

II. Commission Briefing: Stagnation of the Black Middle Class.

**CONTACT PERSON FOR FURTHER**

**INFORMATION:** Kenneth L. Marcus, Staff Director, Press and Communications (202) 376-7700.

**Jenny Park,**

*Acting Deputy General Counsel.*

[FR Doc. 05-13512 Filed 7-5-05; 3:35 pm]

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**Exporters' Textile Advisory Committee; Notice of Open Meeting**

A meeting of the Exporters' Textile Advisory Committee will be held on July 20th at 10 a.m.-2 p.m. at the U.S. Department of Commerce 1401 Constitution Ave. NW, Washington, DC 20230, Room: B841-B. The meeting will be closed from 12-2 p.m.

The Committee provides advice and guidance to Department officials on the identification and surmounting of barriers to the expansion of textile exports, and on methods of encouraging textile firms to participate in export expansion.

The Committee functions solely as an advisory body in accordance with the provisions of the Federal Advisory Committee Act.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes, contact Rachel Alarid, telephone: (202) 482-5154.

July 1, 2005.

**James C. Leonard III,**

*Chairman, Committee for Implementation of Textile Agreements.*

[FR Doc. E5-3591 Filed 7-6-05; 8:45 am]

**BILLING CODE 3510-DS-S**

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**Environmental Statements; Notice of Intent: Alaska Coastal Management Program; Scoping Meetings; Correction**

**AGENCY:** Office of Ocean and Coastal Resource Management (OCRM), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice; correction.

**SUMMARY:** OCRM published a document in the **Federal Register** of June 24, 2005,

announcing dates of the public scoping meetings pursuant to the National Environmental Policy Act (NEPA). The document contained incorrect citations of Alaska State regulations, and the years when the regulatory and legislative changes were made, and misstated the type of information NOAA is seeking from the public in the first sentence of **DATES**, and did not provide information regarding where the public could find a copy of the Alaska program change.

**FOR FURTHER INFORMATION CONTACT:** Helen Bass, 301-713-3155 extension 175.

**Correction**

In the **Federal Register** of June 24, 2005, in FR Doc. Volume 70, Number 121, on page 36565, correct the **SUMMARY**, the first sentence of **DATES**, and the first sentence of the Supplementary Information, captions to read:

**SUMMARY:** NOAA announces its intention to prepare an EIS in accordance with the National Environmental Policy Act of 1969 for the proposed approval of amendments submitted by the State of Alaska to its Coastal Management Program. The State has adopted statutory changes to Coastal Management Administration (AS 46.39) and The Alaska Coastal Management Program (AS 46.40), and regulatory changes to Alaska Coastal Management Implementation (11 AAC 110), Statewide Standards of the Alaska Coastal Management Program (11 AAC 112), and District Coastal Management Plan Requirements (11 AAC 114). The Program Change submission, statutory changes, and regulatory changes are available for public review on the Alaska Coastal Management Program's Web site at <http://www.alaskacoast.state.ak.us/OCRM/06-02-05.htm>.

**DATES:** Written comments on suggested alternatives and potential impacts of the proposed approval of the amendments submitted by the State of Alaska to its Coastal Management Program will be accepted on or before August 5, 2005.

**SUPPLEMENTARY INFORMATION:** In 2003 and 2005, the State of Alaska adopted legislation that made substantial revisions to its federally-approved Coastal Management Program. In addition, regulatory changes implementing those legislative revisions were made in 2004 and 2005.

Dated: June 30, 2005.

**Eldon Hout,**

*Director, Office of Ocean and Coastal Resource Management, National Ocean Service, National Ocean and Atmospheric Administration.*

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

[FR Doc. 05-13323 Filed 7-6-05; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[I.D. 040703H]

**Small Takes of Marine Mammals Incidental to Specified Activities; Coastal Commercial Fireworks Displays at Monterey Bay National Marine Sanctuary, 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 the provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to Monterey Bay National Marine Sanctuary (MBNMS) to take marine mammals by Level B harassment incidental to permitting professional fireworks displays within the Sanctuary in California waters.

**DATES:** Effective from July 4, 2005, through July 3, 2006.

**ADDRESSES:** A copy of the IHA and the application are available by writing 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, or by telephoning the contact listed here. A copy of the application containing a list of references used in this document may be obtained by writing to this address, by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) or online at: [http://www.nmfs.noaa.gov/prot\\_res/PR2/Small\\_Take/smalltake\\_info.htm#applications](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, Office of Protected Resources,

NMFS, (301) 713-2289, ext 166, or Monica DeAngelis, NMFS, Southwest Regional Office, (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 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 for incidental takings may be granted 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, 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 activities 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 authorization for the incidental harassment of small numbers 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 May 10, 2002, NMFS received an application from the MBNMS requesting a one-year IHA under section 101(a)(5)(D) and regulations governing authorizations for a five-year period under section 101(a)(5)(A) of the MMPA for the possible harassment of Pacific harbor seals (*Phoca vitulina*) and California sea lions (*Zalophus californianus*) incidental to coastal fireworks displays resulting from permits issued to commercial companies, by MBNMS, to hold firework events.

##### Comments and Responses

A notice of receipt of the MBNMS application and proposed IHA was published in the **Federal Register** on May 27, 2003 (68 FR 28810). During the comment period, NMFS received comments only from the Marine Mammal Commission (Commission).

*Comment 1:* The Commission concurs with NMFS' preliminary determinations concerning the impacts of the proposed activities on California sea lions and Pacific harbor seals.

*Response:* NMFS appreciates the Commission's comment and is requiring implementation of all mitigation and monitoring activities that have been described in MBNMS' application.

*Comment 2:* The Commission states that the May, 2003 **Federal Register** notice did not clearly indicate whether a separate harassment authorization would be needed from the U.S. Fish and Wildlife Service (USFWS) for take of southern sea otters or if authorization for take of that species would be included in this IHA or subsequently proposed regulations.

*Response:* The USFWS has determined that the MBNMS fireworks displays will not result in take of the southern sea otter and, therefore, no incidental take statement under the Endangered Species Act (ESA) or IHA will be issued for the take of southern sea otters.

*Comment 3:* The Commission recommends that any IHA issued to the applicant specify that, if a mortality or serious injury of a marine mammal occurs that appears to be related to the fireworks displays, further fireworks events be suspended while NMFS determines whether steps can be taken to avoid further injuries or mortalities or until such taking can be authorized by regulations promulgated under Section 101(a)(5)(A) of the MMPA.

*Response:* Section 101(a)(5)(D)(iv) states that "The Secretary shall modify, suspend, or revoke an authorization if the Secretary finds that the provisions of

clauses (i) or (ii) are not being met." Clause (i) states that "the Secretary shall authorize...taking by harassment of small numbers of marine mammals". The taking of marine mammals by mortality is, therefore, not authorized under an IHA. Clause (ii) states that "The authorization for such activity shall prescribe, where applicable-(I) permissible methods of taking by harassment pursuant to such activity." The permissible methods of taking described in this IHA include only Level B harassment, not serious injury. Were serious injury or death to result from MBNMS' fireworks displays, their IHA would be modified, suspended, or revoked. Take of marine mammals as a result of MBNMS' fireworks displays would then not be covered under the MMPA unless the current IHA were modified to avoid injury or mortality, a take authorization were issued under section 101(a)(5)(A), or MBNMS reapplied for, and were issued, a new IHA with measures included to prevent further serious injury or mortality.

*Comment 4:* The Commission recommends that prior to issuing the requested IHA, NMFS be satisfied that MBNMS' monitoring program is sufficient to detect the effects of the proposed activities, including any mortality or serious injury that results from startle responses, stampedes, or unexploded fireworks devices.

*Response:* In addition to the comprehensive monitoring at the Monterey breakwater proposed in the application, NMFS has included in the IHA a post-event monitoring requirement at all permitted displays to ensure that fireworks-related injuries or mortalities are detected.

##### Background

The MBNMS adjoins 276 mi (444 km) or 25 percent of the central California coastline, and encompasses ocean waters from mean high tide to an average of 25 mi (40 km) offshore between Rocky Point in Marin County and Cambria in San Luis Obispo County. Fireworks displays have been conducted over current MBNMS waters for many years as part of national and community celebrations (such as Independence Day and municipal anniversaries), and to foster public use and enjoyment of the marine environment. The marine venue for this activity is the preferred setting for fireworks in central California in order to optimize public access and avoid the fire hazard associated with terrestrial display sites. Many fireworks displays occur at the height of the dry season in central California, when area vegetation

is particularly prone to ignition from sparks or embers.

In 1992, the MBNMS was the first national marine sanctuary (NMS) to be designated along urban shorelines and has addressed many regulatory issues previously not encountered by the NMS program. Authorization of professional firework displays has been an issue that has required a steady refinement of policies and procedures toward this activity as more has been learned about its impacts to the environment.

#### Specified Activities

Since 1993, the MBNMS, a component of NOAA, has processed requests for the professional display of commercial-grade fireworks in the atmosphere and at ground or sea level, and these displays have impacts on Sanctuary resources. Sponsors of fireworks displays conducted in the MBNMS are required to obtain authorization from the MBNMS due to discharge of spent pyrotechnic materials into NMS waters and potential disturbance to marine species (see 15 CFR 922.132).

Professional pyrotechnic devices used in firework displays can be grouped into three general categories: aerial shells, low-level devices, and set piece displays. Aerial shells are launched from mortars using black powder charges to altitudes of 200 to 1000 ft (61 to 305 m) where they explode and ignite internal burst charges and incendiary chemicals. The largest commercial aerial shells used within MBNMS reach a maximum altitude of 1000 ft (305 m) above ground level with a bursting radius of approximately 850 ft (260 m). Most of the incendiary elements and part of the shell casing burn up in the atmosphere; however, portions of the casings and some internal structural components and chemical residue fall back to the ground or water, depending on wind conditions. The bulk of debris will fall to the surface within a 0.5 statute mile (0.8 km) radius of the launch site. A unique type of aerial shell is known as a "salute" shell, the purpose of which is to produce a loud percussive audible effect which sounds similar to cannonfire when detonated. Low-level devices are similar to over-the-counter fireworks, which produce a fountain effect of light as burning particles shoot up out of a tube, producing a ball or trail of sparkling light. These fireworks are designed to produce effects between 0 and 200 ft (0 to 61 m) above ground level, and some may emit pulsing light patterns and/or sound effects. Some low-level devices may project small casings into the air, which will generally fall to the earth

within a 600-ft (183-m) radius of the launch site. Set piece fireworks are mostly static in nature and remain close to the ground and are usually used in concert with low-level effects or aerial shells, typically employing bright flares, sparkling effects, and limited sound effects. These displays are designed to produce effects between 0 and 50 ft (0 to 15 m) above ground level. Depending on local conditions, fallout is generally confined within a 300-ft (91-m) radius of the launch site.

The MBNMS has issued 64 permits for professional fireworks displays since 1993. Four fireworks display applications have been directed to areas outside the Sanctuary, and 4 applications are currently (as of June, 2005) being processed, with the outcome not yet determined. However, MBNMS projects that as many as 20 coastal displays per year may be conducted in, or adjacent to, MBNMS boundaries in the future. The number of displays will be limited to not more than 20 events per year in four specific areas along 276 mi (444 km) of coastline. Fireworks displays will not exceed 30 minutes (with the exception of up to two displays per year, not to exceed 1 hour) in duration and will occur with an average frequency of less than or equal to once every two months within each of the four prescribed display areas. The vast majority (95 percent) of fireworks displays authorized in the MBNMS between 1993 and 2003 have been aerial displays that usually include simultaneous low-level displays. An average large display will last 20 minutes and include 700 aerial shells and 750 low-level effects. An average smaller display lasts approximately 7 minutes and includes 300 aerial shells and 550 low-level effects.

Initially, the MBNMS believed that it could minimize potential light, sound, and debris impacts to the NMS and marine mammals through permit conditions to limit the location, timing, and composition of professional fireworks events affecting the MBNMS. However, due to observations over the past several years and through consultation with NMFS' Southwest Region, it appears that some fireworks displays result in incidental take of marine mammals by Level B harassment. NMFS believes that the nature of the incidental harassment will be the short-term flushing and evacuation of non-breeding haulout sites by California sea lions and Pacific harbor seals.

A more detailed description of the fireworks displays permitted by MBNMS may be found in the

application or in NMFS' 2005 Environmental Assessment of the Issuance of an Incidental Harassment Authorization for Coastal Commercial Fireworks Displays Authorized Within the Monterey Bay National Marine Sanctuary, which are available upon request (see ADDRESSES).

#### Description of Habitat and Marine Mammals Affected by the Activity

The Monterey Bay area is located in the Oregonian province subdivision of the Eastern Pacific Boreal Region. The six types of habitats found in the bay area are: (1) submarine canyon habitat, (2) nearshore sublittoral habitat, (3) rocky intertidal habitat, (4) sandy beach intertidal habitat, (5) kelp forest habitat, and (6) estuarine/slough habitat. Monterey Bay supports a wide array of temperate cold-water species with occasional influxes of warm-water species, and this species diversity is directly related to the diversity of habitats. A description of MBNMS and its associated marine mammals can be found in the MBNMS application and Fireworks Assessment Report (2001), which are available upon request (see ADDRESSES).

The species of marine mammals that may be present in a fireworks display acute impact area (the area where sound, light, and debris effects have direct impacts on marine organisms and habitats) include the California sea lion, Pacific harbor seal, Southern sea otter (*Enhydra lutris neries*) bottlenose dolphin (*Tursiops truncatus*), harbor porpoise (*Phocoena phocoena*), California gray whale (*Eschrichtius robustus*), and rarely, the northern elephant seal (*Mirounga angustirostris*).

Though the abovementioned cetaceans are known to frequent nearshore areas within the Sanctuary, they have never been reported in the vicinity of a fireworks display, nor have there been any reports to the MBNMS of strandings or injured/dead animals discovered after any display. Since sound does not transmit well between air and water, these animals would likely not encounter the effects of fireworks except when surfacing for air.

Past Sanctuary observations have not detected any disturbance to California sea otters as a result of the fireworks displays; however, past observations have not included specific surveys for this species. Sea otters do frequent all general display areas. Sea otters and other species may temporarily depart the area prior to the beginning of the fireworks display due to increased human activities. Some sea otters in Monterey harbor have become quite acclimated to very intense human

activity, often continuing to feed undisturbed as boats pass simultaneously on either side and within 20 feet of the otters. It is therefore possible that select individual otters may have a higher tolerance level than others to fireworks displays. Otters in residence within the Monterey harbor display a greater tolerance for intensive human activity than their counterparts in more remote locations. The MBNMS consulted with the USFWS pursuant to Section 7 of the Endangered Species Act (ESA) regarding effects on southern sea otters. The USFWS concluded in a biological opinion that take of sea otters is not likely.

The northern elephant seal is seen so infrequently in the areas with fireworks displays that they are not likely to be impacted by fireworks displays. Therefore, the only species likely to be harassed by the fireworks displays are the California sea lion and the Pacific harbor seal.

#### *California Sea Lions*

The population of California sea lions ranges from southern Mexico to southwestern Canada (Caretta *et al.*, 2004). In the United States, they breed during July after pupping in late May to June, primarily in the Channel Islands of California. Most individuals of this species breed on the Channel Islands off southern California (100 mi (161 km) south of the MBNMS) and off Baja and mainland Mexico (Odell, 1981), although a few pups have been born on Ano Nuevo Island (Keith *et al.*, 1984). 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 robust and growing at a current rate of 5.4 to 6.1 percent per year (based on pup counts) with an estimated "minimum" population (U.S. west coast) of 138,881 animals. The actual population level may be as high as 237,000 to 244,000 animals. The population is not listed as "endangered" or "threatened" under the ESA, nor is this species a "depleted" or a "strategic stock" under the MMPA.

In any season, California sea lions are the most abundant pinniped in the area (Bonnell *et al.*, 1983), primarily using the central California area to feed during the non-breeding season. After breeding farther south along the coast and

migrating northward, populations peak in the Monterey Bay area in fall and winter and are at their lowest numbers in spring and early summer. A minimum of 12,000 California sea lions are probably present at any given time in the MBNMS region. Ano Nuevo Island is the largest single haul-out site in the Sanctuary, hosting as many as 9,000 California sea lions at times (Weise, 2000; Lowry, 2001).

#### *Pacific Harbor Seals*

Harbor seals are distributed throughout the west coast of the United States, inhabiting near-shore coastal and estuarine areas from Baja California, Mexico, to the Pribilof Islands in Alaska. They generally do not migrate, but have been known to travel extensive distances to find food or suitable breeding areas (Caretta *et al.*, 2004). In California, approximately 400–500 harbor seal haulout sites are widely distributed along the mainland and on offshore islands (Caretta *et al.*, 2004).

The harbor seal population in California is healthy and growing at a current rate of 3.5 percent per year with an estimated "minimum" population (California) of 25,720 animals (Caretta *et al.*, 2004). The California population is estimated at 27,863 animals. The population is not listed as "endangered" or "threatened" under the ESA; nor is this species a "depleted" or a "strategic stock" under the MMPA.

Harbor seals are residents in the MBNMS throughout the year, occurring mainly near the coast. They haul out at dozens of sites along the coast from Point Sur to Ano Nuevo. Within MBNMS, tagged harbor seals have been documented to move substantial distances (10–20 km (3.9–7.8 mi)) to foraging areas each night (Oxman, 1995; Trumble, 1995). The species does breed in the Sanctuary, and pupping within the Sanctuary occurs primarily during March and April followed by a molt during May and June. Peak abundance on land within the Sanctuary is reached in late spring and early summer when they haul out to breed, give birth to pups, and molt (MBNMS FEIS, 1992).

#### **Potential Effects of Activities on Marine Mammals**

Marine mammals can be impacted by fireworks displays in three ways: light, sound, and debris. Pyrotechnic devices that operate at higher altitudes are more likely to have a larger impact area (such as aerial shells), while ground and low-level devices have more confined effects. Possible direct impacts to marine mammals include, but are not limited to, immediate physical and physiological impacts such as abrupt

changes in behavior, flight response, diving, evading, flushing, cessation of feeding, and, less likely, physical impairment or mortality.

MBNMS staff have recovered uncharred casing remnants on ocean waters immediately after marine displays, including cardboard cylinders, disks, paper, plastic pieces, aluminum foil, cotton string, and even whole unexploded shells (duds or misfires). The debris and chemical residue fallout area is determined by wind conditions, weather, and other local variations. MBNMS does not expect this debris to impact marine mammals, because permit conditions and mitigation measures proposed by the Sanctuary will ensure that the debris resulting from fireworks displays will not alter ocean areas or haul-out sites used by California sea lions and harbor seals.

The applicant requests an authorization for incidental takes by Level B harassment of California sea lions and Pacific harbor seals, which are the only two marine mammal species under NMFS' jurisdiction likely to be impacted by fireworks displays within the Sanctuary. The remaining species of marine mammals, though they may be present in the acute impact area, are not likely to be taken by harassment or any other type of take.

Post monitoring efforts by the MBNMS staff have identified only a short-term behavioral disturbance of animals by fireworks displays, with the primary causes of disturbance being sound effects and light flashes from exploding fireworks. Typical decibel levels for displays containing no "salute" effects range from 70 to 78 dB. Studies conducted at Vandenberg Air Force Base (VAFB) to determine responses by California pinnipeds to the effects of periodic rocket launches (which have light and sound effects similar to that of pyrotechnic displays but with much greater intensity) have demonstrated the temporary flushing of animals from haul out sites, their eventual return, and no detectable changes in the seals' hearing sensitivity as a result. Incidental takes of marine mammals by Level B harassment of California sea lions and harbor seals will consist of temporary evacuation of usual and accustomed haul-out sites. Sea lions have been observed evacuating haul-out areas upon initial detonation of fireworks and returning to the haul-out sites within 4 to 15 hours following the end of the fireworks display. Harbor seals have been seen to remain in the water after initial fireworks detonation around the haul-out site. Sea lions in general are more tolerant of noise and visual disturbances than harbor seals.

Adult sea lions have most likely habituated to many sources of disturbance and are, therefore, tolerant of nearby human activities. For both pinniped species, pups and juveniles are more likely to be harassed when exposed to disturbance than older animals. Please refer to MBNMS Fireworks Assessment Report (2001) and Fireworks Guidelines (2002) for information on quantitative survey results, related research studies, and observations made by MBNMS staff as well as details on how exploding fireworks impact marine mammals and how animals respond (see **ADDRESSES**).

Because of mitigation measures proposed, the MBNMS expects that only Level B harassment may occur incidental to authorized coastal fireworks displays and that these events will result in no more than a negligible impact on marine mammal species or their habitats. NMFS anticipates no impact on the availability of the species or stocks for subsistence uses because there is no subsistence harvest of marine mammals in California.

#### **Mitigation**

The MBNMS has worked with the USFWS and NMFS Southwest Region to craft a set of permitting guidelines designed to minimize fireworks impacts in order to protect MBNMS resources, as well as outline the locations, frequency, and conditions under which the MBNMS will authorize marine fireworks displays. The MBNMS plans to retain these permitting requirements and assess displays on a case-by-case basis, implementing general and special restrictions unique to each fireworks event as necessary.

The fireworks guidelines are designed to prevent an incremental proliferation of fireworks displays and disturbance throughout the MBNMS and minimize area of impact by confining displays to primary traditional use areas. Traditional display areas are located adjacent to urban centers where wildlife has often acclimated to human disturbances, such as low-flying aircraft, emergency vehicles, unleashed pets, beach combing, recreational and commercial fishing, surfing, swimming, boating, and personal watercraft operations. Future permitted fireworks displays will be confined to four prescribed areas within the MBNMS and prohibited from the remaining 95% of coastal areas. The conditional display areas are located at Half Moon Bay, the Santa Cruz/Soquel area, the northeastern Monterey Peninsula, and Cambria (Santa Rosa Creek). An equal number of private and public displays will be considered for authorization

within each display area. Remote areas and locations where professional fireworks have not traditionally been conducted will not be considered for fireworks approval. Fireworks displays will not exceed 30 minutes in duration, with the exception of two longer displays per year not to exceed 1 hour in length, and will occur with an average frequency of less than or equal to one display every two months within each of four prescribed display areas. Please refer to the MBNMS Fireworks Assessment Report (2001) and Fireworks Guidelines (2002) for general information on frequency and duration of typical fireworks displays within the Sanctuary, strategies for minimizing impacts, as well as maps and detailed descriptions of prohibited and conditional display areas (see **ADDRESSES**).

In addition, there is an annual limit of 20 displays along the entire Sanctuary coastline to prevent cumulative adverse environmental effects from fireworks. The MBNMS intends to institute a 5-year permit system for displays that will occur annually at a fixed location and in a consistent manner, such as municipal Independence Day shows. Also, MBNMS has established a seasonal prohibition to safeguard pinniped reproductive periods. Fireworks events will not be authorized between March 1 and June 30 of each year, since this period is the primary reproductive season for many marine mammal species. After considering the factors within each display application, other permit conditions that may be deemed appropriate are to limit the number of aerial "salute" effects used, require the removal of plastic labels and wrappings, and to require post-show reporting and cleanup.

The MBNMS guidelines effectively remove fireworks impacts from 95 percent of the Sanctuary's coastal areas, place an annual quota and multiple permit conditions on the displays authorized within the remaining 5 percent of the coast, and impose a seasonal prohibition on all fireworks displays within the MBNMS. The guidelines were developed to minimize the impacts of fireworks activities on protected species and habitats, and they have been well received by local fireworks sponsors, who have pledged their cooperation in protecting MBNMS resources. Please refer to the MBNMS Fireworks Guidelines (2002) for details on permit conditions and regulations (see <http://www.mbnms.nos.noaa.gov/resourcepro/firework.html>).

#### **Monitoring**

Of all the past authorized fireworks display sites within the MBNMS, the City of Monterey site has received the highest level of monitoring effort. The City of Monterey has hosted a marine fireworks display each July 4th since 1988, which is the longest running and largest annual commercial fireworks display within the MBNMS. Because the Monterey Breakwater and natural rock formations near the display area serve as regular haul-out sites for California sea lions and harbor seals, the Monterey site has been studied and censused by government and academic researchers for over 20 years. Consequently, the Monterey site has the best background data available for assessing status and trends of key marine mammal populations relative to annual fireworks displays. For this reason, the MBNMS proposes that Monterey be monitored as an indicator site to further determine how local California sea lion and harbor seal distribution and abundance are affected by an annual fireworks display.

The MBNMS has monitored commercial fireworks displays for potential impacts to marine life and habitats since 1993. The Sanctuary will conduct a visual census of the Monterey Breakwater and rocks within Monterey Harbor on July 4 and July 5 each year to determine annual abundance, demographic response patterns, and departure and return rates for California sea lions and harbor seals relative to the July 4 fireworks display. Data will be collected by observers aboard kayaks or small boats and from ground stations (where appropriate), using binoculars, counters, and data sheets to census animals. The pre- and post- fireworks census data will be analyzed to identify any significant temporal changes in abundance and distribution that might be attributed to impacts from the annual fireworks display. The data will also be added to past research statistics on the abundance and distribution of stocks at Monterey Harbor.

Last, in addition to the comprehensive behavioral monitoring to be conducted at the Monterey Bay Breakwater, MBNMS will require of its applicants post-event monitoring in the acute action area after all permitted fireworks locations to ensure that injured or dead marine mammals are detected.

#### **Reporting**

A draft final report must be submitted to NMFS within 60 days after the conclusion of the annual fireworks permit season. A final report must be submitted to the Regional Administrator

within 30 days after receiving comments from NMFS on the draft final report. If no comments are received from NMFS, the draft final report will be considered to be the final report.

#### Numbers of Marine Mammals Expected to be Harassed

The number of animals taken by Level B harassment during fireworks displays is expected to vary due to factors such as tidal stage, seasonal shifting prey stocks, climatic phenomenon (such as el Nino events), and the number, timing, and location of future displays. At all four designated display sites combined, twenty fireworks events per year could harass an average annual total of 2,630 California sea lions (6,170 maximum) and an average annual total of 302 harbor seals (1,065 maximum) within the MBNMS. These numbers are small relative to the population sizes of these species. Please refer to the MBNMS Fireworks Assessment Report (2001) for further information regarding estimated incidental take numbers by display area and fireworks events (see **ADDRESSES**).

#### Possible Effects of Activities on Marine Mammal Habitat

NMFS anticipates no loss or modification to the habitat used by California sea lions or Pacific harbor seals that haul out in the MBNMS. The pinniped haul-out sites in MBNMS where fireworks displays will occur are not used as breeding, molting, or mating sites during the fireworks displays; therefore, it is not expected that the covered activities will have any impact on the ability of California sea lions or Pacific harbor seals in the area to reproduce. Additionally, MBNMS fireworks permit conditions include requirements for applicants to clean up debris subsequent to all displays.

#### Possible Effects of Activities on Subsistence Needs

There are no subsistence uses for Pacific harbor seals in California waters, and thus, there are no anticipated effects on subsistence needs.

#### Endangered Species Act

The MBNMS consulted with the USFWS pursuant to Section 7 of the ESA regarding impacts to southern sea otters. The USFWS issued a biological opinion on June 22, 2005, which concluded that the authorization of fireworks displays, as proposed, is not likely to jeopardize the continued existence of southern sea otters or to destroy or adversely modify any listed critical habitat. The USFWS further found that MBNMS would be unlikely to take any southern sea otters, and

therefore issued neither an incidental take statement nor an IHA.

#### National Environmental Policy Act

NOAA prepared a Final Environmental Impact Statement and Master Plan for the MBNMS in June 1992. Subsequent to MBNMS' application for an IHA, NMFS prepared an Environmental Assessment on the Issuance of an Incidental Harassment Authorization for Coastal Commercial Fireworks Displays Authorized Within the Monterey Bay National Marine Sanctuary. A Finding of No Significant Impact was issued on June 30, 2005.

#### Conclusions

NMFS has determined that the short-term impact of fireworks displays, as described in this document and in the application for an IHA, would result in no more than Level B harassment of small numbers of California sea lions and harbor seals. The effects of coastal fireworks displays will be limited to short term and localized changes in behavior involving small numbers of pinnipeds. Although sea lions and seals may modify their behavior, including temporarily vacating haulouts to avoid the sight and sound of commercial fireworks, these fireworks are expected to have no more than a negligible impact on these stocks. No take by injury and/or death is anticipated, and harassment takes will be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document. Additionally, the MBNMS fireworks displays will not have an unmitigable adverse impact on the availability of marine mammal stocks for subsistence use, as there are no subsistence uses for California sea lions or Pacific harbor seals in California waters.

#### Authorization

NMFS has issued a 1-year IHA to the MBNMS for the take of California sea lions and Pacific harbor seals, by harassment, incidental to coastal fireworks displays permitted within the MBNMS, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: June 30, 2005.

#### Michael Payne,

*Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.*  
[FR Doc. 05-13389 Filed 7-6-05; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 062105C]

#### Endangered and Threatened Species; Take of Anadromous Fish

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

**ACTION:** Receipt of applications for two scientific research/enhancement permits (1534 and 1539) and request for comment.

**SUMMARY:** Notice is hereby given that NMFS has received applications to grant permits to (Permit 1534), Rowdy Creek Fish Hatchery, Smith River, CA (Permit 1539), Siskiyou Resource Conservation District (RCD), Etna, CA. These permits would affect Southern Oregon/Northern California Coast (SONCC) coho salmon (*Oncorhynchus kisutch*). This document serves to notify the public of the availability of the permit application for review and comment before a final approval or disapproval is made by NMFS.

**DATES:** Written comments on the permit application must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Daylight Savings Time on August 8, 2005.

**ADDRESSES:** Written comments on any of these renewal and modification request should be sent to the appropriate office as indicated here. Comments may also be sent via fax to the number indicated for the request. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents are available for review in the indicated office, by appointment: For Permits 1534 and 1539: Steve Liebhardt, Protected Species Division, NOAA Fisheries, 1655 Heindon Road, Arcata, CA 95521 (ph: 707-825-5186, fax: (707)-825-4840).

**FOR FURTHER INFORMATION CONTACT:** Steve Liebhardt at phone number (707-825-5186), or e-mail: [steve.liebhardt@noaa.gov](mailto:steve.liebhardt@noaa.gov)

#### SUPPLEMENTARY INFORMATION:

##### Authority

Issuance of permits, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are