and validation process for their products.

NIST plans to develop FIPS 140–3 to meet the new and revised requirements of Federal agencies for cryptographic systems, and to address technological and economic changes that have occurred since the issuance of FIPS 140–2. As the first step in the development of FIPS 140–3, NIST invites comments from the public, users, the information technology industry, and Federal, State and local government organizations concerning the need for and recommendations for a new standard.

NIST is especially interested in comments on the following issues:

(1) Compatibility with industry standards.

(2) New technology areas.

(3) Introduction of additional levels of security.

(4) Additional requirements specific to physical security.

(5) Portability of applications (including operating systems) based on platform and/or environment.

Following its review of the comments submitted in response to this notice, NIST will hold open, public workshops in 2005 to discuss the development of FIPS 140–3. These workshops will be announced in the **Federal Register** with information about participation. NIST expects to propose FIPS 140–3 for public review and comment before recommending the standard to the Secretary of Commerce for approval in 2006.

NIST will develop a plan for a transition period for testing and validating modules to FIPS 140–3, and for agencies to develop plans to acquire products that are compliant with FIPS 140–3. The transition plan will also address the use by Federal agencies of cryptographic modules that have been validated for compliance to FIPS 140–1 and FIPS 140–2.

Authority: Federal Information Processing Standards (FIPS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to Section 5131 of the Information Technology Management Reform Act of 1996 and the Federal Information Security Management Act of 2002 (Public Law 107–347).

E.O. 12866: This notice has been determined not to be significant for the purposes of E.O. 12866.

Dated: January 5, 2005.

Hratch G. Semerjian,

Acting Director.

[FR Doc. 05–545 Filed 1–11–05; 8:45 am]

BILLING CODE 3510–CN–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Notice of Jointly Owned Invention Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of jointly owned invention available for licensing.

SUMMARY: The invention listed below is jointly owned by the U.S. Government, as represented by the Department of Commerce, and Biospace, Inc. The Department of Commerce's interest in the invention is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on this invention may be obtained by writing to: National Institute of Standards and Technology, Office of Technology Partnerships, Attn: Teresa Bradshaw, Building 820, Room 213, Gaithersburg, MD 20899. Information is also available via telephone: (301) 975–2624 , fax (301) 869–2751, or e-mail: *teresa.bradshaw@nist.gov.* Any request for information should include the NIST Docket number and title for the invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and Development Agreement (''CRADA'') with the licensee to perform further research on the invention for purposes of commercialization. The invention available for licensing is:

NIST Docket Number: 01–015

Title: Applying X-ray Topography and Diffractometry to Improve Protein Crystal Growth.

Abstract: The present invention provides a general method and system for identifying conditions for growing protein crystals having greater order and fewer crystal defects that are suitable for use in determining the structure of the protein by x-ray diffractometry. Crystals of a protein are grown under different sets of predetermined conditions and x-ray topographic images of the protein crystals are generated. The x-ray topographic images reveal defects in the crystals and permit identification of the set(s) of conditions that produce crystals having the fewest crystal defects. In a preferred embodiment, the protein crystals are grown in a dynamically controlled crystallization system (DCCS). An important condition of crystal growth that can be optimized by the method is the effective gravity, g^{eff}, experienced by the growing crystal; for example, when the crystal is grown under microgravity in space, or in a powerful magnetic field that causes the protein molecules in the growing crystal to experience acceleration of an effective gravitational field that is greater or less than the actual gravitational field at the earth's surface. With the present method, it is possible to identify differences between crystals grown on the earth with the DCCS and those grown in space under identical conditions. A comparison of x-ray topographs taken from both earth grown and space grown crystals indicates that the space grown crystals are of higher crystallographic perfection.

Dated: January 5, 2005.

Hratch G. Semerjian,

Acting Director.

[FR Doc. 05–544 Filed 1–11–05; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092704B]

Taking of Marine Mammals Incidental to Specified Activities; Construction of the East Span of the San Francisco-Oakland Bay Bridge

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

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) has been issued to the California Department of Transportation (CALTRANS) to take small numbers of California sea lions, Pacific harbor seals, and gray whales, by harassment, incidental to construction of a replacement bridge for the East Span of the San Francisco-Oakland Bay Bridge (SF-OBB) in California.

DATES: This authorization is effective from January 3, 2005, until January 3, 2006.

ADDRESSES: A copy of the application, IHA, and/or a list of references used in this document may be obtained 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.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, NMFS, (301) 713–2289, ext 128, or Monica DeAngelis, NMFS, (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.

Permission may be granted if NMFS finds that the taking will have no more than 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.''

Section 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 with respect to certain 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 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 September 1, 2004, NMFS received a request from CALTRANS requesting renewal of an IHA for the possible harassment of small numbers of California sea lions (*Zalophus californianus*), Pacific harbor seals (*Phoca vitulina richardsii*), and gray whales (*Eschrichtius robustus*) incidental to construction of a replacement bridge for the East Span of the SF-OBB, in San Francisco Bay (SFB or the Bay), California. An IHA was issued to CALTRANS for this activity on November 9, 2003, and expired on November 9, 2004. Background information on the issuance of this IHA was published in the **Federal Register** on November 14, 2003 (68 FR 64595). Minor modifications to the IHA were made on June 28, 2004 in response to a request by CALTRANS. These modifications were limited to clarifications of, and corrections on, the terminology and conditions in the IHA.

A detailed description of the SF-OBB project was provided in the November 14, 2003 (68 FR 64595), **Federal Register** notice and is not repeated here.

Comments and Responses

A notice of receipt and request for 30-day public comment on the application and proposed authorization was published on October 20, 2004 (69 FR 61652). During the 30-day public comment period, no comments were received on this action.

Description of the Marine Mammals Potentially Affected by the Activity

General information on the marine mammal species found in California waters can be found in Caretta et al. (2004), which is available at the following URL: *http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/sars.html*. Refer to that document for information on these species.

The marine mammals most likely to be found in the SF-OBB area are the California sea lion and Pacific harbor seal. From December through May gray whales may also be present in the SF-OBB area. Information on these 3 species was provided in the November 14, 2003 (68 FR 64595), **Federal Register** notice and is not repeated here.

Potential Effects on Marine Mammals and Their Habitat

CALTRANS and NMFS have determined that open-water pile driving, as outlined in the project description, has the potential to result in behavioral harassment of California sea lions, Pacific harbor seals, and gray whales that may be swimming, foraging, or resting in the project vicinity while pile driving is being conducted. Pile driving could potentially harass those few pinnipeds that are in the water close to the project site, whether their heads are above or below the surface.

Based on airborne noise levels measured and on-site monitoring conducted during 2004 under the current IHA, noise levels from the East Span project are not resulting in the harassment of harbor seals hauled out on Yerba Buena Island. Also, noise levels from the East Span project are not expected to result in harassment of the sea lions hauled out at Pier 39 as airborne and waterborne sound pressure levels (SPLs) would attenuate to below harassment levels by the time they reach that haul-out site, 5.7 kilometers (3.5 miles) from the project site.

For reasons provided in greater detail in NMFS' November 14, 2003 (68 FR 64595) **Federal Register** notice and in CALTRANS' June 2004 annual monitoring report, the East Span Project is resulting in only small numbers of pinnipeds being harassed (through June 2004, the biological observers indicated that no pinnipeds had been harassed as a result of East Span construction) and, therefore, is not expected to result in more than a negligible impact on marine mammal stocks and will not have a significant impact on their habitat. Short-term impacts to habitat may include minimal disturbance of the sediment where the channels are dredged for barge access and where individual bridge piers are constructed. Long-term impacts to marine mammal habitat will be limited to the footprint of the piles and the obstruction they will create following installation. However, this impact is not considered significant as the marine mammals can easily swim around the piles of the new bridge, as they currently swim around the existing bridge piers.

Mitigation

The following mitigation measures are currently required under the IHA to reduce impacts to marine mammals to the lowest extent practicable. NMFS is requiring these mitigation measures to be carried out under the new IHA.

Barrier Systems

An air bubble curtain system is required to be used only when driving the permanent open-water piles. While the bubble curtain is required specifically as a method to reduce impacts to endangered and threatened fish species in SFB, it may also provide some benefit for marine mammals. The NMFS' Biological Opinion and the California Department of Fish and

Game's (CDFG) 2081 Incidental Take Permit also allow for the use of other equally effective methods, such as cofferdams, as an alternative to the air bubble curtain system to attenuate the effects of sound pressure waves on fish during driving of permanent in-Bay piles (NMFS 2001; CDFG, 2001). Piers E–16 through E–7 for both the eastbound and westbound structures of the Skyway will be surrounded by sheet-pile cofferdams, which will be de-watered before the start of pile driving. De-watered cofferdams are generally effective sound attenuation devices. For Piers E3 through E6 of the Skyway and Piers 1 and E2 of the Self-Anchored Suspension span, it is anticipated that cofferdams will not be used: therefore, a bubble curtain will surround the piles.

Sound Attenuation

As a result of the determinations made during the Pile Installation Demonstration Project (PIDP) restrike and the investigation at the Benicia-Martinez Bridge, NMFS determined in 2003 that CALTRANS must install an air bubble curtain for pile driving for the open-water piles without cofferdams located at the SF-OBB. This air bubble curtain system consists of concentric layers of perforated aeration pipes stacked vertically and spaced no more than five vertical meters apart in all tide conditions. The minimum number of layers must be in accordance with water depth at the subject pile: 0-<5 m = 2 layers (1263 cfm); 5-<10 m = 4 layers (2526 cfm), 10-<15 m = 7 layers (4420 cfm); 15-<20 m = 10 layers (6314 cfm); 20-<25 m= 13 layers (8208 cfm). The lowest layer of perforated aeration pipes must be designed to ensure contact at all times and tidal conditions with the mudline without sinking into the bay mud. Pipes in any layer must be arranged in a geometric pattern, which will allow for the pile driving operation to be completely enclosed by bubbles for the full depth of the water column.

To provide a uniform bubble flux, each aeration pipe must have four adjacent rows of air holes along the pipe. Air holes must be 1.6–mm diameter and spaced approximately 20 mm apart. The bubble curtain system will provide a bubble flux of at least two cubic meters per minute, per linear meter of pipeline in each layer. Air holes must be placed in 4 adjacent rows.

The air bubble curtain system must be composed of the following: (1) an air compressor(s), (2) supply lines to deliver the air, (3) distribution manifolds or headers, (4) perforated aeration pipes, and (5) a frame. The frame facilitates transport and placement of the system, keeps the aeration pipes stable, and provides ballast to counteract the buoyancy of the aeration pipes in operation. Meters are required to monitor the operation of the bubble curtain system. Pressure meters will be installed and monitored at all inlets to aeration pipelines and at points of lowest pressure in each branch of the aeration pipeline. If the pressure or flow rate in any meter falls below 90 percent of its operating value, the contractor will cease pile driving operations until the problem is corrected and the system is tested to the satisfaction of the CALTRANS resident engineer.

Establishment of Safety/Buffer Zones

A safety zone is to be established and monitored to include all areas where the underwater SPLs are anticipated to equal or exceed 190 dB re 1 mPa RMS (impulse) for pinnipeds. Also, a 180–dB re 1 mPa RMS (impulse) safety zone for gray whales must be established for pile driving occurring during the gray whale migration season from December through May. Prior to commencement of any pile driving, a preliminary 500–m (1,640–ft) radius safety zone for pinnipeds (California sea lions and Pacific harbor seals) will be established around the pile driving site, as it was for the PIDP. Once pile driving begins, either new safety zones can be established for the 500 kJ and 1700 kJ hammers or the 500 m (1,640 ft) safety zone can be retained. If new safety zones are established based on SPL measurements, NMFS requires that each new safety zone be based on the most conservative measurement (i.e., the largest safety zone configuration). SPLs will be recorded at the 500–m (1,640–ft) contour. The safety zone radius for pinnipeds will then be enlarged or reduced, depending on the actual recorded SPLs.

Observers on boats will survey the safety zone to ensure that no marine mammals are seen within the zone before pile driving of a pile segment begins. If marine mammals are found within the safety zone, pile driving of the segment will be delayed until they move out of the area. If a marine mammal is seen above water and then dives below, the contractor will wait at least 15 minutes, and if no marine mammals are seen by the observer in that time it may be assumed that the animal has moved beyond the safety zone. This 15-minute criterion is based on scientific evidence that harbor seals in SFB dive for a mean time of 0.50 minutes to 3.33 minutes (Harvey and Torok, 1994). However, due to the limitations of monitoring from a boat, there can be no assurance that the zone will be devoid of all marine mammals at all times.

Once the pile driving of a segment begins it cannot be stopped until that segment has reached its predetermined depth due to the nature of the sediments underlying the Bay. If pile driving stops and then resumes, it would potentially have to occur for a longer time and at increased energy levels. In sum, this would simply amplify impacts to marine mammals, as they would endure potentially higher SPLs for longer periods of time. Pile segment lengths and wall thickness have been specially designed so that when work is stopped between segments (but not during a single segment), the pile tip is never resting in highly resistant sediment layers. Therefore, because of this operational situation, if seals or sea lions enter the safety zone after pile driving of a segment has begun, pile driving will continue and marine mammal observers will monitor and record marine mammal numbers and behavior. However, if pile driving of a segment ceases for 30 minutes or more and a marine mammal is sighted within the designated safety zone prior to commencement of pile driving, the observer(s) must notify the Resident Engineer (or other authorized individual) immediately and follow the mitigation requirements as outlined previously in this document.

Soft Start

Although marine mammals will be protected from Level A harassment by establishment of an air-bubble curtain and marine mammal observers monitoring a 190–dB safety zone for pinipeds and 180–dB safety zone for gray whales, mitigation may not be 100 percent effective at all times in locating marine mammals. Therefore, in order to provide additional protection to marine mammals near the project area by allowing marine mammals to vacate the area prior to receiving a potential injury, CALTRANS will also ''soft start'' the hammer prior to operating at full capacity. CALTRANS typically implements a ''soft start'' with several initial hammer strikes at less than full capacity (i.e., approximately 40–60 percent energy levels) with no less than a 1- minute interval between each strike. Similar levels of noise reduction are expected underwater. Therefore, the contractor will initiate hammering of both the 500–kJ and the 1,700–kJ hammers with this procedure in order to allow pinnipeds in the area to voluntarily move from the area which should expose fewer animals to loud sounds both underwater and above water noise. This would also ensure that

any pinnipeds that are missed during safety zone monitoring will not be injured.

Compliance with Equipment Noise Standards

To mitigate noise levels and, therefore, impacts to California sea lions, Pacific harbor seals, and gray whales, all construction equipment will comply as much as possible with applicable equipment noise standards of the U.S. Environmental Protection Agency, and all construction equipment will have noise control devices no less effective than those provided on the original equipment.

Monitoring

Since the start of the large-diameter pile driving in the Bay nearly two years ago, CALTRANS has completed pile driving of 105 piles inside cofferdams and 39 piles in open water (with the use of a bubble curtain) for a total of 144 piles. Monitoring teams were on-site for all open water pile driving and during driving of ''tops'' (last section of the piles, which drives the pile deeper into the substrate) inside cofferdams where underwater SPLs reached 190 dB or greater. During 76 days of monitoring, both within and outside the marine mammal safety zone, a single startle behavior from a California sea lion was observed.

The following monitoring measures are required under the IHA to reduce impacts to marine mammals to the lowest extent practicable.

Visual Oservations

The area-wide baseline monitoring and the aerial photo survey to estimate the fraction of pinnipeds that might be missed by visual monitoring have been completed under the current IHA and do not need to be continued.

Safety zone monitoring will be conducted during driving of all open-water, permanent piles without cofferdams and with cofferdams when underwater SPLs reach 190 dB RMS or greater. Monitoring of the pinniped and cetacean safety zones will be conducted by a minimum of three qualified NMFS-approved observers for each safety zone. One three-observer team will be required for the safety zones around each pile driving site, so that multiple teams will be required if pile driving is occurring at multiple locations at the same time. The observers will begin monitoring at least 30 minutes prior to startup of the pile driving. Observers will most likely conduct the monitoring from small boats, as observations from a higher vantage point (such as the SF-OBB) is not practical. Pile driving will not begin until the safety zone is clear of marine mammals. However, as described in the Mitigation section, once pile driving of a segment begins, operations will continue uninterrupted until the segment has reached its predetermined depth. However, if pile driving of a segment ceases for 30 minutes or more and a marine mammal is sighted within the designated safety zone prior to commencement of pile driving, the observer(s) must notify the Resident Engineer (or other authorized individual) immediately and follow the mitigation requirements as outlined previously (see Mitigation). Monitoring will continue through the pile driving period and will end approximately 30 minutes after pile driving has been completed. When necessary, biological observations will be made using binoculars during daylight hours.

In addition to monitoring from boats, during open-water pile driving, monitoring at one control site (harbor seal haul-out sites and the waters surrounding such sites not impacted by the East Span Project's pile driving activities, i.e., Mowry Slough) will be designated and monitored for comparison. Monitoring will be conducted twice a week at the control site whenever open-water pile driving is being conducted. Data on all observations will be recorded and will include items such as species, numbers, behavior, details of any observed disturbances, time of observation, location, and weather. The reactions of marine mammals will be recorded based on the following classifications that are consistent with the Richmond Bridge Harbor Seal survey methodology (for information on the Richmond Bridge authorization, see 68 FR 66076, November 25, 2003): (1) No response, (2) head alert (looks toward the source of disturbance), (3) approach water (but not leave), and (4) flush (leaves haul-out site). The number of marine mammals under each disturbance reaction will be recorded, as well as the time when seals re-haul after a flush.

Acoustical Observations

Airborne noise level measurements have been completed and underwater environmental noise levels will continue to be measured as part of the East Span Project. The purpose of the underwater sound monitoring is to establish the safety zone of 190 dB re 1 micro-Pa RMS (impulse) for pinnipeds and the safety zone of 180 dB re 1 micro-Pa RMS (impulse) for gray whales. Monitoring will be conducted during the driving of the last half (deepest pile segment) for any given open-water pile. One pile in every other pair of pier groups will be monitored. One reference location will be established at a distance of 100 m (328 ft) from the pile driving. Sound measurements will be taken at the reference location at two depths (a depth near the mid-water column and a depth near the bottom of the water column but at least 1 m (3 ft) above the bottom) during the driving of the last half (deepest pile segment) for any given pile. Two additional in-water spot measurements will be conducted at appropriate depths (near mid water column), generally 500 m (1,640 ft) in two directions (either west, east, south or north) of the pile driving site and at the same two depths as the reference location measurements. In cases where such measurements cannot be obtained due to obstruction by land mass, structures or navigational hazards, measurements will be conducted at alternate spot measurement locations. Measurements will be made at other locations either nearer or farther as necessary to establish the approximate distance for the safety zones. Each measuring system shall consist of a hydrophone with an appropriate signal conditioning connected to a sound level meter and an instrument grade digital audiotape recorder. Overall SPLs shall be measured and reported in the field in dB re 1 micro-Pa RMS (impulse). An infrared range finder will be used to determine distance from the monitoring location to the pile. The recorded data will be analyzed to determine the amplitude, time history and frequency content of the impulse.

Reporting

Under the previous IHA, CALTRANS submitted weekly marine mammal monitoring reports and in June, 2004, CALTRANS submitted its Marine Mammal and Acoustic Monitoring for the Eastbound Structure. This annual report is available by contacting NMFS (see **ADDRESSES**) or on the Web at *http://biomitigation.org*.

Under the 2005 IHA, coordination with NMFS will occur on a weekly basis, or more often as necessary. During periods with open-water pile driving activity, weekly monitoring reports will be made available to NMFS and the public at *http://biomitigation.org*. These weekly reports will include a summary of the previous week's monitoring activities and an estimate of the number of seals and sea lions that may have been disturbed as a result of pile driving activities.

In addition, CALTRANS will provide NMFS' Southwest Regional Administrator with a draft final report within 90 days after completion of the

westbound Skyway contract and 90 days after completion of the Suspension Span foundations contract. This report should detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed due to pile driving. If comments are received from the Regional Administrator on the draft final report, a final report must be submitted to NMFS within 30 days thereafter. If no comments are received from NMFS, the draft final report will be considered to be the final report.

National Environmental Policy Act (NEPA)

In November, 2003, NMFS prepared an Environmental Assessment (EA) and, on November 4, 2003 made a Finding of No Significant Impact (FONSI). Therefore, preparation of an environmental impact statement on this action is not required. A copy of the EA and FONSI are available upon request (see **ADDRESSES**).

Endangered Species Act (ESA)

On October 30, 2001, NMFS completed consultation under section 7 of the ESA with the Federal Highway Administration (FHWA) on the CALTRANS' construction of a replacement bridge for the East Span of the SF-OBB in California. The finding contained in the Biological Opinion was that the CALTRANS action at the East Span of the SF-OBB is not likely to jeopardize the continued existence of listed anadromous salmonids, or result in the destruction or adverse modification of designated critical habitat for these species. Listed marine mammals are not expected to be in the area of the action and thus would not be affected. The issuance of this IHA to CALTRANS constitutes an agency action that authorizes an activity that may affect ESA-listed species and, therefore, is subject to section 7 of the ESA. However, as the effects of the underlying activities on listed salmonids were analyzed during a formal consultation between the FHWA and NMFS, and as the underlying action has not changed from that considered in the consultation, the discussion of effects that are contained in the Biological Opinion issued to the FHWA on October 30, 2001, pertains also to this action. In conclusion, NMFS has determined that issuance of an IHA for this activity does not lead to any effects to listed species apart from those that were considered in the consultation on FHWA's action.

Determinations

For the reasons discussed in this document and in previously identified supporting documents, NMFS has determined that the impact of pile driving and other activities associated with construction of the East Span Project should result, at worst, in the Level B harassment of small numbers of California sea lions, Pacific harbor seals and potentially gray whales that inhabit or visit SFB in general and the vicinity of the SF-OBB in particular. While behavioral modifications, including temporarily vacating the area around the construction site, may be made by these species to avoid the resultant visual and acoustic disturbance, the availability of alternate areas within SFB and haul-out sites (including pupping sites) and feeding areas within the Bay has led NMFS to preliminarily determine that this action will have a negligible impact on California sea lion, Pacific harbor seal, and gray whale populations along the California coast.

In addition, no take by Level A harassment (injury) or death is anticipated and harassment takes should be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document.

Authorization

For the reasons previously discussed, NMFS has issued an IHA for a 1-year period, for the potential incidental harassment of small numbers of harbor seals, California sea lions and California gray whales incidental to construction of a replacement bridge for the East Span of the San Franciso-Oakland Bay Bridge in California, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has determined that the construction activity would result in the harassment of only small numbers of harbor seals, California sea lions and possibly California gray whales and will have no more than a negligible impact on these marine mammal stocks.

Dated: January 3, 2005.

Donna Wieting,

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

[FR Doc. 05–624 Filed 1–11–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Proposed Information Collection; Comment Request; Performance Reporting System (PRS) for the Technology Opportunities Program (TOP)

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before March 14, 2005.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 1401 Constitution Avenue, NW., Washington, DC 20230 (or via the Internet *dHynek@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Clifton Beck, NTIA, Room H–4888, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230 (or via the Internet *cbeck@ntia.doc.gov).*

SUPPLEMENTARY INFORMATION:

I. Abstract

The purpose of the Technology Opportunities Program (TOP), is to promote the use of advanced telecommunications and information technologies in the non-profit and public sectors. These projects encourage the deployment of broadband infrastructure, services, and applications throughout the Nation. TOP projects demonstrate how digital networks support lifelong learning for all Americans, help public safety officials protect the public, assist in the delivery of health care and public health services, and foster communication, resource-sharing, and economic development.

Since 1994, the National Telecommunications and Information Administration (NTIA), in administering TOP, has awarded 610 grants, in all 50 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands totaling $233.5 million and leveraging $313.7 million in local