed authorization. Comments were received from the Santa Barbara County Energy Division, the California Coastal Commission, the City of Carpinteria, and a private citizen.

Cumulative Impact Concerns

Comment 1: The California Coastal Commission recommended that the authorization address the potential for cumulative impacts from chronic disturbances to the Pacific harbor seal rookery located near the gas pipeline and the possibility that additional disturbances such as the proposed activity could cause the seal rookery to permanently abandon this location.

Response: Based on previous observations conducted in the vicinity of the gas pipeline and pier, as well as daily observations made by the Carpinteria Seal Watch, there is no evidence that chronic disturbances, such as people walking along the beach, are negatively impacting the Pacific harbor seals hauling out on the beach over the long-term (Seagars, 1986; Howorth, 1995). From information provided by Howorth (1995), the most negative disturbance to date, resulting in haul-out abandonment, has been not from direct disturbance by humans but rather from disturbance and pup injury and predation by a coyote. Based on these previous documented observations at Carpinteria and nearby haul-out sites, there is very low probability that the harbor seals will completely abandon the Carpinteria haul-out site as a result of Venoco's repair activities. While there is evidence from other haul-out sites in San Francisco Bay that seals will abandon haul-out sites during chronic daytime disturbance, the San Francisco Bay seals did not completely abandon the site and continued to use the site during nighttime hours when there was no disturbance (Paulbitsky, 1975; Risebrough *et al.*, 1980).

Biologically, the primary concerns of harbor seal haul-out site abandonment are physiological stress resulting from the inability to find alternate haul-out sites and the inability to find alternate haul-out sites for pupping and molting. In the Carpinteria case, there are two alternate haul-out sites in the vicinity; offshore rocks west of the beach and off Carpinteria Beach State Park. Harbor seals have been observed hauling out in these locations after having been disturbed on the beach (Sadler, 1976;