

of liquidation, December 8, 1997. This certification proposal has been reviewed by the Customs Service, which has agreed that it is administrable (see Memorandum to the File, dated June 10, 1998).

After examining this certification for consistency with the entry summary, the Customs Service will forward the certification to the Department of Commerce, Import Administration.

This affirmative final circumvention determination is in accordance with section 781(a) of the Act and 19 CFR 351.225.

Dated: October 5, 1998.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 98-27403 Filed 10-9-98; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### University of Minnesota; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This is a decision pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

**Decision:** Denied. Applicant has failed to establish that domestic instruments of equivalent scientific value to the foreign instrument for the intended purposes are not available.

**Reasons:** Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for the following docket.

**Docket Number:** 98-019. **Applicant:** University of Minnesota, Department of Neurosurgery, Lions Research Building, 2001 Sixth Street, S.E., #421, Minneapolis, MN 55455. **Instrument:** Eye Tracking System. **Manufacturer:** Thomas Recording, Germany. **Date of Denial Without Prejudice to Resubmission:** July 1, 1998.

**Frank W. Creel,**

*Director, Statutory Import Programs Staff.*

[FR Doc. 98-27401 Filed 10-9-98; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Application for Duty-Free Entry of Scientific Instrument

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Application may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

**Docket Number:** 98-047. **Applicant:** University of California, Davis, 1 Shields Avenue, Davis, CA 95616.

**Instrument:** Plasma Generating Machine, Model SPS-1050. **Manufacturer:** Sumitomo Coal Mining Co., Japan. **Intended Use:** The instrument will be used to investigate the phenomena of the simultaneous synthesis and densification of hard material by a patented field-activated, pressure assisted combustion method that consists of exposing elemental powders to a pulsing high current while simultaneously subjected to high pressure. **Application accepted by Commissioner of Customs:** September 21, 1998.

**Frank W. Creel,**

*Director, Statutory Import Programs Staff.*

[FR Doc. 98-27402 Filed 10-9-98; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 092498A]

#### Small Takes of Marine Mammals Incidental to Specified Activities; Explosives Testing at Eglin Air Force Base, FL

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

**ACTION:** Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

**SUMMARY:** NMFS has received a request from the U.S. Air Force to take, by harassment and non-serious injury, bottlenose dolphins, spotted dolphin, and possibly other cetacean species incidental to explosive testing of obstacle and mine clearance systems at Eglin Air Force Base (Eglin). Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize these takings for a period not to exceed 1 year. **DATES:** Comments and information must be received no later than November 12, 1998.

**ADDRESSES:** Comments on this application should be addressed to Michael Payne, Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. A copy of the application and draft environmental assessments (EAs) may be obtained by writing to this address or by telephoning the contact listed here.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Hollingshead 301-713-2055, or David Bernhart, 727-570-5312.

#### 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 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 if NMFS finds that the taking will have a negligible impact on the species or stock(s) and 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 U.S. citizens can apply for an authorization to incidentally take small numbers of marine mammals by harassment for a period of up to 1 year. The MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the

wild; or (b) 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.

Subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and a comment period on any proposed authorizations 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 July 20, 1998, NMFS received a complete application from the Air Force Development Test Center, Department of the Air Force, Eglin. The Air Force, in cooperation with the Naval Surface Warfare Center-Coastal Systems Station (NSWC-CSS), U.S. Navy, is requesting an authorization to take, by harassment and non-serious injury, bottlenose dolphins (*Tursiops truncatus*), spotted dolphins (*Stenella plagiodon*), and possibly other cetacean species incidental to explosive testing of obstacle and mine clearance systems at Eglin. Eglin is located in the Florida Panhandle approximately midway between the cities of Pensacola and Panama City, FL. The location of the proposed action is on the beach areas on Santa Rosa Island (SRI), approximately 27 kilometers (km) (17 miles (mi)) west of Destin, FL.

The Navy's current capability to clear obstacles and mines in the surf zone is limited to the hand placement of explosive charges by Navy combat swimmers. The effectiveness of this capability is limited by the ability of swimmers to locate submerged targets and to carry sufficient explosives to destroy the targets. Such operations are considered highly hazardous, and the reliability of obstacle removal is considered to be poor. To facilitate U.S. Marine amphibious assaults, the U.S. Navy is committed to developing and testing methods to safely and effectively clear a path through such obstacles.

NWSC-CSS has requested permission from Eglin to test four anti-mine systems in the shallow surf zone along U.S. Air Force-controlled lands of SRI. The four test systems are the Shallow Water Assault Breaching (SABRE) system, the Distributed Explosive Technology (DET) system, the MK-82 general purpose bombs (GPBs), and the MK-5 Mine Clearance System (MCS).

The proposed action is to perform up to a total of 10 underwater detonation tests (2 tests using the SABRE system

and up to 8 tests using the DET array); and a series of tests of explosive systems at Eglin.

In order to avoid impacting the endangered West Indian manatee (*Trichechus manatus*) (which is more commonly found south of the region and during warmer months) and sea turtles, tests will be conducted in the fall and winter 1998/99. While a brief description of the four systems proposed for testing are described here, more detailed descriptions of the activity and the expected impact can be found in the application and in the two EAs on the activities. These documents are available upon request (see ADDRESSES).

### SABRE System

An operational full-length SABRE-line charge consists of 130 10-pound (lb) (4.5 kg) net explosive weight (N.E.W.) charges on 3-ft (0.9 m) centers which is deployed from a Landing Craft Air-Cushion (LCAC) by an MK-22 Mod 4 rocket motor. Each charge consists of approximately 9.6 lb (4.3 kg) of PBXN-103 explosive and a W-11 booster, weighing approximately 0.4 lb (0.2 kg). A detonating cord runs through the centers of the booster and main charge.

For the two proposed tests, a total of 22 and 23 SABRE charges will be hand-laid on the sea bottom, perpendicular to the beach in 3 ft (.91 m) and 10 ft (3.0 m) of water, respectively. For both tests, the detonation sequence will be from the offshore end toward the beach. For these events, 27 to 31 inert mines will be placed perpendicular to the line charge and parallel to the shoreline. Total N.E.W. of the SABRE tests will be 221 lbs (100.2 kg) and 232 lbs (105.2 kg), respectively.

### DET System

An operational, full-size DET array consists of parallel lines of detonating cord, whose overall footprint is 180 by 180 ft (54.9 m by 54.9 m). The array is packed in a container and launched from an LCAC by two MK-22 Mod 4 rocket motors for expansion and subsequent deployment.

Full-scale systems are not required for these tests. Previous tests have shown that partial-length SABRE segments and partial-size DET arrays are adequate for evaluations. The data acquired from small-scale tests can be scaled up in order to make predictions for military applications. Thus, for the DET system, the Navy is proposing to use an 11-ft by 60-ft (3.3 m by 18.3 m) DET array in 3 ft (0.9 m) of water. There will be eight separate DET events, spanning several days, with two to three arrays tested per day. The N.E.W. of each array is 42 lbs

(19 kg), with arrays being detonated at the seaward end. Each array will be placed above a maximum of four live mines consisting of either 22 or 26.4 lbs (10 or 12 kg) of explosive. Depending upon the mine type, total N.E.W. of each test therefore would be up to either 130 lbs (59 kg) or 147.6 lbs (67 kg). DET events will be hand-deployed from a boat and exploded electronically by trained personnel.

### MK-82 GPBs

The proposed action is an evaluation of the MK-82 GPBs to clear anti-invasion beach obstacles and mines in the surf zone. The MK-82 GPBs to be tested consist of seven GPBs, each containing 192 lbs (87.1 kg) of explosive for a total N.E.W. of 1,344 lbs (610 kg). The configuration for testing will be a linear arrangement of seven bombs spaced 24 ft (7.3 m) apart, located parallel to the shoreline in 6 ft (1.8 m) of water.

Two separate deployments and firings are required to test this configuration. All MK-82s will be buried vertically to approximately one-half length (about 3 ft (0.9 m)) by jetting. The MK-82s will be detonated using approximately 1/4 block of C-4 explosive paced into the aft fuse well. The MK-82s will be detonated simultaneously in 6 ft (1.8 m) of water using remote detonators to detonate the C-4. Beach obstacles (log posts, concrete cubes, and steel hedgehogs) and inert mines will be placed around the bombs to serve as targets for bomb fragments and blast.

### MK-5 MCS

The MK-5 MCS consists of a 350-ft (106.7 m) continuous length charge of composition C-4 explosive (with a distribution of 5 lb (2.3 kg) per linear foot and a pair of detonating cords (totaling 11 lbs (5 kg)). Total N.E.W. of the system is 1,750 lbs (794 kg). The MK-5 MCS would be deployed in the surf zone about 550 ft (167.6 m) from shore by an LCAC. Once fully deployed, it will then be detonated. Testing will take place over a 3-day period. On the first day, there will be inert firings of four MK5 systems. The second day will consist of one inert firing and one live firing of a MK5 system. The third day will consist of three separate live firings.

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

A description of the project area ecosystem in the eastern Gulf of Mexico (GOM) can be found in the application and in the associated draft EAs and need not be repeated here.

### Marine Mammals

Although approximately 27 species of marine mammals (whales, dolphins and porpoises) reside in or pass through the northeastern GOM, the only species of marine mammals that are likely to be impacted by the activities proposed for the shallow coastal waters off SRI are the bottlenose dolphin (*Tursiops truncatus*) and the Atlantic spotted dolphin (*Stenella frontalis*). Information on these two species may be found in the application and in the supporting EAs for these projects. Additional information on these and other species of marine mammals in the GOM can be found in Blaylock *et al.* (1995) and Waring *et al.* (1997). Please refer to those documents for information on the biology, distribution, and abundance of these species.

### Potential Effects of Explosives on Marine Mammals

Potential impacts to those marine mammal species known to occur in the SRI area from explosives include both lethal and non-lethal injury, as well as incidental harassment. The pressure wave from the explosive can impact air cavities, such as lungs and intestines. Extensive hemorrhaging into the lungs due to underwater shock waves may cause death to a marine mammal through suffocation (Hill, 1978). Other common injuries which may result in mortality include circulatory failure, broncho-pneumonia in damaged lungs, or peritonitis resulting from perforations of the intestinal wall (Hill, 1978). Because impulse levels sufficient to cause lethal injury increase with increased mammal mass (Yelverton *et al.*, 1973), conservative criteria are based on the lowest possible affected mammalian weight (e.g., an infant dolphin). Extensive lung hemorrhage is an injury which would be debilitating, and not all animals would be expected to survive (1 percent mortality is predicted at the onset level). As the severity of extensive lung hemorrhage increases beyond the onset level, gastrointestinal tract injuries can increase significantly. The expected mortality level associated with these combined severe injuries would be significantly higher than 1 percent (U.S. Navy, 1998).

Non-lethal injuries involve slight lung hemorrhage and tympanic membrane (TM) rupture from which the mammal is expected to recover (Yelverton *et al.*, 1973; Richmond *et al.*, 1973). Eardrum damage criteria are based upon a limited number of small charge tests (Yelverton *et al.*, 1973; Richmond *et al.*, 1973). Ranges for percent TM rupture incurred by underwater explosives can be

calculated by a conservative TM damage model (U.S. Navy, 1996). General criteria for TM damage has been reported to occur at impulse levels down to 20 psi-msec (Yelverton *et al.*, 1973).

Because eardrum (e.g., TM) rupture, rather than slight lung hemorrhage, usually occurs at lower impulse levels, TM rupture is used by NMFS and others to conservatively define the non-lethal injury zone. A maximum impulse of 10 psi-msec is often considered to define the non-lethal injury zone, where a very low incidence of blast injuries are likely to occur (Yelverton *et al.*, 1973). A level of pressure impulse at which marine mammals are not expected to experience non-lethal injury (nor instantaneous mortality or lethal injury) is reported to be 5 psi-msec (Yelverton *et al.*, 1973). This is the impulse level adopted by the Air Force to designate no injurious takings by this activity.

In addition to lethal, serious, and non-serious injury, harassment of marine mammals may occur as a result of non-injurious physiological responses to an explosion-generated shockwave and its acoustic signature. Based upon information provided in the SEAWOLF shock trial final environmental impact statement (U.S. Navy, 1998), a dual criterion for marine mammal acoustic harassment has been developed for explosive-generated signals: (1) an energy-based temporary threshold shift (TTS) injury criterion of 182 dB re 1  $\mu\text{Pa}^2$ -sec derived from experiments with bottlenose dolphins (Ridgway *et al.*, 1997), and (2) a 12 lbs/in<sup>2</sup> (psi) peak pressure cited by Ketten (1995) as associated with a "safe outer limit (for the 10,000 lb charge for minimal, recoverable auditory trauma" (i.e., TTS)). For this activity, noise levels that fall between the 5 psi-msec and out to a transmission distance where a noise level of 180 dB re 1  $\mu\text{Pa}^2$ -sec (Air Force, 1998) will be considered to fall within the incidental harassment zone.

The potential impact to Atlantic bottlenose dolphins and the Atlantic spotted dolphins, the two species that may potentially be affected, was evaluated using modeling on the effects of underwater explosions resulting from each of the test systems described previously (see application). Based upon data provided in Tables 5.2 and 5.3 in the application, the maximum number of Atlantic bottlenose dolphins potentially injured from all tests ranges from 4 to 13. The maximum number of Atlantic spotted dolphins potentially injured from all tests combined is less than 1. These are the maximum injury levels without implementation of mitigation.

The estimated total numbers of bottlenose dolphins and spotted dolphins potentially exposed to takes by harassment are 33 and 1, respectively. The total number of bottlenose dolphins potentially exposed to noise from the source of the noise to 180 dB re 1  $\mu\text{Pa}^2$ -sec ranges from 4 to 15 for the MK-82 GPB tests, 1 to 3 for the MK5 MCS tests, 1 to 2 for the combined SABRE tests, and 4 to 13 for all DET array tests combined. However, mitigation is expected to obviate any injury to marine mammals.

### Mitigation

There are two forms of mitigation: (1) natural, as provided by the environment and (2) human, designed to protect marine mammals to the greatest extent practicable.

Natural mitigation: Physical characteristics of the proposed test area and test methods will ameliorate the underwater shock wave. Tests will be conducted in approximately 3 to 10 ft (0.9 to 3.0 m) of water. At this shallow depth, some protection of the energy from the detonations will be directed through the surface of the water rather than transmitted through the water. Another consequence of the shallow, as opposed to the deep water detonation depth is that bubble pulse is not significant and there will be far less energy in any oscillations. Additionally, these tests will be conducted inside the offshore bar at the SRI site. The offshore bar ameliorates the transmission of the underwater portion of the shock wave. Also, MK-82 GPBs will be buried in bottom sands to approximately their center of gravity (3 ft (0.9 m), a factor expected to mitigate the transmission of the shock wave as the detonations will be directed downwards.

Human mitigation: Eglin has established safety zones to prevent marine mammal injury for each test. These safety zones are: 0.75 km for SABRE-22, 1.0 km for SABRE-23, 1.0 km for DET, 6.0 km for MK-82 GPB, and 0.5 km for MK-5 MCS.

Eglin has proposed that base personnel conduct a 30-minute pre-detonation aerial monitoring survey immediately prior to each test to ensure no marine mammals are within each test area's designated safety zone. With water depths less than 18 m (59 ft), low turbidity, and white sand bottom, exceptional marine mammal visibility is ensured. Aerial surveys will be conducted at approximately 100 ft (30.5 m) elevation.

In order to ensure adequate visibility for locating marine mammals (and sea turtles), no tests will take place if sea state conditions are greater than

category 3 and water clarity is not adequate for conducting surveys. No tests will take place if marine mammals or sea turtles are sighted within the safety zone.

### Monitoring

In addition to pre-detonation monitoring mentioned previously, Eglin will conduct aerial surveys immediately following each detonation event. The post-test monitoring will be conducted in a similar manner to the pre-test monitoring, except that observation personnel will be focused on locating any injured marine mammals. If any injured marine mammals are observed during post-test monitoring, subsequent detonations will be postponed, and the local stranding network notified. The project will be required to be reviewed by Air Force and NMFS personnel prior to conducting any additional tests.

### Reporting

Any takes of marine mammals other than authorized by the Incidental Harassment Authorization (IHA) will be reported to the Regional Administrator, NMFS, by the next working day. A draft final report of the entire test results and marine mammal observations for pre- and post-detonation monitoring will be submitted to NMFS within 90 days after completion of the last test. Unless notified by NMFS to the contrary, that draft final report will be considered the final report under the IHA.

### National Environmental Policy Act (NEPA)

As part of its request for a small take authorization, the U.S. Air Force has prepared two EAs, one for SABRE and DET and a second document for the MK-82/MK-5 systems. These EAs, which supplement information contained in the application, are necessary for determining whether the activities proposed for receiving small take authorizations are having a negligible impact on affected marine mammal stocks. The U.S. Air Force is accepting comment on these EAs, and, based upon the comments received on this proposed authorization, NMFS will (1) adopt the U.S. Air Force EAs as its own and sign a Finding of No Significant Impact (FONSI) statement, (2) amend the U.S. Air Force EA to incorporate relevant comments, suggestions, and information and to sign a new FONSI statement, or (3) based upon comments received, prepare and release for comment a Draft EA.

### Consultation

Under section 7 of the Endangered Species Act, NMFS has begun

consultation on the proposed issuance of an incidental harassment authorization. Consultation will be concluded upon completion of the comment period after taking into consideration the comments received on the proposed issuance of an IHA.

### Proposed Authorization

NMFS proposes to issue an IHA to the U.S. Air Force for the incidental harassment and non-serious injury of a small number of bottlenose dolphins, spotted dolphins, and possibly other cetacean species. NMFS has preliminarily determined that, provided the proposed mitigation measures are enacted, the short-term impact of explosives testing for obstacle and mine clearance systems at Eglin has the potential to result in no more than a negligible impact on affected marine mammal stocks.

### Information Solicited

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

Dated: October 6, 1998.

**Hilda Diaz-Soltero,**

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

[FR Doc. 98-27393 Filed 10-9-98; 8:45 am]

BILLING CODE 3510-22-F

### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

#### Announcement of Import Restraint Limits for Certain Wool Textile Products Produced or Manufactured in the Slovak Republic

October 6, 1998.

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

**ACTION:** Issuing a directive to the Commissioner of Customs establishing limits.

**EFFECTIVE DATE:** January 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Naomi Freeman, 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 Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the U.S. Customs website at <http://www.customs.ustreas.gov>. For information on embargoes and quota re-openings, call (202) 482-3715.

### 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.

The import restraint limits for textile products, produced or manufactured in the Slovak Republic and exported during the period January 1, 1999 through December 31, 1999 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1999 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

**D. Michael Hutchinson,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

### Committee for the Implementation of Textile Agreements

October 6, 1998.

Commissioner of Customs,  
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in the following categories, produced or manufactured in the Slovak Republic and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999 in excess of the following limits:

Category	Twelve-month restraint limit
410 .....	422,051 square meters.
433 .....	11,788 dozen.
435 .....	17,805 dozen.
443 .....	98,479 numbers.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated November 19, 1997) to the