

and will not affect marine mammals used for subsistence purposes.

Proposed Authorization

NMFS proposes to issue an IHA to SIO for conducting an oceanographic seismic survey in the SPO, 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 small numbers of marine mammals; would have no more than a negligible impact on the affected marine mammal stocks; and would not have an unmitigable adverse impact on the availability of species or stocks for subsistence uses.

Dated: September 22, 2006.

James H. Lecky,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062206A]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the U.S. 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 Receipt of Application; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Navy for an authorization under the Marine Mammal Protection Act (MMPA) to take marine mammals, by harassment, incidental to conducting operations of Surveillance Towed Array Sensor System (SURTASS) Low Frequency Active (LFA) sonar from August 16, 2007 through August 15, 2012. In order to promulgate regulations and issue annual Letters of Authorization (LOAs) to the Navy, NMFS must determine that these takings will have a negligible impact on the affected species and stocks of marine mammals, will not have an unmitigable impact on the availability of the species or stock(s) for subsistence uses, and must prescribe the means of mitigating the potential impact to the lowest level practicable. NMFS invites comment on the application and

suggestions on the content of any future regulations.

DATES: Comments and information must be postmarked no later than October 30, 2006.

ADDRESSES: Comments on the application should be addressed to: P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. The mailbox address for providing e-mail comments is PR1.062306A@noaa.gov. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size. Please use only one method for commenting.

A copy of the Navy's 2007 MMPA application and the current SURTASS LFA sonar monitoring report may be obtained by writing to the above address, by telephoning the contact listed under **FOR FURTHER INFORMATION CONTACT**, or at: http://www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake_info.htm#applications. A copy of the Navy's Draft Supplemental Environmental Impact Statement (Draft SEIS) may be downloaded at the following URL: <http://www.surtass-lfaeis.com/Impactstate05.htm>

Documents cited in this notice may also be viewed, by appointment, during regular business hours at this address.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, NMFS, at 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 (Secretary) 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) if certain findings are made and regulations are issued.

An authorization may be granted for periods of 5 years or less if the Secretary finds that the total 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; if regulations are prescribed setting forth the permissible methods of taking and other means of effecting the least practicable impact on affected species, stocks and its habitat; and, the requirements pertaining to the monitoring and reporting of such taking.

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." With respect to military readiness activities, the MMPA defines "harassment" as:

(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B harassment].

Summary of Request

On May 12, 2006, NMFS received an application from the U.S. Navy requesting an authorization under section 101(a)(5)(A) of the MMPA for the taking of marine mammals by harassment incidental to employment of the SURTASS LFA sonar system during training, testing, and routine military operations for a period of time not to exceed 5 years, beginning on August 16, 2007. The proposed action is the U.S. Navy's use of the SURTASS LFA sonar in ocean waters excluding any areas necessary to prevent 180-decibel (dB) sound pressure level (SPL) or greater within a specific geographic range from shore, in offshore biologically important areas during biologically important seasons, and in areas necessary to prevent greater than 145-dB SPL at known recreational and commercial dive sites. The SURTASS LFA sonar program will operate a maximum of 4 ship systems in those regions in which SURTASS LFA sonar could potentially operate. During employment of the SURTASS LFA sonar system, acoustic signals will be introduced into the water column that could potentially affect marine mammals. Because marine mammals may be harassed due to noise disturbance incidental to the employment of the SURTASS LFA sonar system during training, testing, and routine military operations, an authorization under section 101(a)(5)(A) of the MMPA is warranted. A copy of the Navy's MMPA application is available for public review (see **ADDRESSES**).

Background

On July 16, 2002, NMFS published a final rule (67 FR 46712) for the taking of marine mammals incidental to operations of SURTASS LFA sonar and, on August 16, 2002 issued an LOA to the *R/V Cory Chouest*. The preamble to

the final rule provides a complete description of the Navy activity, NMFS' assessment of the marine mammals that potentially could be affected during SURTASS LFA sonar operations, and the mitigation, monitoring and research that the Navy has implemented to reduce impacts to the lowest level practicable. Please refer to that document for detailed information on this activity.

On August 7, 2002, the Natural Resources Defense Council, the Humane Society of the United States and four other environmental organizations filed suit against the Navy and NMFS over SURTASS LFA sonar use and permitting. Key litigation events are summarized in the Navy's Draft SEIS. The Court issued its Opinion and Order on the parties' motions for summary judgment in the SURTASS LFA sonar litigation on August 26, 2003. The Court found that deficiencies in the Navy and NMFS compliance with the MMPA, the Endangered Species Act (ESA), and the National Environmental Policy Act (NEPA) warranted issuing a tailored permanent injunction; however, a complete ban on the use of SURTASS LFA sonar was not warranted. Specifically, the Court found that a total ban on the employment of SURTASS LFA sonar would interfere with the Navy's ability to ensure military readiness and to protect those serving in the military against the threat posed by hostile submarines. The Court directed the parties to meet and confer on the scope of a tailored permanent injunction, which would allow for continued operation of the system with additional mitigation measures. This mediation session occurred on September 25, 2003 in San Francisco.

In June 2003, the second-year (of the five years for which the NMFS Final Rule is valid) LOAs were requested from NMFS for the operations of SURTASS LFA sonar from both *R/V Cory Chouest* and *USNS IMPECCABLE* (T-AGOS 23) for the period between August 16, 2003 and August 15, 2004. For the second year LOAs, the Navy requested operational areas authorized under the preliminary injunction. NMFS issued the second year LOAs, effective on August 16, 2003. The second year LOAs authorized the taking of marine mammals in stipulated portions of the Northwest Pacific/Philippine Sea, Sea of Japan, East China Sea, and South China Sea with certain year-round and seasonal restrictions. On July 7, 2005, the Court amended the permanent injunction to expand the potential areas of operation based on real world contingencies, as shown in Figure 1-1 in the Navy's MMPA application.

Annual LOAs were issued to the *R/V Cory Chouest* and *USNS IMPECCABLE* on August 16, 2004 (69 FR 51996, August 24, 2004), August 16, 2005 (70 FR 49914, August 25, 2005) and August 16, 2006 (71 FR 48537, August 21, 2006).

Description of the Activity

Existing operational LFA systems are currently installed on two SURTASS vessels: *R/V Cory Chouest* and *USNS IMPECCABLE*. In addition, the Navy plans for the development and introduction of a compact active sonar system to be deployed from existing, smaller SURTASS Swath-P ships. This smaller system, known as Compact LFA, or CLFA, consists of smaller, lighter-weight source elements than the current LFA system, and will be compact enough to be installed on the existing SURTASS VICTORIOUS Class (T-AGOS 19, 21, and 22) platforms. The operational characteristics of the compact system are comparable to the existing LFA systems as presented in the Final OEIS/EIS and Draft SEIS. Therefore, the potential impacts from CLFA are expected to be similar to the effects from the existing SURTASS LFA systems. Three additional CLFA systems are planned for the T-AGOS 19, 21, and 22. Figure 1-2 of the Navy's MMPA application shows the projected availability of these systems. With the planned *R/V Cory Chouest* retiring in FY 2008, only two or three systems will be operational through FY 2010. Early in FY 2011, the potential exists for four vessels to be operational. At no point during the 5-year LOA authorization period are there expected to be more than four systems in use, and thus this application considers the employment of up to four systems.

The Navy states that because of uncertainties in the world's political climate, a detailed account of future operating locations and conditions cannot be predicted. However, in order to assess impacts to marine mammal populations, the Navy has developed a nominal annual deployment schedule and operational concept based on current LFA operations since January 2003 and projected Fleet requirements. As illustrated in Table 1-2 of the Navy's MMPA application, SURTASS LFA sonar deployment schedule for a single vessel could involve up to 294 days per year at sea (underway). A nominal at-sea mission will occur over a 49-day period, with 40 days of operations and 9 days of transit. Based on a 7.5 percent duty cycle (from historical LFA operating parameters), an LFA system will actually be transmitting for a maximum of 72 hours per 49-day

mission and 432 hours per year for each SURTASS LFA sonar system in operation. The SURTASS LFA sonar vessel will operate independent of, or in conjunction with, other naval air, surface or submarine assets. Annually, each vessel will be expected to spend approximately 54 days in transit and 240 days performing active operations. An estimated 71 days will be spent in port for upkeep and repair and crew morale.

National Defense Authorization Act (NDAA)

On November 24, 2003, the NDAA for Fiscal Year (FY) 2004 (Public Law 108-136) became law. Included in this law were amendments to Section 101(a)(5) of the MMPA that apply where a "military readiness activity" is concerned. 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. NMFS and the Navy have determined that the Navy's SURTASS LFA sonar testing and training operations that are the subject of NMFS's July 16, 2002, Final Rule constitute a military readiness activity because those activities constitute "training and operations of the Armed Forces that relate to combat" and constitute "adequate and realistic testing of military equipment, vehicles, weapons and sensors for proper operation and suitability for combat use."

The provisions of NDAA FY04 that relate to SURTASS LFA sonar are summarized here:

- (1) Amended the definition of "harassment" as it applies to military readiness activities (as stated previously here);
- (2) NMFS's determination of "least practicable adverse impact on species or stock" must include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity; and,
- (3) Eliminated the "small numbers" and "specified geographic region" requirements from the incidental take permitting process for military readiness activities.

Affected Marine Mammal Species

The Navy has provided detailed descriptions of the marine mammal species and stocks that may potentially be affected by operation of SURTASS LFA sonar in several documents. These

include the Navy's 2007 MMPA application, the Draft SEIS, and the Final OEIS/EIS. These documents are publicly available for viewing and downloading (see **ADDRESSES**). Additional information on marine mammals along the U.S. and territorial waters can be found at: <http://www.nmfs.noaa.gov/pr/sars/region.htm>. Please refer to these documents for information on these species.

Potential Impacts to Marine Mammals

The Navy has provided detailed analyses on the potential impacts on whales, dolphins, seals and sea lions in both its MMPA application and its Draft SEIS. Potential impacts that are analyzed include: non-auditory injury,

permanent loss of hearing, temporary loss of hearing, behavioral change, and masking. As a result of its analysis, the Navy believes that impacts to affected marine mammal stocks will be limited to Level B (behavioral) harassment and that no serious injury or mortality is likely. For a complete description of this analysis please refer to the Navy's MMPA application.

Proposed Modifications to the Existing Regulations

The Navy has proposed two modifications to the current regulations governing the incidental take of marine mammals during SURTASS LFA sonar operations. These are:

(1) Establishment of Additional Offshore Biologically Important Areas

(wherein 180 dB (and higher) sound pressure levels (SPLs) will not enter-see Table 6.2 in the Navy's MMPA application); and,

(2) Increase the authorized transmission frequency from 330 Hz to 500 Hz (the frequency requirements for CLFA are somewhat higher, but still below 500 Hz).

Mitigation and Monitoring

The Navy proposes to continue to implement the currently required mitigation and monitoring requirements under the current regulations (50 CFR Part 216 Subpart Q). Table 1 provides an illustration of the proposed measures. Detailed information can be found in the Navy's MMPA application.

TABLE 1. SUMMARY OF MITIGATION

| Mitigation | Criteria | Actions |
|---|---|--|
| Geographic Restrictions | | |
| 22 km (12 nm) from coastline and offshore biologically important areas during biologically important seasons outside of 22 km (12 nm) | Sound field below 180 dB RL, based on SPL modeling. | Delay/suspend SURTASS LFA sonar operations. |
| Recreational and commercial dive sites (known) | Sound field not to exceed 145 dB RL, based on SPL modeling. | Delay/suspend SURTASS LFA sonar operations. |
| Monitoring to Prevent Injury to Marine Mammals and Sea Turtles | | |
| Visual Monitoring | Potentially affected species near the vessel but outside of the LFA mitigation and buffer zones. | Notify OIC. |
| | Potentially affected species sighted within the LFA mitigation and buffer zones. | Delay/suspend SURTASS LFA sonar operations. |
| Passive Acoustic Monitoring | Potentially affected species detected. | Notify OIC, OIC alerts marine mammal observers. |
| Active Acoustic Monitoring | Contact detected and determined to have a track that would pass within the LFA mitigation and buffer zones. | Notify OIC, OIC alerts marine mammal observers. |
| | Potentially affected species detected inside of the LFA mitigation and buffer zones. | Delay/suspend SURTASS LFA sonar operations. |
| | LFA mitigation and buffer zones free of marine mammals. | Begin ramp-up of Active Acoustic Monitor Source. |

Reporting

As is currently required, the Navy proposes to submit quarterly, classified mission reports to NMFS no later than 30 days after the end of the quarter beginning on August 16, 2007. Each quarterly, classified mission report will include all active-mode missions that have been completed during the quarter. Specifically, these reports will include dates/times of exercises, location of vessel, LOA province, location of the safety and buffer zones in relation to the LFA sonar array, marine mammal

observations, and records of any delays or suspensions of operations. Marine mammal observations will include animal type and/or species, number of animals sighted, date and time of observations, type of marine mammal detection (visual, passive and/or active sonar), bearing and range from the vessel, abnormal behavior (if any), and remarks/narrative (as necessary). The report will include the Navy's assessment of whether any taking occurred within the SURTASS LFA sonar safety and buffer zones and

estimates of the percentage of marine mammals stocks affected by SURTASS LFA sonar operations (both within and outside the safety and buffer zones), using predictive modeling based on operating locations, dates/times of operations, system characteristics, oceanographic environmental conditions, and animal demographics.

The Navy will also submit an annual, unclassified report to NMFS. This report will provide NMFS (and the public) with an unclassified summary of the year's quarterly reports and will include

the Navy's assessment of whether any taking occurred within the SURTASS LFA sonar mitigation and buffer zones and estimates of the percentage of marine mammal stocks affected by SURTASS LFA sonar operations (both within and outside the safety and buffer zones), using predictive modeling based on operating locations, dates/times of operations, system characteristics, oceanographic environmental conditions, and animal demographics. The annual report will also include an analysis of the effectiveness of the mitigation measures with recommendations for improvements where applicable, an assessment of any long-term effects from SURTASS LFA sonar operations, and any discernible or estimated cumulative impacts from SURTASS LFA sonar operations.

NEPA

The Navy completed and released its Draft SEIS to the public for review on October 28, 2005 (70 FR 62102). That document was available to the public for review until December 28, 2005, but was extended until February 10, 2006. NMFS is a cooperating agency in the preparation of the Draft SEIS and will either adopt it or prepare its own NEPA document before making a determination on the issuance of regulations and LOAs for this activity.

Information Solicited

As this document is being published in conformance with NMFS regulations implementing the incidental take program (50 CFR part 216, subpart I), NMFS requests interested persons to submit comments, information, and suggestions concerning the request and the possible structure and content of the regulations to allow the taking. As provided by 50 CFR 216.105, NMFS will consider this information in developing any proposed regulations to authorize the taking. Because this notice contains only a summarization of the proposed Navy action, NMFS requests commenters read the Navy MMPA application and Draft OEIS/EIS on this action prior to submitting comments, as those documents contain information necessary to respond appropriately to this action. If NMFS proposes regulations to allow this take, interested parties will be provided with a 45-day comment period within which to submit comments on the proposed rule.

Dated: September 22, 2006

James H. Lecky,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092206C]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public committee meeting.

SUMMARY: The North Pacific Fishery Management Council's (Council) Steller Sea Lion Mitigation Committee (SSLMC) will meet in Anchorage, AK.

DATES: The meetings will be held on October 16-18, 2006, 8:30 a.m. to 5 p.m.

ADDRESSES: The meetings will be held at the Hawthorne Suites, 1110 West 8th Avenue, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252.

FOR FURTHER INFORMATION CONTACT: Bill Wilson, North Pacific Fishery Management Council; telephone: (907) 271-2809.

SUPPLEMENTARY INFORMATION: The issues to be discussed: Minutes of last meeting; review comments on proposal ranking tool from Scientific and Statistical Committee (SSC); refine proposal ranking tool as appropriate, receive report on Board of Fisheries meeting of October 14-15; receive presentations on proposals from submitters; discuss proposals; discuss Adaptive Management Subcommittee Report.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen, (907) 271-2809, at least 5 working days prior to the meeting date.

Dated: September 25, 2006.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6-15918 Filed 9-27-06; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092206B]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public committee meeting.

SUMMARY: The North Pacific Fishery Management Council's (Council) Steller Sea Lion Mitigation Committee (SSLMC) will meet in Seattle, WA.

DATES: The meetings will be held on October 30, 2006 through November 1, 2006, from 8:30 a.m. to 5 p.m., each day.

ADDRESSES: The meetings will be held at the Alaska Fishery Science Center, 7600 Sand Point Way, Building 4, Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252.

FOR FURTHER INFORMATION CONTACT: Bill Wilson, North Pacific Fishery Management Council; telephone: (907) 271-2809.

SUPPLEMENTARY INFORMATION: The issues to be discussed: Minutes of last meeting; continue refining and finalize Proposal Ranking Tool (PRT); run proposals through PRT; evaluate proposals in light of PRT scores and additional information; prepare proposal package for Council Review.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

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These meetings are physically accessible to people with disabilities.