

**Endangered Species Act (ESA)**

NBVC has not requested the take of any species listed under the ESA and the proposed authorization would not affect any such species. Therefore, NMFS has determined that a section 7 consultation under the ESA is not required at this time.

**National Environmental Policy Act (NEPA)**

The Department of the Navy, following Council on Environmental Quality regulations (40 CFR 1500), has found that demolition and disposal involving buildings or structures neither on, nor eligible for, listing on the National Register of Historic Places and requiring removal of hazardous materials, are categorically excluded from further documentation under NEPA (32 CFR 775, Department of Navy Procedures for Implementing the National Environmental Policy Act). NBVC has prepared a Record of Categorical Exclusion for all phases of this demolition project.

In accordance with section 6.01 of the National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216-6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999), NMFS has analyzed both the context and intensity of this action and determined, based on a programmatic NEPA assessment conducted on the impact of NMFS' rulemaking for the issuance of IHAs (61 FR 15884; April 10, 1996); the content and analysis of the NBVC's request for an IHA and its Site Work/Final Survey Plan, that the proposed issuance of this IHA to NBVC by NMFS will not individually or cumulatively result in a significant impact on the quality of the human environment as defined in 40 CFR 1508.27. Therefore, based on this analysis, the action of issuing an IHA for these activities meets the definition of a "Categorical Exclusion" as defined under NOAA Administrative Order 216-6 and is exempted from further environmental review.

**Preliminary Conclusions**

NMFS has preliminarily determined that the short-term impact of conducting demolition and removal activities in Mugu Lagoon will result, at worst, in a temporary modification in behavior by harbor seals, and potentially northern elephant seals and California sea lions. While behavioral modifications may be made by these species to avoid the resultant acoustic and visual stimuli, previous observations of the responses of pinnipeds to loud military overflights

and regular human activities near the Mugu Lagoon haul-out sites have not shown injury, mortality, or extended disturbance. Therefore, NMFS preliminarily concludes that the effects of the planned demolition activities will have no more than a negligible impact on pinnipeds.

Due to the localized nature of these activities, the number of potential takings by harassment are estimated to be small. In addition, no take by injury and/or death is anticipated, and the potential for temporary or permanent hearing impairment will be avoided through the incorporation of the mitigation measures mentioned in this document. No rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near Mugu Lagoon during the period of demolition activities.

**Proposed Authorization**

NMFS proposes to issue an IHA to NBVC for demolition activities to take place in Mugu Lagoon, CA during a 1-year period provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed activity would result in the harassment of only small numbers of harbor seals and potentially northern elephant seals and California sea lions; would have no more than a negligible impact on these marine mammal stocks; and would not have an unmitigable adverse impact on the availability of marine mammal stocks for subsistence uses.

**Information Solicited**

NMFS requests interested persons to submit comments and information concerning this request to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3225.

Dated: July 23, 2002.

**David Cottingham,**

*Deputy Director, Office of Protected Resources, National Marine Fisheries Service.*  
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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[I.D. 062102A]

**Small Takes of Marine Mammals Incidental to Specified Activities; Taking of Marine Mammals Incidental to Power Plant Operations**

**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, notification is hereby given that a 1-year Letter of Authorization (LOA) to take harbor, gray, harp and hooded seals incidental to intake cooling water operations at Seabrook Station nuclear power plant, Seabrook, NH has been issued to the North Atlantic Energy Service Corporation (North Atlantic).

**DATES:** Effective from June 26, 2002 through June 25, 2003.

**ADDRESSES:** A copy of the application is available by writing to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, or by telephoning one of the contact listed here.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713-2055, ext 128 or Salvatore Testaverde, Northeast Regional Office, NMFS, (978) 281-9368.

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

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs 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 regulations are issued.

Permission may be granted for periods of 5 years or less if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. 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 pertaining to the monitoring and reporting of such taking.

Regulations governing the taking of several species of seals incidental to intake cooling water operations at Seabrook Station nuclear power plant were published on May 25, 1999 (64 FR 28114), and remain in effect until June 30, 2004. These regulations include mitigation, monitoring, and reporting requirements for the incidental taking of harbor seals (*Phoca vitulina*), gray seals (*Halichoerus grypus*), harp seals (*Phoca groenlandica*), and hooded seals (*Cystophora cristata*) at Seabrook Station.

#### Summary of Request

NMFS received a request from North Atlantic on June 4, 2002, for renewal of their LOA, which expires on June 26, 2002, to lethally take 20 harbor seals and 4 of any combination of gray, harp, and hooded seals at Seabrook Station.

However, North Atlantic noted in their annual report that no seals have been entrapped in Seabrook's offshore intake structures since the installation of the Seal Deterrent Barriers in August 1999.

#### Authorization

Based on the determinations made in 1999 (64 FR 28114, May 25, 1999) and that annual reports submitted by North Atlantic indicate that no seals have been killed incidental to operations at Seabrook Station, NMFS has issued an LOA to North Atlantic for the taking of harbor seals, gray seals, harp seals, and hooded seals incidental to operations of the Seabrook Station with the understanding that the mitigation, monitoring, and reporting requirements described in 50 CFR 216.134–135 and in the LOA are undertaken.

Dated: July 24, 2002.

**Wanda Cain,**

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

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Transmittal No. 02–42]

#### 36(b)(1) Arms Sales Notification

**AGENCY:** Department of Defense, Defense Security Cooperation Agency.

**ACTION:** Notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

**FOR FURTHER INFORMATION CONTACT:** Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02–42 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: July 23, 2002.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison  
Officer, Department of Defense.*

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