

project could assist the Council in developing future monitoring protocols for all North Pacific fisheries.

To support this EFP, an allocation of rockfish and associated bycatch species in addition to those allocated under the Program is proposed. Groundfish and halibut amounts required are listed in the table below:

Species	Amount (mt)
arrowtooth flounder	34
halibut	12
northern rockfish	88
Pacific cod	42
pelagic shelf rockfish	52
Pacific ocean perch	145
sablefish	26
shortraker/rougheye rockfish	1
thornyhead rockfish	4
other	8
total	412

The project would begin September 15, 2007, and continue until either the halibut mortality limit is reached or 30 hauls (5 to 7 individual trips) are completed. Additionally, NMFS may consider extending the EFP to allow additional testing in the following year, if needed. Fishing would occur in the Central GOA.

The EFP would exempt the applicant from Central GOA directed fishing closures implemented under §§ 679.20, 679.21, 679.23 or 679.25 for reasons other than overfishing. The EFP would allow for the harvest of up to 400 mt of groundfish species. The EFP would exempt the applicant from the requirements of the Program under §§ 679.4(n), 679.5(r) and 679.7(n).

Because the participating vessel would be carrying at-sea samplers, the EFP would exempt the applicant from regulations requiring observers to be onboard the vessel. Specifically, the permit would exempt the applicant from §§ 679.50, 679.7(a)(3), 679.7(g) while the experiment is being conducted.

Halibut mortality from this project would not be applied against the halibut prohibited species catch (PSC) limits allocated to the Central GOA trawl fishery or to the prohibited species quota limits in the Program. The proposed EFP would exempt a vessel from halibut PSC limits at § 679.21(d)(3)

and allow up to 12 mt of halibut mortality associated with fishing under this project.

The vessel would be exempted from maximum retainable amount (MRA) regulations at § 679.20(e) and Table 10 to 50 CFR part 679. Additional discards occurring during the experiment would hamper the ability of reviewers to determine whether or not all halibut were retained. It is highly unlikely that discard above the MRA would be required.

These exemptions are necessary to allow the permit holder to 1) effectively test the feasibility of using video to monitor for halibut discards at a single location on the catcher vessel, 2) estimate the amount of halibut discarded at this location, and 3) assess the costs of collecting and reviewing EM data. Information gathered during this proposed EFP could be used by the Council to develop future monitoring protocols for all North Pacific fisheries

The applicant will present draft results of the project to members of the industry in Kodiak, Alaska. Additionally, the applicant, in conjunction with NMFS staff involved with the project, would present the draft findings to the Council and its advisory bodies at a meeting convenient to the Council. The applicant also would be responsible for providing the final report to the interested public once that report has been reviewed by the Council and its advisory bodies.

In accordance with § 600.745(b) and § 679.6, NMFS has determined that the proposal warrants consideration and has initiated consultation with the Council. The Council will consider the EFP application during its meeting in Sitka, AK, from June 4–12, 2007. The applicant has been invited to appear in support of the application.

#### Public Comments

Interested persons may comment on the application at the June 2007 Council meeting during public testimony. Information regarding the meeting is available at 72 FR 26606 (May 10, 2007) and on the Council's website at <http://www.fakr.noaa.gov/npfmc/council.htm>.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: May 21, 2007.

**James P. Burgess,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648–XA37

#### Marine Mammals; File No. 978–1857

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

**ACTION:** Notice; issuance of permit.

**SUMMARY:** Notice is hereby given that Dr. Paul Nachtigall, Hawaii Institute of Marine Biology, University of Hawaii, P.O. Box 1106, Kailua, Hawaii 96734, has been issued a permit to conduct research on three captive bottlenose dolphins (*Tursiops truncatus*) and one false killer whale (*Pseudorca crassidens*).

**ADDRESSES:** The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 427–2521; and Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808) 973–2935; fax (808) 973–2941.

**FOR FURTHER INFORMATION CONTACT:** Amy Sloan or Jaclyn Daly, (301) 713–2289.

**SUPPLEMENTARY INFORMATION:** On October 2, 2006, notice was published in the **Federal Register** (71 FR 57926) that a request for a scientific research permit to take the species identified above had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The 5-year permit authorizes Dr. Nachtigall to conduct acoustic studies on captive marine mammals at the Hawaii Institute of Marine Biology. Research methods will employ the use of suction cup electrodes to measure auditory brainstem response, auditory evoked potentials, and temporary threshold shifts. Echolocation studies will also be conducted.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to

prepare an environmental assessment or environmental impact statement.

Dated: May 17, 2007.

**P. Michael Payne,**

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XA38

#### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Coastal Commercial Fireworks Displays at Monterey Bay National Marine Sanctuary, CA

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

**ACTION:** Notice; issuance of a letter of authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that a 1-year letter of authorization (LOA) has been issued to the Monterey Bay National Marine Sanctuary (MBNMS or the Sanctuary) to incidentally take, by Level B Harassment only, California sea lions (*Zalophus californianus*) and Pacific harbor seals (*Phoca vitulina*) incidental to authorizing professional fireworks displays within the Sanctuary in California waters.

**DATES:** The LOA will be effective from July 4, 2007, through July 3, 2008.

**ADDRESSES:** The LOA and supporting documentation are available by writing to 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, by telephoning one of the contacts listed here (**FOR FURTHER INFORMATION CONTACT**), or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address and at the Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

**FOR FURTHER INFORMATION CONTACT:** Jolie Harrison, Office of Protected Resources, NMFS, (301) 713-2289, or Monica

DeAngelis, Southwest Regional Office, NMFS, (562) 980-4023.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on 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. Under the MMPA, the term "taking" means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture or kill marine mammals.

Authorization may be granted for periods up to 5 years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals 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 for monitoring and reporting of such taking.

Regulations governing the taking of California sea lions and Pacific harbor seals, by Level B harassment, incidental to the authorization of fireworks displays within the Sanctuary became effective on July 4, 2006, and remain in effect until July 3, 2011. For detailed information on this action, please refer to the original **Federal Register** notice at 71 FR 40928 (July 19, 2006). These regulations include mitigation, monitoring, and reporting requirements for the incidental taking of marine mammals during the fireworks displays within the Sanctuary boundaries. This will be the second LOA issued pursuant to these regulations.

##### Summary of Request

On February 27, 2007, NMFS received a request for an LOA pursuant to the aforementioned regulations that would authorize, for a period not to exceed 1 year, take of marine mammals incidental to fireworks displays at the MBNMS. Justification for conducting fireworks displays within the MBNMS can be found in the proposed rule (71 FR 25544).

#### Summary of Activity and Monitoring Under the Current LOA

In compliance with the 2006 LOA, the MBNMS submitted an annual report on the fireworks displays at MBNMS. A summary of that report follows.

Four fireworks displays took place within the MBNMS in 2006. Observers conducted pre-event census to document abundance of marine mammals and protected species pre-event and post-event surveys to record any injured or dead wildlife species. Pre-event monitoring of the City of Monterey Bay Independence fireworks found 61 sea lions, nine harbor seals, and six sea otters (*Enhydra lutris*) in the vicinity of the event area. Post-monitoring revealed no dead or injured marine mammals and one dead cormorant; however, dead birds are commonly found on area beaches and this death could not be contributed directly to the fireworks display. Observers monitored the area around the location of Cambria Independence Day fireworks display and found no animals present at the site before the event and no dead or injured marine mammals or other animal species post-event. On July 30, 2006, Pacific Grove hosted The Feast of Lanterns Annual Fireworks display. On July 28, 2006, a pre-census count found seventeen harbor seals and three sea otters within the display area. A non-mandatory census was also conducted on July 29 with no marine mammals observed, possibly due to music, festivities, and increased human presence in the area. No dead or injured marine mammals were reported for this event. The Monte Foundation fireworks display was held on October 14, and a pre-event census was conducted on October 13. The census revealed four harbor seals and one sea otter in the area. No animals were reported dead or injured the day after the event.

In summary, the total number of potentially harassed sea lions (61) and harbor seals (13) for all fireworks displays, was well below the authorized limits as stated in the final rule (71 FR 40928). No dead or injured marine mammals were reported for all events. These monitoring results supports NMFS initial findings that fireworks display will result in no more than Level B harassment of small numbers of California sea lions and harbor seals and that effects will be limited to short term behavioral changes, including temporary abandonment of haulouts to avoid sights and sounds of commercial fireworks.