

Meeting Dates

1. Snapper Grouper Committee Meeting: September 19, 2005, 1:30 p.m. until 5 p.m. and September 20, 2005, 8:30 a.m. until 5 p.m.

The Snapper Grouper Committee will meet to review the Snapper Grouper Regulatory Amendment document to finalize it for public hearings. The Regulatory Amendment addresses management measures for snowy grouper, golden tilefish, vermilion snapper, black sea bass, and red porgy. The Committee will also receive a report on the development of an evaluation team for review of the Oculina Experimental Closed Area and develop recommendations for Council consideration. The Committee will develop recommendations relative to addressing marine protected areas. In addition, the Committee will review issues relative to the draft of Amendment 13B to the Snapper Grouper Fishery Management Plan regarding mandates under the Sustainable Fisheries Act to address overfishing.

2. Controlled Access Committee Meeting: September 21, 2005, 8:30 a.m. until 12 noon

The Controlled Access Committee will discuss goals and objectives of a rights-based system in the South Atlantic, receive a presentation on "Who Owns America's Fisheries" by Dr. Seth Macinko, and review controlled access issues in the draft Senate Bill of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) reauthorization.

3. Joint Executive Committee and Finance Committee Meeting: September 21, 2005, 1:30 p.m. until 5 p.m.

The Committees will receive updates on current budget items, review the Council's 2006 Fishery Management Plan/Amendment/Framework timelines, discuss participation in the Southeastern Aquatic Resources Partnership, develop Council comments on the Senate Bill working draft for MSFCMA reauthorization and proposed modifications to National Standard 1, discuss the function and duties of the joint Council and National Marine Fisheries Service Fishery Management Plan Teams, review the NMFS Status of Stocks Report to Congress, receive a report on the Southeastern Data, Assessment, and Review (SEDAR) Steering Committee meeting and discuss the Council's current committee structure.

4. Advisory Panel Selection Committee Meeting: September 22, 2005, 8:30 a.m. until 10:30 a.m. (CLOSED SESSION)

The Advisory Panel Selection Committee will review advisory panel applications and develop recommendations for Council consideration.

5. Scientific and Statistical Committee (SSC) Meeting: September 22, 2005, 10:30 a.m. until 12 noon (CLOSED SESSION)

The Scientific and Statistical Committee will meet to discuss the role of the SSC relative to the SEDAR process. In addition, the Committee will review applications and develop recommendations for Council for appointing SSC members.

6. Council Session: September 22, 2005, 1:30 p.m. until 5:30 p.m. and September 23, 2005, 8:30 a.m. until 12 noon

From 1:30 p.m. until 2 p.m., the Council will call the meeting order, make introductions and roll call, adopt the meeting agenda, and approve earlier meeting minutes. The Council will also hold elections for Chairman and Vice-Chairman.

From 2 p.m. until 4 p.m., the Council will receive a presentation on new fishing regulations proposed for Atlantic tunas, sharks, swordfish, and billfish and provide comment.

From 4 p.m. until 4:30 p.m., the Council will receive a presentation on the Sustainable Seafood Initiative.

From 4:30 p.m. until 5:30 p.m., the Council will hear a report from the Snapper Grouper Committee, approve the Regulatory Amendment for public hearings, take other action as appropriate.

Council Session: September 23, 2005, 8:30 a.m. until 12 noon.

From 8:30 a.m. until 9 a.m., the Council will receive a briefing from NOAA General Counsel on litigation (CLOSED SESSION).

From 9 a.m. until 9:15 a.m., the Council will receive a report from the Controlled Access Committee and take action as appropriate.

From 9:15 a.m. until 9:30 a.m., the Council will receive a report from the Joint Executive/Finance Committee and take action as appropriate.

From 9:30 a.m. until 9:45 a.m., the Council will hear a report from the Advisory Panel Selection Committee and appoint advisory panel members.

From 9:45 a.m. until 10 a.m., the Council will hear a report from the Scientific and Statistical Selection Committee and take action as appropriate.

From 10 a.m. until 11:15 a.m., the Council will hear status reports from NOAA Fisheries' Southeast Regional Office and the Southeast Fishery Science Center.

From 11:15 a.m. until 12 noon, the Council will receive agency and liaison reports, discuss other business and upcoming meetings.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Except for advertised (scheduled) public hearings and public comment, the times and sequence specified on this agenda are subject to change.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by September 15, 2005.

Dated: August 30, 2005.

Emily Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E5-4829 Filed 9-2-05; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[I.D. 052405C]

Small Take of Marine Mammals Incidental to Specified Activities; Maintenance Dredging Around Pier 39, San Francisco, California

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

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

SUMMARY: NMFS has received an application from Bay Marina Management Incorporated (BMMI) to take small numbers of marine mammals,

by harassment, incidental to dredging on the west side of the Pier 39 Marina on the San Francisco waterfront, CA. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to BMMI for 1 year.

DATES: Comments and information must be received no later than October 6, 2005.

ADDRESSES: Comments on the application should be addressed to Steve Leathery, 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 PR1.052405C@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. Comments may also be submitted via facsimile to (301) 427-2521. A copy of the application containing a list of the references used in this document may be obtained by writing to this address or by telephoning the contact listed here and is also available at: http://www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake_info.htm#applications. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Jolie Harrison, (301) 713-2289, or Monica DeAngelis, NMFS Southwest Region, (562) 980-3232.

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 (Secretary) 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) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization may be granted if the Secretary finds that the total 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 subsistence uses, and that the permissible methods of

taking and requirements pertaining to the 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 small numbers of marine mammals by harassment. Except for certain categories of actions not pertinent here, the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which: (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [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 August 9, 2004, NMFS received an application from Bay Marina Management Incorporated (BMMI) requesting an IHA for the take, by harassment, of small numbers of California sea lions (*Zalophus californianus*) and Pacific harbor seals (*Phoca vitulina*) incidental to the maintenance dredging the I, J, and K Docks on the west side of Pier 39 Marina on the San Francisco waterfront, California.

Description of the Activity

BMMI proposes to perform maintenance dredging using a small, self-contained clamshell-style crane barge between docks I, J, and K at the Pier 39 west marina. These maintenance measures are necessary to maintain safe navigation depths at the marina, which currently has reduced water depths attributed to the accretion of bay sediment. The proposed dredging at Pier 39 will remove sediment to create water depths in the project area of 9 ft (2.7 m) Mean Lower Low Water (MLLW), plus an additional two-foot overdredge allowance. Dredging design area limits

(footprints) include the faces, approaches, and entrance channels to each berthing area up to the limit of the adjacent pier. Dredging will occur between June 1 and November 30 to avoid impacts to steelhead trout and Chinook salmon.

Dredging operations at the Pier 39 west marina are expected to occur in late fall of 2005 or the summer of 2006 and are estimated to take approximately one to two weeks to complete. Dredge machinery would operate from 8 a.m. to 3:30 p.m. daily. Approximately 13,000 yd³ (9,939 m³) of material would be removed. Material to be dredged will be tested for pollutants and toxins by the Dredge Material Management Office prior to approval to begin dredging, and deposition of dredged materials will be deposited in accordance with local, state and federal regulations. Once removed, the dredged material will be transferred to Piers 96/98, which are owned and operated by the Port of San Francisco, and from there it will be disposed of at an approved upland disposal site.

The proposed dredging of the Pier 39 west berthing area will focus on the channels and slips of I and J docks and half of the channel between J and K docks. The original K dock was destroyed by the combined weight of hundreds of California sea lions that frequently use the area as a haul-out. Pier 39 replaced the damaged dock with a number of ten by twelve-foot floats for the sea lions to use. Since there are no actual berthing sites at K dock, no dredging will be necessary in the area immediately surrounding or under K dock. The crane barge will be situated at the furthest distance possible from K dock during each dredging episode. The closest that the barge will be to the K dock haul-out is when dredging the channel between J and K docks. When the barge is dredging this channel it will be moored to the bayside of J dock and extend the clamshell dredge arm out into the channel, towards K dock. Since the distance between J and K docks is 100 ft (30 m) and the barge is 30 ft (9 m) wide, it will never be positioned closer than 50 ft (15 m) to K dock at any time during the dredging project.

Description of Habitat and Marine Mammals Affected by the Activity

The marine mammal species known to be present at the Pier 39 Marina area are the California sea lion (*Zalophus californianus*) and the Pacific harbor seal (*Phoca vitulina*). Since 1993, a single adult male Steller sea lion (*Eumetopias jubatus*) has been observed hauled out on K dock intermittently during the months of July and August,

and occasionally in September (30 sightings in the last 10 years). However, this project will not affect the Steller sea lion because dredging activities will be halted if a Steller sea lion is observed.

Additional information on these species can be found in Marine Mammal Stock Assessment Reports, which are available online at: http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/sars.html.

California Sea Lions

California sea lions range from southern Mexico to southwestern Canada. In the U.S., they breed during July after pupping in late May to June, primarily in the Channel Islands of California. Most individuals breed on the Channel Islands off southern California and off Baja and mainland Mexico, although a few pups have been born on Ano Nuevo Island and this year a pup was born on the docks at Monterey and subsequently transferred to Ano Nuevo Island with its mother. Following the breeding season on the Channel Islands, most adult and sub-adult males migrate northward to central and northern California and to the Pacific Northwest, while most females and young animals either remain on or near the breeding grounds throughout the year or move southward or northward, as far as Monterey Bay.

Since nearing extinction in the early 1900's, the California sea lion population has increased and is now growing at a rate of 5.4 to 6.1 percent per year (based on pup counts) with an estimated minimum population of 138,881 animals. Actual population numbers may be as high as 237,000 to 244,000 animals. The population is not listed as "endangered" or "threatened" under the Endangered Species Act (ESA), nor is this species listed as "depleted" or as a "strategic stock" under the MMPA.

California sea lions first appeared at Pier 39 in September, 1989. Numbers of hauled-out sea lions were relatively low the first year and K Dock was only used as a haul out from late summer through the winter. Within a few years, larger numbers of sea lions were observed at K Dock and they began using the haul-out throughout the year. The Marine Mammal Center (MMC) began monitoring California sea lions at Pier 39 in the late 1990's and counts indicate peak usage of K dock at Pier 39 in May and early June, just prior to the breeding season. Although numbers decrease during mid-summer, since most adults relocate to the rookeries for pupping and breeding, some sea lions, of all age classes, remain in the area and continue

to haul out at Pier 39. Within the dredging work window (June 1 to November 30) the largest numbers of California sea lions are found at K Dock in the late summer and fall. The highest number of individuals ever observed at once between June 1 and November 30 at Pier 39 to date was 1244, in August of 2003. If the number of individuals observed at one count is averaged by month, from June to November, since 2000, the averages range from 169 for July to 709 in September. Since monitoring began in 1991, only 10 California sea lion pups have been observed at Pier 39, in 1997 and 1998. These pups, which were all weaned, most likely hauled out at K Dock due to the El Nino, and pups are not expected at the project site in "normal" years.

Pacific Harbor Seals

Although not commonly observed at Pier 39, Pacific harbor seals have been documented as visitors to K dock numerous times in the past decade. Harbor seals range from Baja California in Mexico northward to the Aleutian Islands of Alaska. The population estimate for the California stock is 27,863 individuals (Caretta, *et al.*, 2004) and is relatively stable.

Harbor seals inhabit coastal waters within their range and prefer sheltered bays and inlets to the exposed coastline. Daily haul-out behavior of harbor seals is typically dependent on the tides, weather and time of day. Harbor seals exhibit seasonal variation in reproductive timing depending on geography. The pupping season for California populations is in the spring, with populations in the San Francisco Bay typically bearing young from March 15 through May 31 (Green *et al.*, 2001). There are two active pupping sites in the San Francisco Bay, Mowry Slough in the South Bay and Castro Rocks in the North Bay. Pups have been observed at Yerba Buena Island and Corte Madera Marsh in the San Francisco Bay. No births have been witnessed at these locations, but Yerba Buena is thought to be a potential pupping site. No harbor seal pups have ever been seen at Pier 39.

Annual counts of harbor seals at Pier 39 range from 0 seals observed in 1999 and 2004, to a high of nine observations in 2000 for a total of 28 observations between 1997–2004. No more than two harbor seals have been observed hauled out simultaneously at any given time at K Dock. No harbor seals have been observed hauling out at Pier 39 July through September. No pups have been observed at Pier 39. Observations by MMC volunteers indicate that observed harbor seals at Pier 39 tend to distance

themselves from the California sea lions hauling out in the vicinity.

Potential Effects on Marine Mammals

The applicant requests authorization for incidental taking, by Level B harassment, of California sea lions and Pacific harbor seals. Level B harassment may occur if hauled animals flush the haulout and/or move to increase their distance from dredging-related activities, such as noise associated with dredging, presence of a crane barge, the presence of workers, or unfamiliar activity in proximity to the haulout site. This disturbance from acoustic and visual stimuli is the principal means of marine mammal taking associated with these activities.

Sudden brief noises have been shown to elicit startle reactions in some pinnipeds. Novel looming visual stimuli may induce similar startle reactions in pinnipeds. Daily engine starts and movements of the dredge bucket and vessel may induce startled and/or flight behavior in marine mammals using K dock as a haul out. However, this area has become a tourist spot for viewing sea lions, and the current population of animals utilizing K dock is accustomed to human activities and regular noise levels from people, traffic, use of nearby boat slips, and other marine operations. If animals do flush into the water, they may return to the haul-out site immediately, stay in the water for a length of time and then return to the haul-out, or temporarily haul-out at another site. Many factors contribute to the degree of behavioral modification, if any, including seasonality, group composition of the pinnipeds, type of activity they are engaged in and what noises they may be accustomed to experiencing. Short-term reactions such as startle or alert reactions are unlikely to disrupt behavior patterns such as migrating, breeding, feeding and sheltering and would not likely cause serious injury to marine mammals.

The small, self-contained, clamshell dredge used for this activity may produce noise of a sufficient level to harass marine mammals at K dock. Measured sound energy levels (SELs) of similar equipment ranged between 75–88 dBA (re 20 microPa) measured at 50 feet (the closest distance that the dredge unit will be to K dock) (Boeing, 2005). Results of an ongoing study at Vandenberg Air Force Base of the effects of rocket launches on pinnipeds indicate that the percentage of Pacific harbor seals leaving the haul-out increases with noise level up to an SEL of approximately 100 dBA, after which almost all seals leave, although recent data has shown that an increasing

percentage of seals have remained on shore, and those that remain are adults. Though harbor seals are more sensitive to audio stimuli than sea lions, these results indicate that animals are flushed at an SEL less than 100 dBA, and it is possible that marine mammals at K Dock may modify their behavior as a result of the lesser dredge noise.

If a startled reaction is accompanied by large-scale movements of marine mammals, such as stampedes into the water, the disruption may escalate into Level A harassment and could result in injury of individuals, especially if pups are present. However, due to the uniqueness of this particular haul-out area, the unlikely presence of pups, and the proposed shut-down procedures should pups be sighted, NMFS believes there is a very low likelihood of such injury occurring at the Pier 39 site. Specifically, the haul-out consists of many separate floating platforms that can hold up to about 25 marine mammals each. If disrupted to the point of flushing off the platforms, pinnipeds can quickly leap or roll into the water in any direction off the relatively small platforms, avoiding a dangerous stampede-like situation that may occur at normal haul-out locations such as exposed rocks. Additionally, marine mammal pups use this haul-out very infrequently (approximately 10 pups have been sighted at K Dock, in 1997 and 1998, during the El Nino), further reducing potential harm to the species.

Over the last 13 years, BMMI has observed the sea lions either ignore various unfamiliar intrusions and remain hauled out, or adapt to them and eventually become acclimated and return to their normal behavior. Disturbance from these proposed dredging activities is expected to have a only a short-term negligible impact to a small number of California sea lions and a few Pacific harbor seals. At a maximum, short-term impacts are expected to result in a temporary reduction in utilization of K dock as a haulout site while work is in progress or until seals acclimate to the disturbance. The project is not expected to result in any permanent reduction in the number of animals at Pier 39. NMFS preliminarily agrees with BMMI that effects will be limited to short-term and localized behavioral changes falling within the MMPA definition of Level B harassment.

Mitigation

To minimize disturbance of marine mammals from visual and acoustic stimuli associated with the dredging activities, BMMI will use a small (relative to the range of sizes of

equipment that could accomplish the task) clamshell dredge that can easily target the specific areas to be dredged. The smaller equipment will also minimize the amount of turbidity resulting from the dredging activities. The dredge material will be immediately loaded onto a barge and transported to a nearby terrestrial disposal site at Piers 96 and 98, which will allow for a shorter project duration.

When not in use, the clamshell dredge and dredge barge will be parked as far as feasible from the K Dock. After starting engines in morning, the clamshell dredge will be moved as slowly as possible to the area to be dredged and the dredge head lowered slowly and carefully into the water.

As mentioned previously, if a Steller sea lion of any age or a marine mammal pup of any species is spotted at any time during dredging operations, operations will cease until the animal has left the area.

Monitoring

The K dock haulout will be monitored periodically during dredging activities by two NMFS-approved observers according to the following schedule:

(1) During the week prior to the commencement of dredging activities, morning counts will be taken every morning at the same time. One afternoon count will be taken at approximately the same time the dredging is scheduled to stop in the following days.

(2) During the dredging operations:

(a) One count will be taken every morning before dredging work begins and every afternoon once operations cease.

(b) On the first day of dredging and on one other day near the end of dredging operations, monitors will be present all day (starting one hour before operations begin and remaining until 2 hours after operations cease) and they will document specific behaviors as they relate to specific aspects of the dredging operations and other activities. An additional count will be conducted 2 hours after dredging operations cease. Rates of departure and arrival of animals from/to the haulout will be noted.

(3) Following completion of the dredging:

(a) Morning counts (taken at approximately same time as those taken previously (See 1)) will be made every day for a week.

(b) An afternoon count will be conducted the day after dredging ceases and on the last day of the post-dredging monitoring.

(4) During all monitoring periods the following data will be recorded: date,

time, observer, tidal height, species present, maximum number of animals hauled out, number of adults and sub-adults, number of males and females (if possible), any observed disturbances to the animals, and the number of animals disturbed (for example, if animals flushed, reports should include the number of animals that returned to the water, and those that remained hauled out). During periods of dredging a description of dredging activities will also occur (including location of dredge, i.e., between J and K Docks, or between I and J Docks).

Reporting

A draft report will be submitted to the NMFS Southwest Regional Administrator and the Office of Protected Resources within 90 days after project completion. A final report will be submitted within 30 days of receiving NMFS' comments, if any, on the draft report. The Report will contain, analyze, and summarize the information required under Monitoring, above, as well estimating the number of animals taken by Level B Harassment. BMMI will share data collected as a result of these monitoring activities with other interested parties, such as the Marine Mammal Center and other boat marinas.

Numbers of Marine Mammals Expected to be Harassed

The highest number of California sea lions ever counted at one time on the K Dock between June 1 and November 30 was 1244 individuals in August 2003. The average number of individuals counted at one time within the work window since 2000 is lowest in July (169) and highest in September (709). The effects of the proposed dredging activities are expected to be limited to Level B Harassment in the form of short-term startle responses and localized behavioral changes. Based on an average of 169 to 709 animals over the maximum of 14 days, NMFS estimates that California sea lions could be exposed to audio or visual stimulus likely to cause harassment between 2360 and 9930 times. However, based on review of the Pier 39 observer logs maintained over the last 14 years, which indicate that sea lions may remain in the area and haul out for several days in a row at the K dock, NMFS estimates that between 1180 to 4965 individual animals will be harassed. The highest total number of harbor seals ever seen in one month between June 1 and November 30 was 3 in November of 1997. NMFS anticipates that no more than 3 Pacific harbor seals will be harassed by this activity. These are

small numbers relative to the size of the affected species or stocks.

Possible Effects of Activities on Marine Mammal Habitat

NMFS anticipates that the action will result in minor and short-term effects on marine mammal habitat, including a temporary increase in the turbidity in the area of the dredging and a temporary decrease in the quality of K dock as a haul-out site as a result of increased visual and audio stimuli.

Possible Effects of Activities on Subsistence Needs

There are no subsistence uses for California sea lions or Pacific harbor seals in California waters, and thus, there are no anticipated effects on their availability for subsistence uses.

Endangered Species Act (ESA)

Though a single Steller sea lion has infrequently been sighted at the K Dock, BMMI plans to cease dredging operations immediately if one is seen, and not begin dredging again until the animal has left the area of its own volition. NMFS does not anticipate any impacts to Steller sea lions to result from the issuance of the IHA.

In the 1998 programmatic Biological Opinion addressing dredging in San Francisco Bay, NMFS established a June 1 to November 30 work window for dredging activities in the San Francisco Bay to avoid impacts to steelhead trout and Chinook salmon. BMMI proposes to dredge between June 1 and November 30, and therefore NMFS does not anticipate any impacts to ESA-listed fish.

National Environmental Policy Act (NEPA)

NMFS has conducted a preliminary NEPA analysis and produced a draft Environmental Assessment (EA) on the Issuance of an IHA for the Incidental Take, by Harassment, of Marine Mammals During the Dredging of Pier 39, San Francisco, California. Concurrently with the publication of this document, the EA has been posted on the NMFS website at: http://www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake_info.htm#applications. Public comments are solicited regarding both the EA and this notice. NMFS will issue a record of decision under NEPA prior to the issuance or denial of this IHA.

Preliminary Conclusions

NMFS has preliminarily determined that the dredging activities described in this document and in the application for

an IHA may result in short-term and localized changes in behavior by small numbers of California sea lions and Pacific harbor seals. While behavioral modifications may be made by the seals, including temporarily vacating the K Dock haulout, this action is expected to have a negligible impact on the animals. In addition, no take by injury or death is anticipated, and take by harassment will be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document.

NMFS has preliminarily determined that the proposed activity would result in the harassment of small numbers of California sea lions and Pacific harbor seals, and that the takings will have no more than a negligible impact on these marine mammal stocks. Accordingly, NMFS proposes to issue an IHA to BMMI for the potential harassment of small numbers of California sea lions and Pacific harbor seals incidental to dredging around Pier 39, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning this request (see **ADDRESSES**).

Dated: August 30, 2005.

Donna Wieting,

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

[FR Doc. 05-17639 Filed 9-2-05; 8:45 am]

BILLING CODE 3510-22-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Request for Bilateral Textile Consultations with the Government of the People's Republic of China and the Establishment of Import Limits for Certain Cotton and Man-made Fiber Brassieres and Other Body Supporting Garments (Category 349/649) and Other Synthetic Filament Fabric (Category 620), Produced or Manufactured in the People's Republic of China

September 1, 2005.

AGENCY: Committee for the Implementation of Textile Agreements (Committee).

ACTION: Notice

EFFECTIVE DATE: August 31, 2005.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist,

Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Bureau of Customs and Border Protection website (<http://www.cbp.gov>), or call (202) 344-2650. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at <http://otexa.ita.doc.gov>.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

On August 31, 2005, as provided for under paragraph 242 of the Report of the Working Party on the Accession of China to the World Trade Organization (Accession Agreement), the United States requested consultations with the Government of the People's Republic of China with respect to imports of Chinese-origin cotton and man-made fiber brassieres and other body supporting garments (Category 349/649) and other synthetic filament fabric (Category 620).

Paragraph 242 of the Accession Agreements provides that, upon receipt of the request, the People's Republic of China will hold its shipments to a level no greater than 7.5 percent above the amount entered during the first 12 months of the most recent 14 months preceding the month in which the request for consultations was made. Because this restraint period will be for less than 12 months, the quantitative limit will be prorated to conform to the number of days remaining in the year, beginning on August 31, 2005 (i.e., by a ratio of 123/365). Consistent with paragraph 242, consultations with the People's Republic of China will be held within 30 days of receipt of the request for consultations, and every effort will be made to reach agreement on a mutually satisfactory solution within 90 days of receipt of the request for consultations. If no mutually satisfactory solution were reached during this 90-day consultation period, the United States could continue these limits.

To ensure that the limitations provided for under Paragraph 242 are carried out, the Committee is establishing prorated limits on Chinese-origin textile and apparel products in Categories 349/649 and 620, beginning on August 31, 2005, and extending through December 31, 2005. If agreement on a different limit is reached as a result of the consultations with China, the Committee will issue a **Federal Register** Notice containing a directive to the Bureau of Customs and