

US EPA ARCHIVE DOCUMENT

(ii) *Multiple participants.* A petition for multiple participants may be denied in whole or in part.

(9) *Revocation of approval of petition—(i) General.* The petitioner shall immediately notify the Service of any changes in the employment of a participant which would affect eligibility under paragraph (q) of this section.

(ii) *Automatic revocation.* The approval of any petition is automatically revoked if the qualifying employer goes out of business, files a written withdrawal of the petition, or terminates the approved international cultural exchange program prior to its expiration date.

(iii) *Revocation on notice.* The director shall send the petitioner a notice of intent to revoke the petition in whole or in part if he or she finds that:

(A) The participant is no longer employed by the petitioner in the capacity specified in the petition, or if the participant is no longer receiving training as specified in the petition;

(B) The statement of facts contained in the petition was not true and correct;

(C) The petitioner violated terms and conditions of the approved petition;

(D) The approval of the petition violated paragraph (q) of this section or involved gross error.

(iv) *Notice and decision.* The notice of intent to revoke shall contain a detailed statement of the grounds for the revocation and the time period allowed for the petitioner's rebuttal. The petitioner may submit evidence in rebuttal within 30 days of receipt of the notice. The director shall consider all relevant evidence presented in deciding whether to revoke the petition in whole or in part. If the petition is revoked in part, the remainder of the petition shall remain approved and a revised approval notice shall be sent to the petitioner with the revocation notice.

(v) *Appeal of a revocation of a petition.* A petition that has been revoked on notice in whole or in part may be appealed to the Associate Commissioner for Examinations under Part 103 of this chapter. Automatic revocation may not be appealed.

(10) *Extension of stay.* An alien's total period of stay in the United States under section 101(a)(15)(Q) cannot exceed fifteen (15) months. The authorized stay of an alien in Q status may be extended within the 15-month limit if he or she is the beneficiary of a new petition filed in accordance with paragraph (q)(3) of this section. The new petition, if filed by the

same employer, should include a copy of the previous petition's approval notice and a letter from the petitioner indicating any terms and conditions of the previous petition that have changed.

(11) *Employment provisions—(i) General.* An alien classified under section 101(a)(15)(Q) of the Act may be employed only by the qualified employer through which the alien attained the status, as a condition of his or her admission, or subsequent change to such classification. An alien in this class is not required to apply for an employment authorization document. Employment outside the specific program is in violation of the alien's Q nonimmigrant status within the meaning of section 241(a)(1)(C)(i) of the Act.

(ii) *Wages and working conditions.* The wages and working conditions of participants classified under section 101(a)(15)(Q) must be comparable to those accorded to local domestic workers similarly employed in the geographical area of the alien's employment. A statement by the employer certifying that such conditions are met must be attached to the petition on Form I-129 as required by paragraph (q)(4)(ii) of this section.

Dated: August 16, 1991.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 91-20085 Filed 8-21-91; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 25, 29, and 33

#### Airworthiness Standards: Transport Category Airplanes, Rotorcraft, and Aircraft Engines

##### CFR Correction

In title 14 of the Code of Federal Regulations, parts 1 to 59, revised as of January 1, 1991, the following changes should be made.

1. On page 309, in § 25.351(b), the first equation should have read:

§ 25.351 Yawing conditions.

\* \* \* \* \*

(b) \* \* \*

$$L_t = \frac{K_{gt} U_{de} V_{at} S_t}{498}$$

\* \* \* \* \*  
§ 29.629 [Corrected]

2. On page 571, in the second column, in the first line of § 29.629, the word "aeronautical" should have read "aerodynamic".

§ 33.1 [Corrected]

3. On page 660, in the first column, in § 33.1, the second paragraph (b) should be removed.

BILLING CODE 1505-01-D

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 271 and 272

[FRL-3986-9]

#### Texas; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

**SUMMARY:** Texas has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the Texas application and has made a decision, subject to public review and comment, that the Texas hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve the Texas hazardous waste program revisions, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments for 1984. The Texas application for program revision is available for public review and comment.

**DATES:** Final authorization for Texas shall be effective on October 21, 1991 unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on the Texas program revision application must be received by the close of business September 21, 1991.

**ADDRESSES:** Copies of the Texas program revision application and the

materials which EPA used in evaluating the revision are available from 8:30 a.m. to 4 p.m., Monday through Friday at the following addresses for inspection and copying: Texas Water Commission, Library, Fifth Floor, Stephen F Austin State Office Building, 1700 North Congress, Austin, Texas 78711, phone (512) 463-7834; U.S. EPA, Region 6, Library, 12th floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-6444; and U.S. EPA, Headquarters, Library, PM 211A, 401 M Street SW., Washington, DC 20460. Written comments, referring to Docket Number TX-91-1, should be sent to the Texas Project Officer, Grants and Authorization Section (6H-HS), RCRA Programs Branch, U.S. EPA, Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-6760.

**FOR FURTHER INFORMATION CONTACT:** Dick Thomas, Grants and Authorization Section, RCRA Programs Branch, U.S. EPA, Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas, 75202, phone (214) 655-6760.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA or the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Public Law 98-616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 2006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260-266, 268 and 124 and 270.

**B. Texas**

Texas initially received final authorization on December 12, 1984,

effective December 26, 1984 (see 49 FR 48300), and clarified on March 26, 1985 (see 50 FR 11858), to implement its base hazardous waste management program. Texas received authorization for revisions to its program in notices published in the *Federal Register* on January 31, 1986, effective October 4, 1985 (see 51 FR 3952), on December 18, 1986, effective February 17, 1987 (see 51 FR 45320), on March 1, 1990, effective March 15, 1990 (see 55 FR 7318), and on May 24, 1990, effective July 23, 1990 (see 55 FR 21383). On January 18, 1991, Texas submitted a program revision application for additional program approvals. Today, Texas is seeking approval of its program revision in accordance with section 271.21(b)(3).

EPA has reviewed the Texas application, and has made an immediate final decision that Texas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Texas. The public may submit written comments on EPA's final decision up until September 21 1991. Copies of the Texas application for program revision are available for inspection and copying at the locations indicated in the "Addresses" section of this notice.

Approval of the Texas program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

The Texas program revision application includes State regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR parts 261, 264, 265, and 268, that were published in the *Federal Register* through August 2, 1990. This proposed approval includes, therefore, only the provisions that are listed in the chart below. This chart lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements. The Texas Solid Waste Disposal Act and the Texas Administrative Code cited below refer to the revisions effective through September 1, 1989, and July 16, 1991, respectively.

Federal citation	State analog
Toxicity	Texas Solid Waste Disposal Act; Texas Health & Safety Code Annotated §§ 361.017, 361.024, 361.003(11), 361.003(27), (Vernon Supplement 1991), as amended, effective September 1, 1989.
Characteristics Revisions, March 29, 1990 [55 FR 11798-11877] as amended on June 29, 1990 [55 FR 26986-26998] and on August 2, 1990, [55 FR 31387-31390].	Texas Water Code, §§ 5.103, 5.105, 26.011, Texas Water Code Annotated (Vernon 1990), as amended, effective September 1, 1985.
	Title 31 Texas Administrative Code (TAC) § 335.1, as amended, effective August 1, 1990; Title 31 TAC § 335.29(2), as amended, effective March 18, 1991; Title 31 TAC § 335.168(e), as amended, effective March 18, 1991; Title 31 TAC § 335.173(e), as amended, effective March 18, 1991; Title 31 TAC § 335.112(a)(10), as amended, effective March 18, 1991; Title 31 TAC § 335.112(a)(12), as amended, effective March 18, 1991; Title 31 TAC § 335.112(a)(13), as amended, effective July 16, 1991; Title 31 TAC § 335.431(c), as amended, effective July 16, 1991.

**C. Decision**

I conclude that the Texas application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Texas is granted final authorization to operate its hazardous waste program as revised.

Texas now has responsibility for permitting treatment, storage, and disposal facilities within its borders and implementing the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Texas also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under section 3008, 3013 and 7003 of RCRA.

**D. Codification in Part 272**

EPA uses part 272 for codification of the decision to authorize the Texas program and for incorporation by reference of those provisions of the Texas statutes and regulations that EPA will enforce under section 3008, 3013 and 7003 of RCRA. EPA is reserving amending part 272, subpart SS, until a later date.

**Compliance With Executive Order 12291**

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

**Certification Under the Regulatory Flexibility Act**

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of the Texas program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

**List of Subjects in 40 CFR Parts 271 and 272**

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

**Authority:** This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Robert E. Layton Jr.,  
Regional Administrator.

[FR Doc. 91-20119 Filed 8-21-91; 8:45 am]

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 228**

[Docket No. 901240-1176]

RIN 0648-AD48

**Incidental Take of Marine Mammals**

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS is issuing regulations that would allow the unintentional, non-lethal, harassment of specified species of marine mammals incidental to launches of the Titan IV space vehicle from Vandenberg Air Force Base, California, over the next 5 years. The marine mammals are the Guadalupe fur seal, Steller sea lion, harbor seal, northern elephant seal, northern fur seal

and California sea lion. The Marine Mammal Protection Act (MMPA) allows the incidental, but not intentional, harassment of marine mammals if certain conditions are met.

**EFFECTIVE DATE:** This rule will be effective beginning September 23, 1991, through September 23, 1996.

**ADDRESSES:** Dr. Nancy Foster, Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910. Send information on the collection of information burden estimate to the Office of Information and Regulatory Affairs, Project (0648-0151), Office of Management and Budget, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Margaret C. Lorenz, Protected Species Management Division, Office of Protected Resources, NMFS, 301-427-2322, or James Lecky, Southwest Region, NMFS, 214-514-6664.

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

Section 101(a)(5) of MMPA requires the Secretary of Commerce (Secretary) to allow, on request by U.S. citizens engaged in a specified activity (other than commercial fishing) in a specified geographical region, the incidental, but not intentional, taking of small numbers of marine mammals if certain conditions are met. Under the MMPA, the term "take" means to harass, hunt, capture or kill. Permission may be granted for a period of 5 years or less.

Taking is allowed only if the Secretary, after notice and opportunity for public comment, finds that the total taking will have a "negligible impact" on the species or stocks and will not have an "unmitigable adverse impact" on the availability of the species or stock for subsistence uses. In addition, the Secretary must issue regulations that include permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat, paying particular attention to rookeries, mating grounds and areas of similar significance, and on the availability of the species for subsistence uses. The regulations must include requirements for monitoring the incidental take and reporting of such taking.

In 1986, both the MMPA and the Endangered Species Act (ESA) were amended to allow incidental takings of depleted, endangered or threatened marine mammals. Previously, only the incidental take of non-depleted marine mammals could be allowed under this exemption to the MMPA. Three of the species involved in this rule, the

Guadalupe fur seal, the Steller sea lion, and the Pribilof Islands stock of the northern fur seal are depleted species under the MMPA.

General regulations that govern small take of marine mammals incidental to specified activities appear in subpart A, 50 CFR part 228.

**Summary of Request**

On June 10, 1990, NMFS received a request from the Department of the Air Force for a take of six species of seals and sea lions incidental to launches of its Titan IV space vehicle program. The Air Force described the Titan IV program as a continuation of an existing launch program at Vandenberg using modified and upgraded Titan 34D missiles. Sonic booms from the expendable unmanned space launch vehicle may become "focused" within a narrow band under the flight path. Focused sonic booms occur when the space vehicle curves toward the horizontal, and its sonic boom is focused into a narrow zone of particularly high sound pressure. Although the most likely sound level that will result from a focused sonic boom produced by launching the Titan IV is 110 decibels (dB), it is possible that the focused sonic boom could produce a sound level as high as 147 decibels or 10 pounds per square foot (psf). A sonic boom at this level (147 dB) may cause auditory damage and startle responses in animals.

Space vehicles at Vandenberg are launched into polar orbit. During the ascent of the launch of the Titan IV space vehicle from Vandenberg, it may pass over the Northern Channel Islands which are inhabited by the six species of seals and sea lions named in the request for an incidental take. Of the Channel Islands, San Miguel is the most likely to receive a focused sonic boom. However, not all launches of the Titan IV space vehicle will produce focused sonic booms over the island. If the launch azimuth is greater than 180 degrees, the focused sonic boom will occur over open water. While specific dates and trajectories are classified, two launches are planned each year for the next 5 years.

The Air Force believes that a "taking" may occur because of infrequent, incidental and unintentional harassment. The primary concerns are that the focused sonic booms will cause the animals to stampede and pups will be trampled or separated from their mothers, or the animals' hearing may be affected.

In consultation with NMFS, the Air Force developed a plan to monitor the