

Dated: September 17, 2010.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2010-24035 Filed 9-23-10; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XY60

#### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Missile Launch Operations from San Nicolas Island, CA

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

**ACTION:** Notice; request for comments on proposed revised Letter of Authorization.

**SUMMARY:** In June, 2009, pursuant to the Marine Mammal Protection Act (MMPA), NMFS issued regulations to govern the unintentional taking of marine mammals incidental to U.S. Navy (Navy) missile launch operations, a military readiness activity, from San Nicolas Island (SNI), California, for the period of June 2009 through June 2014. The second Letter of Authorization (LOA) for the incidental take of marine mammals during the described activities and specified timeframes is effective from June 4, 2010, through June 3, 2011. Following issuance of the LOA, the Navy submitted a revised monitoring plan for their activities at SNI. NMFS is proposing to issue a revised LOA, which would incorporate the revised monitoring plan, to replace the one that is currently in effect.

**DATES:** Comments and information must be received no later than October 25, 2010.

**ADDRESSES:** Comments on the revised monitoring plan should be addressed 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. The mailbox address for providing email comments is *PR1.0648-XY60@noaa.gov*. NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

Instructions: All comments received are a part of the public record and will

generally be posted to <http://www.nmfs.noaa.gov/pr/permits/incidental.htm> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

A copy of the revised monitoring plan may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Michelle Magliocca, Office of Protected Resources, NMFS, 301-713-2289, or Monica DeAngelis, NMFS, 562-980-3232.

#### 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. However, for military readiness activities, the National Defense Authorization Act (Public Law 108-136) removed the "small numbers" and "specified geographical region" limitations. Under the MMPA, the term "take" 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 of 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 Northern elephant seals (*Mirounga angustirostris*), Pacific harbor seals (*Phoca vitulina richardsi*), and California sea lions (*Zalophus californianus*), by harassment, incidental to missile launch operations at SNI, were issued on June 2, 2009, and remain in effect until June 2, 2014 (74 FR 26580). The most recent LOA under these regulations was issued on June 4, 2010 (75 FR 28587). For more detailed information on this action, please refer to these documents. The regulations and LOA include mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during missile launches at SNI. Northern elephant seals, Pacific harbor seals, and California sea lions are found on various haul-out sites and rookeries on SNI. The current LOA authorizes take of the three pinniped species listed above that may result from the launching of up to 40 missiles from SNI per year. Up to 10 launches per year may occur at night. Nighttime launches will only occur when required by the test objectives, e.g., when testing the Airborne Laser system. The noise generated by Navy activities may result in the incidental harassment of pinnipeds, both behaviorally and in terms of physiological (auditory) impacts. The noise and visual disturbances from missile launches may cause the animals to move towards or enter the water. The current LOA authorizes the following numbers of pinnipeds to be incidentally taken by Level B harassment annually: 474 Northern elephant seals; 467 Pacific harbor seals; and 1,606 California sea lions.

##### Summary of the Modification

On June 7, 2010, NMFS received a revised monitoring plan for vehicle launches at SNI, California, in association with an LOA issued on June 4, 2010 and in effect through June 3, 2011. The revised monitoring plan was updated to reflect new equipment and procedures proposed by the Navy, along with a proposal to discontinue targeted monitoring of Northern elephant seals. After reviewing the revised monitoring plan, the Marine Mammal Commission (Commission) further recommended that the Navy obtain, analyze, and review existing information regarding potential displacement of Northern elephant seals, Pacific harbor seals, and California sea lions from those rookeries and haul out sites affected by launch activities. NMFS marine mammal surveys from SNI have since been reviewed for any indications of decreasing trends in pinniped

abundance or changes in distribution since the take of marine mammals incidental to launches from SNI were authorized beginning in August 2001. The surveys do not indicate any significant changes in abundance or distribution; therefore, NMFS proposes that the Navy's revised monitoring plan remain as is. The following are the only proposed modifications to the current LOA; all other mitigation and monitoring requirements would remain unchanged.

#### *Nighttime Launches*

The Navy recently acquired forward looking infrared (FLIR) HS-324 Command thermal imaging cameras for nighttime monitoring of pinnipeds before, during, and after each missile launch. Previously, no cameras were available for nighttime monitoring of pinniped haul out sites. The thermal imaging cameras, made by FLIR Systems, Inc., would be located to overlook haul out sites up to 6 hours prior to a launch, depending on safety restrictions. Placement of the cameras would cause minimal disturbance to pinnipeds and would focus on a subgroup of pinnipeds within the haul out aggregation. The cameras record data internally and are capable of storing more than 5 hours of video; however, they do not record sound, so no simultaneous audio recording separate from the acoustic monitoring data, collected as described in the regulations (74 FR 26580) and current LOA (75 FR 28587), would be available. Navy biologists would make direct visual observations of the pinniped groups, prior to deployment of the thermal imaging cameras, in order to record weather conditions, species, locations of any pinnipeds hauled out, etc.

#### *Monitoring of Northern Elephant Seals*

The Navy proposes to eliminate targeted monitoring of Northern elephant seals during all future launches of Vandal- and Coyote-size, and smaller, vehicles on SNI. During the majority of launches monitored over the past 9 years, Northern elephant seals exhibited little reaction to vehicle launches. The Navy's most recent monitoring report estimated that zero Northern elephant seals were harassed by launches from SNI. During future launches, Northern elephant seals would only be monitored if they happen to be alongside other monitored pinniped species (i.e., Pacific harbor seals and California sea lions) and in the camera's field of view. Monitoring sites would be chosen based primarily on the presence of Pacific harbor seals and

California sea lions. By eliminating targeted monitoring of Northern elephant seals, the Navy would focus on these more responsive pinniped species and remaining questions about the frequency and extent of these responses. All other aspects of the Navy's monitoring requirements, as stated in the regulations (74 FR 26580) and current LOA (75 FR 28587), would remain the same.

#### **Summary of Activity and Monitoring Conducted During 2010**

The Navy submitted a preliminary, qualitative review of marine mammal monitoring activities between June 4, 2010, and September 1, 2010, as part of their proposal for a revised monitoring plan. The review briefly describes two single launches from SNI on two different days. These launches occurred during daylight hours. A single Coyote missile was launched on each of two days, June 9 and July 8, 2010, from the Alpha Launch Complex located 190 m (623 ft) above sea level on the west-central part of SNI. For each launch, three remote video cameras and three or four audio recorders were deployed at varying distances from the launch site. Trained staff also collected general information on environmental conditions and the status and behavior of focal animal groups prior to and following each launch. Behavioral responses were similar to those observed during previously monitored launches. The authorized level of take was not exceeded, and no evidence of injury or mortality was observed during or immediately succeeding the launches for the monitored pinniped species.

#### **Proposed Authorization**

The Navy continues to comply with the requirements of the current 2010 LOA. NMFS has preliminarily determined that this action would continue to have a negligible impact on the affected species or stocks of marine mammals on SNI, and there are no subsistence uses of these three pinniped species in California waters. Accordingly, NMFS proposes to issue a revised LOA to the Navy authorizing the take of three marine mammal species, by harassment, incidental to missile launch activities from SNI. The revised LOA would expire one year from the date of issuance.

Dated: September 20, 2010.

#### **Helen M. Golde,**

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

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#### **COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED**

##### **Procurement List Additions**

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to the Procurement List.

**SUMMARY:** This action adds services to the Procurement List that will be provided by nonprofit agencies employing persons who are blind or have other severe disabilities.

**DATES:** *Effective Date:* 10/25/2010.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

**FOR FURTHER INFORMATION CONTACT:** Barry S. Lineback, Telephone: (703) 603-7740, Fax: (703) 603-0655, or e-mail [CMTEFedReg@AbilityOne.gov](mailto:CMTEFedReg@AbilityOne.gov).

##### **SUPPLEMENTARY INFORMATION:**

##### **Additions**

On 6/11/2010 (75 FR 33270-33271) and 7/16/2010 (75 FR 41451), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

##### **Regulatory Flexibility Act Certification**

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will provide the services to the Government.

2. The action will result in authorizing small entities to provide the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the services proposed for addition to the Procurement List.