

a moderate degree of noise, similar to that of a diesel truck.

### Proposed Monitoring

NMFS proposes to require CALTRANS to monitor the impact of Bridge replacement construction activities on harbor seals (and California sea lions, if present) at the Old Salinas River. Monitoring will be divided into the in-water and out-of-water construction periods. Monitoring will be conducted every day during in-water construction activities and for an 8 hour period once a week during out-of-water activities, by at least one trained, NMFS-approved, biological monitor. The following data will be recorded: (1) Number of seals and sea lions on site; (2) date; (3) time; (4) tidal height; (5) number of adults, subadults, and pups; (6) number of females and males; (7) number of molting seals; and (8) details of any observed disturbances. Concurrently, the monitor(s) will record general construction activity, location, duration, and noise levels. The monitor(s) will conduct baseline observations of pinniped behavior at the Old Salinas River haul out site, once a day for a period of 5 consecutive days immediately before the initiation of construction in the area to establish pre-construction behavioral patterns. In addition, NMFS will require that, immediately following the completion of the construction of the Bridge, the monitor(s) will conduct observations of pinniped behavior at the Old Salinas River haul out, for at least 5 consecutive days for approximately 1 tidal cycle (high tide to high tide) each day.

### Reporting

CALTRANS will provide weekly reports to the Southwest Regional Administrator (Regional Administrator), NMFS, including a summary of the previous week's monitoring activities and an estimate of the number of pinnipeds that may have been disturbed as a result of Bridge replacement construction activities. These reports will provide dates, time, tidal height, maximum number of harbor seals ashore, number of adults, sub-adults and pups, number of females/males, and any observed disturbances. CALTRANS will also provide a description of construction activities at the time of observation and any SPL measurements made at the haulout site. CALTRANS must submit draft interim reports to NMFS within 90 days of the completion of the 2005 in-water work phase and 2005/2006 out-of-water work phase. The draft interim reports are considered final reports unless NMFS requests modifications to those reports within 90

days of receipt. CALTRANS will also provide NMFS with a follow-up report on the post-construction monitoring activities within 18 months of project completion in order to evaluate whether haulout patterns are similar to the pre-Bridge replacement haul-out patterns at the Old Salinas River site.

### Endangered Species Act (ESA)

NMFS has determined that this action will have no effect on species listed under the ESA that are under the jurisdiction of NMFS. On April 12, 2000, the U.S. Fish and Wildlife Service (USFWS) concurred with the determination of the FHWA that the proposed Bridge project was not likely to adversely affect the federally endangered goby (*Eucyclogobius newberryi*), the brown pelican (*Pelecanus occidentalis*) and southern sea otter (*Enhydra lutris nereis*). However, issuance of an IHA to CALTRANS also constitutes an agency action subject to section 7 of the ESA. As the effects of the Bridge activities on listed species were analyzed earlier, and as the action has not changed from that considered in that informal consultation, the discussion of effects that are contained in the April 12, 2000 concurrence letter from the USFWS to the FHWA pertains also to this action. In conclusion, NMFS has determined that issuance of an IHA does not lead to any effects to listed species apart from those that were considered in the consultation on FHWA's action.

### National Environmental Policy Act (NEPA)

On June 22, 2000, CALTRANS made a determination that the Bridge project is a Categorical Exclusion under NEPA and on July 24, 2000, the FHWA determined that the Bridge project meets the criteria of, and is properly classified as, a Categorical Exclusion. NMFS is reviewing the FHWA documents and will make its own NEPA determination before making a decision on the issuance of an IHA.

### Preliminary Conclusions

NMFS has preliminarily determined that the Bridge replacement, as described in this document, should result, at worst, in the temporary modification in behavior of small numbers of harbor seals and, possibly, of small numbers of California sea lions. While behavioral modifications, including temporarily vacating the haulout, may be made by these species to avoid the resultant visual and acoustic disturbance, this action is expected to have a negligible impact on the affected species and stocks of

pinnipeds. In addition, no take by injury and/or death is anticipated, and harassment takes will be at the lowest level practicable due to incorporation of the mitigation measures described in this document.

### Proposed Authorization

NMFS proposes to issue an IHA to CALTRANS for the potential harassment of small numbers of harbor seals and California sea lions incidental to Bridge replacement construction, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed activity would result in the harassment of only small numbers of harbor seals and possibly California sea lions and will have no more than a negligible impact on these marine mammal stocks.

### Information Solicited

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

Dated: August 17, 2004.

**Laurie K. Allen,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 062104A]

### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Navy Operations of Surveillance Towed Array Sensor System Low Frequency Active Sonar

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

**ACTION:** Notice of issuance of two Letters of Authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that NMFS has issued two 1-year Letters of Authorization (LOAs) to take marine mammals by harassment incidental to the U.S. Navy's operation of Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA) sonar operations to the Chief of Naval Operations, Department of the Navy, 2000 Navy Pentagon,

Washington, D.C., and persons operating under his authority.

**DATES:** Effective from August 16, 2004, through August 15, 2005.

**ADDRESSES:** A copy of the June 16, 2004, LOA application and the LOAs is available by writing to Steve Leathery, Chief, Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, or by telephoning the contact listed here. A copy is also available at: [http://www.nmfs.noaa.gov/prot\\_res/PR2/Acoustics\\_Program/Sound.htm#Sonar](http://www.nmfs.noaa.gov/prot_res/PR2/Acoustics_Program/Sound.htm#Sonar)

**FOR FURTHER INFORMATION CONTACT:** Kenneth Hollingshead, Office of Protected Resources, NMFS, (301) 713-2289, ext 128.

**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 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 regulations are issued.

Permission may be granted for periods of 5 years or less 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. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. The regulations must include requirements pertaining to the monitoring and reporting of such taking.

Regulations governing the taking of marine mammals incidental to the U.S. Navy's operation of SURTASS LFA sonar were published on July 16, 2002 (67 FR 46712), and remain in effect until August 15, 2007. For detailed information on this action, please refer to that document. These regulations include mitigation, monitoring, and reporting requirements for the incidental taking of marine mammals by the SURTASS LFA sonar system.

On November 24, 2003, the President signed into law the National Defense Authorization Act of 2004 (NDAA) (Public Law 108-136). Included in this law were amendments to the MMPA

that apply where a "military readiness activity" is concerned. Of specific importance for the SURTASS LFA sonar take authorization, the NDAA amended section 101(a)(5) of the MMPA to exempt military readiness activities from the "specified geographical region" and "small numbers" requirements. The term "military readiness activity" is defined in Public Law 107-314 (16 U.S.C. 703 note) to include all training and operations of the Armed Forces that relate to combat; and the adequate and realistic testing of military equipment, vehicles, weapons and sensors for proper operation and suitability for combat use. The term expressly does not include the routine operation of installation operating support functions, such as military offices, military exchanges, commissaries, water treatment facilities, storage facilities, schools, housing, motor pools, laundries, morale, welfare and recreation activities, shops, and mess halls; the operation of industrial activities; or the construction or demolition of facilities used for a military readiness activity.

NMFS published a proposed rule to amend its SURTASS LFA sonar final rule and regulations, to implement provisions of the NDAA (69 FR 38873; June 29, 2004). The public comment period ended on July 29, 2004. NMFS has not issued a final rule as of the date of this notice.

**Summary of LOA Request**

On June 16, 2004, NMFS received an application from the U.S. Navy for two LOAs, each LOA covering one ship, under the regulations issued on July 16, 2002 (67 FR 46712). The Navy requested that the LOAs become effective on August 16, 2004. This application updated the information contained in the original application for an LOA dated August 12, 1999, and the revised application submitted on April 6, 2000, for takings of marine mammals by harassment incidental to deploying the SURTASS LFA sonar system for training, testing and routine military operations. The June 16, 2004, application requested authorization to take, by harassment, small numbers of marine mammals incidental to operation of the SURTASS LFA sonar system using the *R/V Cory Chouest* and the USNS IMPECCABLE, for a period not to exceed 1 year. The application's take estimates are based on 16 nominal 9-day active sonar missions (or equivalent shorter missions) between both vessels, regardless of which vessel is performing a specific mission, not to exceed a total of 432 hours of

transmission time combined for both vessels.

The specified geographic regions identified in the application are the following oceanographic provinces described in Longhurst (1998) and identified in 50 CFR 216.180(a): the Archipelagic Deep Basins Province, the North Pacific Tropical Gyre (West) Province, and the Western Pacific Warm Pool Province, all within the Pacific Trade Wind Biome; the Kuroshio Current Province within the Pacific Westerly Winds Biome; the North Pacific Epicontinental Sea Province within the Pacific Polar Biome; and the China Sea Coastal Province within the North Pacific Coastal Biome. The Navy's operating areas, as identified in the application, are portions of the provinces but do not encompass the entire area of the provinces. Due to critical naval warfare requirements, the U.S. Navy has identified the necessity for both SURTASS LFA sonar vessels to be stationed in the North Pacific Ocean during fiscal year 2005.

**Summary of Activity Under the 2003-2004 LOAs**

In compliance with the LOAs, on June 3, 2004, the Navy submitted the annual report on SURTASS LFA sonar operations. A summary of that report (Navy, 2004) follows.

During the period between February 16, 2003 and February 15, 2004 (the reporting period required under the 2003 LOA), the *RV Cory Chouest* operated in the western Pacific Ocean. The second SURTASS LFA sonar system onboard the USNS IMPECCABLE (T-AGOS 23) commenced sea trials in late February 2004 and is expected to be ready for full Fleet operations in early FY05. However, the LFA sonar system onboard the USNS IMPECCABLE did not operate during this reporting period.

The *RV Cory Chouest* conducted sea tests, training missions, and fleet operations during this period. All LFA sonar operations included the operation of the High-Frequency Marine Mammal Monitoring (HF/M3) sonar and complied with all mitigation requirements.

The *RV Cory Chouest's* sea tests consisted of continuation of testing of the LFA sonar hardware and software systems and operator training and experience. These sea tests consisted of two missions covering a period of 8.5 days with 20.5 hours of transmissions by the LFA sonar array. The training missions were a mix of basic training exercises on targets of interest and operationally oriented missions. These tests consisted of 4 missions covering a

period of 10.8 days with 25.8 hours of transmissions by the LFA sonar array.

In addition, the *RV Cory Chouest* successfully participated in two Fleet operations during this reporting period: (1) Fleet Battle Experiment Kilo (FBE Kilo), and (2) Ship/Helicopter Antisubmarine Readiness/Effectiveness Measuring (SHAREM) 146 Program.

FBE Kilo was a set of experiments designed to test and evaluate certain war-fighting initiatives in an operational environment and were part of the Navy's Sea Trial process, which aims to use technology and innovative concepts in war games, experiments, and exercises in an effort to develop the Navy of the future. In an FBE Kilo exercise conducted during this period, the *RV Cory Chouest* participated along with elements of the 7th Fleet, the *USS Carl Vinson* carrier strike group, and other U.S. and Australian Navy units.

In the area of undersea warfare and theater anti-submarine warfare, the experiment aimed to test undersea warfare planning and command and communications procedures involving local anti-submarine warfare commanders and the theater anti-submarine warfare commander. During FBE Kilo, the Navy planned and executed a series of tests of the SURTASS LFA sonar and Passive Acoustic Systems.

This mission included operation of the HF/M3 sonar and compliance to the mitigation requirements. This operational deployment consisted of a single mission covering a period of 13.2 days with 31.7 hours of transmissions by the LFA array. As a result of FBE Kilo, the Navy concluded that LFA sonar warrants ongoing fleet use and experimentation to continue the LFA program.

The SHAREM 146 Program was a major, multi-national Naval exercise consisting of a single mission covering a period of 7.5 days with 17.9 hours of transmissions by the LFA array.

In summary, during the reporting period of the Annual Report, the *R/V Cory Chouest* operated for a total of 40 days with 95.9 hours of LFA transmissions.

#### Summary of Monitoring Under the 2003–2004 LOAs

The percentage of marine mammal stocks estimated to be exposed to noise between 120 and 180 dB (re 1 microPa) from the LFA sonar array, both pre- and post-operational risk assessment estimates, were all substantially below the 12-percent maximum percentage authorized under the LOAs. Except for the short-finned pilot whales off Guam with a 1.85-percent risk of exposure, all

other estimated exposures were below 1.0 percent, with most being below 0.50 percent (Navy, 2004). The post-operational incidental harassment risk assessments demonstrate that there were no marine mammal exposures to received levels at or above 180 dB (Navy, 2004). During the seven missions, no sightings of marine mammals were noted by the trained personnel responsible for marine animal monitoring. During 6 of the 7 missions, no marine mammal vocalizations were identified on the SURTASS passive sonar displays. While participating in FBE Kilo, long-range vocalizations from humpback, blue and fin whales were identified on the SURTASS passive sonar displays. However, none of the marine mammals identified during transmissions were located in the vicinity of the SURTASS LFA sonar operations and these animals never approached the SURTASS LFA sonar mitigation (safety) and buffer zones.

The HF/M3 sonar operated continuously during the course of the missions in accordance with the LOA. As required by the LOA, the HF/M3 sonar was "ramped up" prior to operations. During three of the missions, there were HF/M3 alerts, which were identified as possible marine mammal detections. No additional correlating data was available to further verify, identify, or clarify these detections. Because these detections met the minimum shutdown criteria (i.e., multiple detections (two or more) within the same area), the Navy's requisite protocols were followed, and LFA sonar transmissions were suspended a total of four times. Because there were no visual or passive acoustic confirmation, these contacts were most likely false alarms.

#### Authorization

NMFS has issued two LOAs to the U.S. Navy, authorizing the incidental harassment of marine mammals incidental to operating the two SURTASS LFA sonar systems for training, testing and routine military operations. Issuance of these two LOAs is based on findings, described in the preamble to the final rule (67 FR 46712, July 16, 2002) and supported by information contained in the Navy's required annual report on SURTASS LFA sonar, that the activities described under these two LOAs will result in the taking of no more than small numbers of marine mammals, and the total taking will have no more than a negligible impact on marine mammal stocks, and will not have an unmitigable adverse impact on the availability of the affected marine mammal stocks for subsistence

uses. These LOAs also comply with the NDAA amendments to the MMPA.

These LOAs remain valid through August 15, 2005, provided the Navy remains in conformance with the conditions of the regulations and the LOAs, and the mitigation, monitoring, and reporting requirements described in 50 CFR 216.184–216.186 (67 FR 46712, July 16, 2002) and in the LOAs are undertaken.

Dated: August 13, 2004.

**Phil Williams,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 081604C]

#### Advisory Committee to the U.S. Section of the International Commission for the Conservation of Atlantic Tunas (ICCAT); Fall Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** In preparation for the 2004 ICCAT meeting, the Advisory Committee to the U.S. Section to ICCAT will hold two fall meetings.

**DATES:** The open sessions will be held on September 9, 2004, from 8 a.m. to 11:15 a.m. and October 21, 2004, from 8 a.m. to 10:30 a.m. Closed sessions will be held on September 9, 2004, from 11:30 a.m. to 5:30 p.m., September 10, 2004, from 8 a.m. to 12 p.m., October 21, 2004, from 11 a.m. to 5 p.m., and October 22, 2004, from 8:30 a.m. to 12:30 p.m. Written comments should be received no later than August 27, 2004.

**ADDRESSES:** The meeting will be held at the Hilton Hotel, 8727 Colesville Road, Silver Spring, MD 20910. Written comments should be sent to Erika Carlsen at NOAA Fisheries/SF4, Room 13114, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Erika Carlsen, 301–713–2276.

**SUPPLEMENTARY INFORMATION:** The Advisory Committee to the U.S. Section to ICCAT will meet in an open session to consider information on stock status of highly migratory species and 2004 management recommendations of ICCAT's Standing Committee on Research and Statistics (SCRS). The