

National Oceanic and Atmospheric Administration

[I.D. 091396A]

Small Takes of Marine Mammals Incidental to Specified Activities; Taurus Space Launch Vehicles at Vandenberg Air Force Base, 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 provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take small numbers of seals and sea lions by harassment incidental to launches of Taurus space launch vehicles (Taurus SLV) at Launch Support Complex 576E (LSC-576E), Vandenberg Air Force Base, CA (Vandenberg) has been issued to the U.S. Air Force for a period of 1 year.

EFFECTIVE DATE: This authorization is effective from January 1, 1997, through December 31, 1997.

ADDRESSES: The application and authorization are available for review in the following offices: Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 and the Southwest Region, NMFS, 501 West Ocean Blvd. Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, Marine Mammal Division, Office of Protected Resources at 301-713-2055, or Irma Lagomarsino, Southwest Regional Office at 301-980-4016.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS 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), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth.

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.

Summary of Request

On August 14, 1996, NMFS received a revised application from the U.S. Air Force, Vandenberg, requesting an authorization for the harassment of small numbers of harbor seals and possibly California sea lions and northern elephant seals, incidental to launches of Taurus SLVs at LSC-576E, Vandenberg. These launches would place commercial payloads into earth orbit. Because LSC-576E is located north of most other launch complexes at Vandenberg and because there are oil production platforms located off the coast to the south of LSC-576E, missions flown from LSC-576E do not fly directly on their final southward course. The normal trajectory for a LSC-576E launch is in a general west-southwest direction away from the coastline. The flight paths for each 1997 launch will proceed on an initial azimuth of 205° until approximately 24 kilometers (km) (15 miles (mi)) west of the shoreline. The Taurus SLV will then perform a dogleg maneuver left to a final mission-specific azimuth of between 180° and 197°. No Taurus SLV launch from LSC-576E will proceed southeast, overflying San Miguel or Santa Rosa islands. Orbital Sciences Corporation (OSC 1996) anticipates launching two Taurus SLVs during the 1-year period of validity for this proposed authorization.

As a result of the noise associated with the launch itself and the resultant sonic boom, there is the potential to cause a startle response to those harbor seals that haul out on the coastline south and southwest of Vandenberg and may be detectable to marine mammals in waters off Vandenberg and to the west of the Channel Islands. Launch noise would be expected to occur over the coastal habitats in the vicinity of LSC-576E while a low-level sonic boom may be heard west of the Channel Islands.

A notice of receipt of the Taurus SLV application and the proposed authorization was published on

September 25, 1996 (61 FR 50276) and a 30-day public comment period was provided on the application and proposed authorization.

Comments and Responses

During the 30-day comment period, one letter was received. The comments contained in this letter are addressed below. Other than information necessary to respond to the comments, additional background information on the activity and request can be found in the proposed authorization notice and needs not be repeated here.

Comment 1: The Marine Mammal Commission (MMC) requested confirmation that the Air Force would be applying for a programmatic 5-year authorization under section 101(a)(5)(A) of the MMPA. The MMC believes that, because of the possible cumulative effects of launches at Vandenberg, a 5-year authorization is appropriate.

Response: NMFS anticipates that this 1-year authorization for Taurus SLV launches, along with others issued previously for Lockheed launch vehicles (61 FR 38437, July 24, 1996), McDonnell Douglas Delta II launch vehicles (61 FR 59218, November 21, 1996), and Titan II and IV (61 FR 64337, December 4, 1996) will be replaced by a new set of regulations, under section 101(a)(5)(A) of the MMPA, governing incidental takes of marine mammals by launches of all rocket types from Vandenberg. An application for a small take authorization under section 101(a)(5)(A) of the MMPA is under development by the Air Force.

Comment 2: The MMC recommends that, before issuing the requested authorization, NMFS review the results of monitoring done to date to determine (1) if there may have been cumulative effects on the haul-out patterns, abundance, or productivity of harbor seals that reside in the Vandenberg area, and (2) whether the current monitoring program is sufficient to detect such effects.

Response: By limiting incidental harassment authorizations to a single year as opposed to multi-year authorizations for Letters of Authorization (LOAs) issued under section 101(a)(5)(A) of the MMPA, NMFS does not believe that Congress intended NMFS to make negligible impact assessments on activities for periods greater than the period of the authorization, nor to require holders of IHAs to monitor for periods greater than the authorization. As a result, monitoring for most activities holding IHAs are designed to be event specific, that is, for a period of time prior to the event, during the event, and after

completion of the activity. Although this precludes the applicability of monitoring under a single IHA for determining long-term cumulative effects, in those cases where holders of IHAs request continuing authorizations, monitoring, over time and in conjunction with other measurements of population trends and abundances, provides information sufficient to make the necessary negligible impact determinations under section 101(a)(5)(D) of the MMPA. This is what was done for the negligible impact determination for this authorization.

Recognizing that short-term monitoring leaves unanswered the effect from cumulative impacts, the U.S. Air Force is designing research to investigate this concern. This research will use launches of Titan IVs (the rocket presumed to be having the greatest impact since it is the largest rocket launched from Vandenberg) to provide information vital for assessing long-term impacts on the physiology, behavior and survival of pinnipeds from launch noise and sonic booms. This research, which will be conducted under an MMPA section 104 research permit, is expected to begin within a year.

Therefore, while no long-term studies are currently underway on the effects on pinnipeds from launch noises or sonic booms, monitoring at Vandenberg for Titan IV and other rocket launches in the past has provided the baseline information on long-term and cumulative impacts. This information and the fact that the haul-outs along the Vandenberg coast remain active indicate that there are no immediately evident long-term, cumulative impacts. Launch noises are infrequent enough and divided between North and South Vandenberg so that these impacts are presumed to be less significant, cumulatively, than human, wildlife and pet disturbances including motorized vessels.

Comment 3: The MMC states that it should be made clear that the authorization is automatically rescinded if a marine mammal is killed as a result of the authorized activity.

Response: No marine mammals are anticipated to be killed or seriously injured as a result of launchings of Taurus SLV rockets. However, while section 101(a)(5)(D)(iv) of the MMPA provides NMFS authority to modify, suspend, or revoke an authorization if it is found that the provisions of the section are not being met, for IHA suspensions, NMFS follows procedures established for suspension of LOAs under section 101(a)(5)(A) of the MMPA. In that regard, an IHA may be

suspended without notice and comment if emergency conditions exist that pose a significant risk to the well-being of the marine mammal stock, or if holder of an IHA is not in compliance with the conditions of the IHA. However, prior to revocation of an IHA, NMFS must satisfy the statutory notice and comment requirement. Therefore, section 101(a)(5)(B) allows NMFS to withdraw (revoke) or "suspend for a time certain" an LOA, subsequent to notice and comment, while section 101(a)(5)(C) allows a waiver of the notice and comment requirement for emergency suspensions, but not for revocations. Conditions for suspension or withdrawal of an LOA or IHA are described in 50 CFR 216.106 and 216.107.

Conclusion

Based upon the information provided in the proposed authorization, NMFS has determined that the short-term impact of the launching of Taurus SLV rockets is expected to result at worst, in a minor, temporary reduction in utilization of the haulout as seals or sea lions leave the beach for the safety of the water. These launchings are not expected to result in any reduction in the number of pinnipeds and they are expected to continue to occupy the same area. In addition, there will not be any impact on the habitat itself. Based upon studies conducted for previous space vehicle launches at Vandenberg, significant long-term impacts on pinnipeds at Vandenberg and the northern Channel Islands are unlikely.

Therefore, since NMFS is assured that the taking will not result in more than the harassment (as defined by the MMPA Amendments of 1994) of a small number of harbor seals, California sea lions, and northern elephant seals; would have only a negligible impact on the species, and would result in the least practicable impact on the stock, NMFS determined that the requirements of section 101(a)(5)(D) had been met and the incidental harassment authorization was issued.

Dated: December 27, 1996.

Ann D. Terbush,

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

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DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Defense Finance and Accounting Service, Finance Deputate.

ACTION: Notice.

In compliance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Defense Finance and Accounting Service announces the proposed public information collection and seeks public comment on the provisions concerning the proposed Personal Check Cashing Agreement Form. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received on or before March 7, 1997.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Defense Finance and Accounting Service, Finance Deputate, ATTN: Ms. Patricia Cristiano, 1931 Jefferson Davis Highway, Arlington, VA 22240-5291.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Ms. Patricia J. Cristiano, at (703) 607-5039.

Title, Associated Form, and OMB Number: Personal Check Cashing Agreement Form.

Needs and Uses: The collection of information is necessary to meet the Department of Defense's (DoD) requirement for cashing personal checks overseas and afloat by DoD disbursing activities, as provided in 31 U.S.C. 3342. The DoD Financial Management Regulation, Volume 5, provides guidance to DoD Disbursing Officers in the performance of this information collection. This allows the DoD disbursing officer or authorized agent the authority to offset the pay, without