

**Authority:** 16 U.S.C. 6902.

**Dated:** February 22, 2011.

**Margo Schulze-Haugen,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XA191**

#### Takes of Marine Mammals Incidental to Specified Activities; St. George Reef Light Station Restoration and Maintenance at Northwest Seal Rock, Del Norte County, CA

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

**ACTION:** Notice; issuance of an incidental take authorization.

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the St. George Reef Lighthouse Preservation Society (SGRLPS) to incidentally harass, by Level B harassment only, four species of marine mammals during aircraft operations, and lighthouse renovation and light maintenance activities on the St. George Reef Light Station on Northwest Seal Rock (NWSR) in the northeast Pacific Ocean, from the period of February 18, 2011, through April 30, 2011, or during the period of November 1, 2011, through December 31, 2011.

**DATES:** This authorization is effective from February 18, 2011, through April 30, 2011, and during the period of November 1, 2011, through December 31, 2011.

**ADDRESSES:** A copy of the IHA and application are available by writing 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. A copy of the application containing a list of the references used in this document may be obtained by writing to the above address, telephoning the contact listed here (*see FOR FURTHER INFORMATION CONTACT*) or visiting the Internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>. The

following associated documents are also available at the same Internet address: Environmental Assessment (EA) prepared by NMFS; and the finding of no significant impact (FONSI). Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

#### FOR FURTHER INFORMATION CONTACT:

Jeannine Cody, NMFS, Office of Protected Resources, NMFS, (301) 713-2289 or Monica DeAngelis, NMFS Southwest Regional Office, (562) 980-3232.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 101(a)(5)(D) of the MMPA (16 U.S.C. 1371(a)(5)(D)) directs the Secretary of Commerce to authorize, upon request, the incidental, but not intentional, taking by harassment of small numbers of marine mammals of a species or population stock, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made, and a notice of a proposed authorization is provided to the public for review.

Authorization for incidental taking of small numbers of marine mammals shall be granted if NMFS finds that the taking will have 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 (where relevant). The authorization must set forth the permissible methods of taking, other means of effecting the least practicable adverse impact on the species or stock and its habitat, and monitoring and reporting of such takings. 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."

Section 101(a)(5)(D) of the MMPA establishes a 45-day time limit for NMFS' review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the public comment period, NMFS must either issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine

mammal or marine mammal stock in the wild [Level A harassment]; or (ii) 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 [Level B harassment].

#### Summary of Request

NMFS received a letter on October 13, 2010, from the SGRLPS requesting the taking by harassment, of small numbers of marine mammals, incidental to aircraft operations and restoration and maintenance activities on the St. George Reef Light Station (Station). At NMFS' request, the SGRLPS submitted a complete and adequate application on November 3, 2010. The SGRLPS aims to: (1) Restore and preserve the Station on a monthly basis (November 1–April 30, annually); and (2) perform periodic, annual maintenance on the Station's optical light system.

The Station, which is listed in the National Park Service's National Register of Historic Places, is located on Northwest Seal Rock (NWSR) offshore of Crescent City, California in the northeast Pacific Ocean.

The specified activities would occur in the vicinity of a possible pinniped haul out site located on NWSR. Acoustic and visual stimuli generated by: (1) Helicopter landings/takeoffs; (2) noise generated during restoration activities (*e.g.*, painting, plastering, welding, and glazing); (3) maintenance activities (*e.g.*, bulb replacement and automation of the light system); and (4) human presence, may have the potential to cause any pinnipeds hauled out on NWSR to flush into the surrounding water or to cause a short-term behavioral disturbance. These types of disturbances are the principal means of marine mammal taking associated with these activities and the SGRLPS has requested an authorization to take 204 California sea lions (*Zalophus californianus*); 36 Pacific Harbor seals (*Phoca vitulina*); 172 Steller sea lions (*Eumetopias jubatus*); and six northern fur seals (*Callorhinus ursinus*) by Level B harassment.

#### Description of the Specified Activity

SGRLPS would conduct the proposed activities (aircraft operations, lighthouse restoration, and light maintenance activities) between February 18, 2011, through April 30, 2011, and during the period of November 1, 2011, through December 31, 2011, at a maximum frequency of one session per month. The duration for each session would last no more than three days (*e.g.*, Friday, Saturday, and Sunday).

### *Aircraft Operations*

The SGRLPS would transport personnel and equipment from the California mainland to NWSR by a small helicopter and would transport no more than 15 work crew members and equipment to NWSR. Each session would require no more than 36 helicopter landings/takeoffs per month.

### *Lighthouse Restoration Activities*

Restoration activities would include the removal of peeling paint and plaster, restoration of interior plaster and paint, refurbishing structural and decorative metal, reworking original metal support beams throughout the lantern room and elsewhere, replacing glass as necessary, and upgrading the present electrical system.

### *Light Maintenance Activities*

The SGRLPS would need to conduct maintenance on the Station's beacon light at least once or up to two times per year within the proposed work window. Scheduled light maintenance activities would coincide with lighthouse restoration activities conducted monthly during the period of February 18, 2011, through April 30, 2011, or during the period of November 1, 2011, through December 31, 2011.

### *Emergency Light Maintenance*

If the beacon light fails during the period from February 18, 2011, through April 30, 2011, or during the period of November 1, 2011, through December 31, 2011, the SGRLPS would send a crew of two to three people to the Station by helicopter to repair the beacon light. For each emergency repair event, the SGRLPS would conduct a maximum of four flights (two arrivals and two departures) to transport equipment and supplies.

In the case of an emergency repair between May 1, 2011, and October 31, 2011, the SGRLPS would consult with the NMFS Southwest Regional Office (SWRO) biologist to best determine the timing of the trips to the lighthouse, on a case-by-case basis, based upon the existing environmental conditions and the abundance and distribution of any marine mammals present on NWSR. The SWRO would also ensure that the SGRLPS' request for incidental take during emergency repairs would not exceed the number of incidental take authorized in the IHA.

NMFS has outlined the purpose of the program in a previous notice for the proposed IHA (75 FR 80471 December 22, 2010). The planned activities have not changed between the proposed IHA notice and this final notice announcing the issuance of the IHA. For a more

detailed description of the authorized action, including vessel and acoustic source specifications, the reader should refer to the proposed IHA notice (75 FR 8047, December 22, 2010).

### **Comments and Responses**

NMFS published a notice of receipt of the SGRLPS' application and proposed IHA in the **Federal Register** on December 22, 2010 (75 FR 80471). During the 30-day comment period, NMFS received a letter from the Marine Mammal Commission (Commission) which recommended that NMFS issue the requested authorization, provided that the required monitoring and mitigation measures are carried out (e.g., restrictions on the timing and frequency of activities, restrictions on helicopter approaches, timing measures for helicopter landings, and measures to minimize acoustic and visual disturbances) as described in NMFS' December 22, 2010 (75 FR 80471) notice of the proposed IHA and the application. All measures proposed in the initial **Federal Register** notice are included within the authorization and NMFS has determined that they will effect the least practicable impact on the species or stocks and their habitats.

### **Description of the Specified Geographic Region**

The Station is located on a small, rocky islet (41°50'24" N, 124°22'06" W) approximately nine kilometers (km) (6.0 miles (mi)) in the northeast Pacific Ocean, offshore of Crescent City, California (Latitude: 41°46'48" N; Longitude: 124°14'11" W).

### **Description of Marine Mammals in the Area of the Specified Activity**

The marine mammal species likely to be harassed incidental to helicopter operations, lighthouse restoration, and lighthouse maintenance on NWSR are the California sea lion, the Pacific Harbor seal, the eastern (Distinct Population Segment) U.S. stock of Steller sea lion, and the eastern Pacific stock of northern fur seal. California sea lions and Pacific harbor seals are not listed as threatened or endangered under the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*), nor are they categorized as depleted under the MMPA. Northern fur seals are not listed as threatened or endangered under the ESA. However, they are categorized as depleted under the MMPA. Last, the Steller sea lion, eastern U.S. stock is listed as threatened under the ESA and is categorized as depleted under the MMPA.

NMFS presented a more detailed discussion of the status of these stocks

and their occurrence in the northwestern Pacific Ocean, as well as other marine mammal species that may occur around NWSR in the notice of the proposed IHA (75 FR 8047, December 22, 2010).

### **Potential Effects of the Activity on Marine Mammals**

Acoustic and visual stimuli generated by: (1) Helicopter landings/takeoffs; (2) noise generated during restoration activities (e.g., painting, plastering, welding, and glazing); and (3) maintenance activities (e.g., bulb replacement and automation of the light system) may have the potential to cause Level B harassment of any pinnipeds hauled out on NWSR. The effects of sounds from helicopter operations and/or restoration and maintenance activities might include one of the following: temporary or permanent hearing impairment or behavioral disturbance (Southall, *et al.*, 2007).

There is a dearth of information on acoustic effects of helicopter overflights on pinniped hearing and communication (Richardson *et al.*, 1995) and to NMFS' knowledge, there has been no specific documentation of temporary or permanent hearing impairment in free-ranging pinnipeds exposed to helicopter operations during realistic field conditions. Any noise attributed to the SGRLPS' proposed helicopter operations on NWSR would be short-term (approximately 5 minutes per trip) and NMFS would expect the ambient noise levels to return to a baseline state when helicopter operations have ceased for the day. NMFS does not expect that the increased received levels of sound from the helicopter would cause temporary or permanent hearing impairment because the pinnipeds would flush before the helicopter approached NWSR; thus increasing the distance between the pinnipeds and the received sound levels on NWSR during the specified activities.

Some behavioral disturbance is expected; however NMFS expects the disturbance to be localized and short-term. If pinnipeds are present on NWSR, Level B behavioral harassment of pinnipeds may occur during helicopter landing and takeoff from NWSR due to the pinnipeds temporarily moving from the rocks and lower structure of NWSR into the sea due to the noise and appearance of helicopter during approaches and departures. It is expected that all or a portion of the marine mammals hauled out on the island will depart the rock and move into the water upon the initial helicopter approach.

NMFS provided a detailed overview of: (1) The sound levels produced by the helicopter; (2) behavioral reactions of pinnipeds to helicopter operations and light construction noise; (3) hearing impairment and other non-auditory physical effects; (4) behavioral reactions to visual stimuli; (5) and specific observations gathered during previous monitoring of the marine mammals present on NWSR in the notice of the proposed IHA (75 FR 8047, December 22, 2010).

#### Anticipated Effects on Habitat

NMFS provided a detailed discussion of the potential effects of this action on marine mammal habitat in the notice of the proposed IHA (75 FR 8047, December 22, 2010). The SGRLPS proposes to confine all restoration activities to the existing structure which is not used by marine mammals. Thus, the specified activities will not result in any permanent impact on habitats used by the marine mammals in the area, including the food sources they use (*i.e.* fish and invertebrates), and there will be no physical damage to any habitat. While it is anticipated that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and reversible. The main impact associated with the specified activity will be temporarily elevated noise levels and the associated direct effects on marine mammals, previously discussed in this notice.

#### Mitigation

In order to issue an incidental take authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses.

The SGRLPS has based the mitigation measures described herein, to be implemented for the helicopter operations and restoration activities, on the following: (1) Protocols used during the 2010 IHA for helicopter operations and restoration activities as approved by NMFS; (2) recommended best practices in Richardson *et al.* (1995); and (3) reasonable and prudent measures implemented by the terms and conditions of the section 7 ESA Biological Opinion's (BiOp) Incidental Take Statement (ITS).

To reduce the potential for disturbance from acoustic and visual stimuli associated with the activities, the SGRLPS and/or its designees will implement the following mitigation measures for marine mammals:

- (1) Limit the time and frequency of the restoration activities;
- (2) Employ helicopter approach and timing techniques; and
- (3) Avoidance of visual and acoustic contact with marine mammals by the SGRLPS and/or its designees.

*Time and Frequency:* The SGRLPS will conduct lighthouse restoration activities at maximum frequency of once per month between February 18, 2011, through April 30, 2011, or between November 1, 2011, through December 31, 2011. Each restoration session will last no more than three days. Maintenance of the light beacon will occur only in conjunction with restoration activities.

*Helicopter Approach and Timing Techniques:* The SGRLPS shall ensure that helicopter approach patterns to the lighthouse will be such that the timing techniques are least disturbing to marine mammals. To the extent possible, the helicopter should approach NWSR when the tide is too high for the marine mammals to haul-out on NWSR.

Since the most severe impacts (stampede) are precipitated by rapid and direct helicopter approaches, initial approach to the Station must be offshore from the island at a relatively high altitude (*e.g.*, 800–1,000 ft; 244–305 m). Before the final approach, the helicopter shall circle lower, and approach from area where the density of pinnipeds is the lowest. If for any safety reasons (*e.g.*, wind condition) such helicopter approach and timing techniques cannot be achieved, the SGRLPS must abort the restoration and maintenance activities for that day.

*Avoidance of Visual and Acoustic Contact with Marine Mammals:* The SGRLPS will instruct its members and restoration crews to avoid making unnecessary noise and not expose themselves visually to pinnipeds around the base of the lighthouse. The door to the lower platform (which is used at times by pinnipeds) shall remain closed and barricaded to all tourists and other personnel.

NMFS has carefully evaluated the applicant's mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included

consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation, including safety and practicality of implementation.

Based on our evaluation of the applicant's mitigation measures, NMFS has determined that these measures provide the means of effecting the least practicable adverse impacts on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

#### Summary of Previous Monitoring

The SGRLPS complied with the mitigation and monitoring required under the previous authorization for the 2010 season. In compliance with the 2010 IHA, the SGRLPS submitted a final report on the activities at the Station, covering the period of January 27, 2010 through April 30, 2010. During the effective dates of the 2010 IHA, the SGRLPS conducted two sessions of aircraft operations and restoration activities on NWSR which did not exceed the activity levels analyzed under the 2010 authorization. The 2010 IHA required that the SGRLPS conduct a pre-restoration and post-restoration aerial survey of all marine mammals hauled-out on NWSR for each session.

On February 26, 2010, the SGRLPS' photographed the haulout areas on the initial approach to NWSR. During the approach, the photographer observed no animals hauled out on NWSR. The SGRLPS observed no animals hauled on NWSR during the two-day restoration session and no pinnipeds were present during the helicopter's February 28th departure flight to the mainland.

On April 9, 2010, the SGRLPS' photographed the haulout areas on the initial approach to NWSR. Similar to the February session, the photographer observed no animals hauled out on NWSR during approach. The SGRLPS observed no animals hauled on NWSR during the three-day restoration session and no pinnipeds were present during the helicopter's April 11th departure flight to the mainland.

The SGRLPS observed no animals hauled on NWSR during the entirety of each session. As there were no observed impacts to pinnipeds from these activities, NMFS was unable to assess

the effectiveness of mitigation measures for helicopter approaches set forth in the 2010 IHA. However, the 2010 IHA restricted SGRLP's access to NWSR during the pupping season, thus effecting the least practical adverse impact on the species or stock. These results did not refute NMFS' original findings.

### Monitoring

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth "requirements pertaining to the monitoring and reporting of such taking". The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for IHAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present.

At least once during the period between February 18, 2011, through April 30, 2011, or during the period of November 1, 2011, through December 31, 2011 a qualified biologist shall be present during all three workdays at the Station. The biologist hired will be subject to approval of NMFS. This requirement may be modified depending on the results of the second year of monitoring.

The qualified biologist shall document use of the island by the pinnipeds (*i.e.*, frequency, dates, time, tidal height, species, numbers present, and any disturbances) and note any responses to potential disturbances. In the event of any observed Steller sea lion injury, mortality, or the presence of newborn pup, the SGRLPS will notify the NMFS' SWRO Administrator and the NMFS' Director of the Office of Protected Resources immediately.

Aerial photographic surveys may provide the most accurate means of documenting species composition, age and sex class of pinnipeds using the project site during human activity periods. Aerial photo coverage of the island shall be completed from the same helicopter used to transport the SGRLPS personnel to the island during restoration trips. Photographs of all marine mammals hauled out on the island shall be taken at an altitude greater than 300 m (984 ft) by a skilled photographer, prior to the first landing on each visit included in the monitoring program. Photographic documentation of marine mammals present at the end of each three-day work session shall also be made for a before and after comparison. Data shall be provided to

NMFS in the form of a report with a data table, any other significant observations related to marine mammals, and a report of restoration activities (*see* Reporting). The original photographs can be made available to NMFS or other marine mammal experts for inspection and further analysis.

### Reporting

The SGRLPS personnel will record data to document the number of marine mammals exposed to helicopter noise and to document apparent disturbance reactions or lack thereof. SGRLPS and NMFS will use the data to estimate numbers of animals potentially taken by Level B harassment.

### Interim Monitoring Report

The SGRLPS will submit interim monitoring reports to the NMFS SWRO Administrator and the NMFS Director of Office of Protected Resources no later than 30 days after the conclusion of each monthly session. The interim report will describe the operations that were conducted and sightings of marine mammals near the proposed project. The report will provide full documentation of methods, results, and interpretation pertaining to all monitoring.

Each interim report will provide:

(i) A summary and table of the dates, times, and weather during all helicopter operations, and restoration and maintenance activities.

(ii) Species, number, location, and behavior of any marine mammals, observed throughout all monitoring activities.

(iii) An estimate of the number (by species) of marine mammals that are known to have been exposed to acoustic stimuli associated with the helicopter operations, restoration and maintenance activities.

(iv) A description of the implementation and effectiveness of the monitoring and mitigation measures of the IHA and full documentation of methods, results, and interpretation pertaining to all monitoring.

### Final Monitoring Report

In addition to the interim reports, the SGRLPS will submit a draft Final Monitoring Report to NMFS no later than 90 days after the project is completed to the Regional Administrator and the Director of Office of Protected Resources at NMFS Headquarters. Within 30 days after receiving comments from NMFS on the draft Final Monitoring Report, the SGRLPS must submit a Final Monitoring Report to the Regional Administrator and the NMFS Director of

Office of Protected Resources. If the SGRLPS receives no comments from NMFS on the draft Final Monitoring Report, the draft Final Monitoring Report will be considered to be the Final Monitoring Report.

The final report will provide:

(i) A summary and table of the dates, times, and weather during all helicopter operations, and restoration and maintenance activities.

(ii) Species, number, location, and behavior of any marine mammals, observed throughout all monitoring activities.

(iii) An estimate of the number (by species) of marine mammals that are known to have been exposed to acoustic stimuli associated with the helicopter operations, restoration and maintenance activities.

(iv) A description of the implementation and effectiveness of the monitoring and mitigation measures of the IHA and full documentation of methods, results, and interpretation pertaining to all monitoring.

### Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) 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 [Level B harassment].

Only take by Level B harassment is anticipated and authorized as a result of the helicopter operations and restoration and maintenance activities on NWSR.

Based on pinniped survey counts conducted by CCR on NWSR in the spring of 1997, 1998, 1999, and 2000 (CCR, 2001), NMFS estimates that approximately 204 California sea lions (calculated by multiplying the average monthly abundance of California sea lions (zero in April, 1997 and 34 in April, 1998) present on NWSR by six months of the proposed restoration and maintenance activities), 172 Steller sea lions (NMFS' estimate of the maximum number of Steller sea lions that could be present on NWSR with a 95-percent confidence interval), 36 Pacific harbor seals (calculated by multiplying the maximum number of harbor seals present on NWSR (6) by six months), and 6 northern fur seals (calculated by multiplying the maximum number of northern fur seals present on NWSR (1)

by six months) could be potentially affected by Level B behavioral harassment over the course of the proposed IHA. Estimates of the numbers of marine mammals that might be affected are based on consideration of the number of marine mammals that could be disturbed appreciably by approximately 51 hrs of aircraft operations during the course of the proposed activity. These incidental harassment take numbers represent approximately 0.14 percent of the U.S. stock of California sea lion, 0.42 percent of the eastern U.S. stock of Steller sea lion, 0.11 percent of the California stock of Pacific harbor seals, and 0.06 percent of the San Miguel Island stock of northern fur seal.

All of the potential takes are expected to be Level B behavioral harassment only. Because of the required mitigation measures and the likelihood that some pinnipeds will avoid the area, no injury or mortality to pinnipeds is expected or requested.

#### **Negligible Impact and Small Numbers Analysis and Determination**

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." In making a negligible impact determination, NMFS considers:

- (1) The number of anticipated mortalities;
- (2) The number and nature of anticipated injuries;
- (3) The number, nature, and intensity, and duration of Level B harassment; and
- (4) The context in which the takes occur.

As mentioned previously, NMFS estimates that four species of marine mammals could be potentially affected by Level B harassment over the course of the IHA. For each species, these numbers are small (each, less than one percent) relative to the population size.

No takes by Level A harassment, serious injury, or mortality are anticipated to occur as a result of the SGRLPS' proposed activities, and none are authorized. Only short-term behavioral disturbance is anticipated to occur due to the brief and sporadic duration of the proposed activities; the availability of alternate areas near NWSR for marine mammals to avoid the resultant acoustic disturbance; and limited access to NWSR during the pupping season. Due to the nature, degree, and context of the behavioral harassment anticipated, the activities

are not expected to impact rates of recruitment or survival.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS finds that the SGRLPS' helicopter operations and restoration/maintenance activities, would result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking from the helicopter operations and restoration/maintenance activities would have a negligible impact on the affected species or stocks.

#### **Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses**

There are no relevant subsistence uses of marine mammals implicated by this action.

#### **Endangered Species Act (ESA)**

The Steller sea lion, eastern Distinct Population Segment is listed as threatened under the ESA and occurs in the action area. NMFS Headquarters' Office of Protected Resources, Permits, Conservation, and Education Division conducted a formal section 7 consultation under the ESA with the Southwest Region, NMFS. On January 27, 2010, the Southwest Region issued a BiOp and concluded that the issuance of IHAs are likely to adversely affect, but not likely to jeopardize the continued existence of Steller sea lions. NMFS has designated critical habitat for the eastern Distinct Population Segment of Steller sea lions in California at Año Nuevo Island, Southeast Farallon Island, Sugarloaf Island and Cape Mendocino, California pursuant to section 4 of the ESA (see 50 CFR 226.202(b)). Northwest Seal Rock is neither within nor nearby these designated areas. Finally, the BiOp included an ITS for Steller sea lions. The ITS contains reasonable and prudent measures implemented by terms and conditions to minimize the effects of this take. NMFS has reviewed the 2010 BiOp and determined that there is no new information regarding effects to Steller sea lions; the action has not been modified in a manner which would cause adverse effects not previously evaluated; there has been no new listing of species or designation of critical habitat that could be affected by the action; and, the action will not exceed the extent or amount of incidental take authorized in the 2010–2012 ITS. Therefore, the proposed IHA does not require the reinitiation of section 7 consultation under the ESA.

#### **National Environmental Policy Act (NEPA)**

To meet NMFS' NEPA requirements for the issuance of an IHA to the SGRLPS, NMFS prepared an Environmental Assessment (EA) in 2010 that was specific to conducting aircraft operations and restoration and maintenance work on the St. George Reef Light Station. The EA, titled "Issuance of an Incidental Harassment Authorization to Take Marine Mammals by Harassment Incidental to Conducting Aircraft Operations, Lighthouse Restoration and Maintenance Activities on St. George Reef Lighthouse Station in Del Norte County, California," evaluated the impacts on the human environment of NMFS' authorization of incidental Level B harassment resulting from the specified activity in the specified geographic region. At that time, NMFS concluded that issuance of an IHA November 1 through April 30, annually would not significantly affect the quality of the human environment and issued a Finding of No Significant Impact (FONSI) for the 2010 EA regarding the SGRLPS' activities. In conjunction with the SGRLPS' 2011 application, NMFS has again reviewed the 2010 EA and determined that there are no new direct, indirect or cumulative impacts to the human and natural environment associated with the IHA requiring evaluation in a supplemental EA. NMFS, therefore, reaffirms the 2010 FONSI. A copy of the EA and the FONSI for this activity is available upon request (*see ADDRESSES*).

#### **Determinations**

NMFS has determined that the impact of conducting the specific helicopter operations and restoration activities described in this notice and in the IHA request in the specific geographic region in the northwestern Pacific Ocean may result, at worst, in a temporary modification in behavior (Level B harassment) of small numbers of marine mammals. Further, this activity is expected to result in a negligible impact on the affected species or stocks of marine mammals. The provision requiring that the activity not have an unmitigable impact on the availability of the affected species or stock of marine mammals for subsistence uses is not implicated for this action.

#### **Authorization**

As a result of these determinations, NMFS has issued an IHA to the SGRLPS to conduct helicopter operations and restoration and maintenance work on the St. George Reef Light Station on Northwest Seal Rock in the northeast

Pacific Ocean from the period of February 18, 2011, through April 30, 2011, or during the period of November 1, 2011, through December 31, 2011, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The duration of the IHA would not exceed one year from the date of its issuance.

Dated: February 16, 2011.

**Helen M. Golde,**

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

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## DEPARTMENT OF COMMERCE

### National Telecommunications and Information Administration

[Docket No. 110207099-1099-01]

RIN 0660-XA23

#### Request for Comments on the Internet Assigned Numbers Authority (IANA) Functions

**AGENCY:** National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Notice of Inquiry.

**SUMMARY:** The United States Department of Commerce's National Telecommunications and Information Administration (NTIA) remains committed to preserving a stable and secure Internet Domain Name System (DNS). Critical to the DNS is the continued performance of the Internet Assigned Numbers Authority (IANA) functions. The IANA functions have historically included: (1) The coordination of the assignment of technical Internet protocol parameters; (2) the administration of certain responsibilities associated with Internet DNS root zone management; (3) the allocation of Internet numbering resources; and (4) other services related to the management of the .ARPA and .INT top-level domains. The Internet Corporation for Assigned Names and Numbers (ICANN) currently performs the IANA functions, on behalf of the United States Government, through a contract with NTIA. Given the September 30, 2011 expiration of this contract, NTIA is seeking public comment to enhance the performance of the IANA functions in the development and award of a new IANA functions contract.

**DATES:** Comments are due on or before March 31, 2011.

**ADDRESSES:** Written comments may be submitted by mail to Fiona M.

Alexander, Associate Administrator, Office of International Affairs, National Telecommunications and Information Administration, 1401 Constitution Avenue, NW., Room 4701, Washington, DC 20230. Paper submissions should include a three and one-half inch computer diskette in HTML, ASCII, Word or WordPerfect format (please specify version). Diskettes should be labeled with the name and organizational affiliation of the filer, and the name of the word processing program used to create the document. Alternatively, comments may be submitted electronically to [IANAFuctions@ntia.doc.gov](mailto:IANAFuctions@ntia.doc.gov). Comments provided via electronic mail should also be submitted in one or more of the formats specified above. Comments will be posted to NTIA's Web site at <http://www.ntia.doc.gov/ntiahome/domainname/IANAFuctions.html>.

**FOR FURTHER INFORMATION CONTACT:** For questions about this Notice contact: Vernita D. Harris, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Room 4701, Washington, DC 20230; *telephone:* (202) 482-4686; *e-mail:* [vharris@ntia.doc.gov](mailto:vharris@ntia.doc.gov). Please direct media inquiries to the Office of Public Affairs, NTIA, at (202) 482-7002.

**SUPPLEMENTARY INFORMATION:** The Internet Assigned Numbers Authority (IANA) functions were initially performed under a series of contracts between the Department of Defense's Advanced Research Projects Agency (DARPA) and the University of Southern California (USC), as part of a research project known as the Terranode Network Technology (TNT). As the TNT project and the DARPA/USC contract neared completion, the United States Government recognized the need for the continued performance of the IANA functions as vital to the stability and correct functioning of the Internet. In January 1999, NTIA initiated a procurement process to fulfill this need.<sup>1</sup> NTIA awarded the IANA functions contract to ICANN in February 2000, and subsequently in March 2001, March 2004, and August 2005.<sup>2</sup> The current contract expires

<sup>1</sup> To assist in this transition from the DARPA contract with USC to ICANN, in 1998, ICANN entered into an agreement with the University of Southern California Information Sciences Institute (USC/ISI) to transition certain functions, responsibilities, assets, and personnel to ICANN.

<sup>2</sup> Each contract and modifications are available at <http://www.ntia.doc.gov/ntiahome/domainname/iana.htm>.

September 30, 2011.<sup>3</sup> Given this impending expiration, NTIA is issuing this Notice of Inquiry (NOI) to seek public comment to inform the procurement process, leading to the award of a new IANA functions contract. We take this opportunity to ask a detailed set of questions on this topic as this is the first time NTIA has undertaken a comprehensive review of the IANA functions contract since the award of the first contract in 2000.

The domain name system (DNS) is a critical component of the Internet that works like an address book, allowing users to reach websites using easy-to-understand domain names (*e.g.*, <http://commerce.gov>) rather than the numeric network server addresses (*e.g.*, <http://170.110.225.168>) necessary to retrieve information on the Internet. It is a hierarchical and globally distributed system in which distinct servers maintain the detailed information for their local domains and pointers for how to navigate the hierarchy to retrieve information from other domains. The accuracy, integrity, and availability of the information supplied by the DNS are essential to the operation of most systems, services, or applications that use the Internet.

Essential to the DNS is the performance of the IANA functions. At a summary level, the IANA functions include: (1) The coordination of the assignment of technical Internet protocol parameters; (2) the administration of certain responsibilities associated with Internet DNS root zone management; (3) the allocation of Internet numbering resources; and (4) other services related to the management of the .ARPA and .INT top-level domains. A more detailed description of each of the IANA functions follows.

The first of the IANA functions is the coordination of the assignment of technical protocol parameters. This function includes the review and assignment of unique values to numerous parameters (*e.g.*, operation codes, port numbers, object identifiers, protocol numbers) used in various Internet protocols. This function also includes dissemination of listings of assigned parameters through various means (including on-line publication) and the review of technical documents for consistency with assigned values.

<sup>3</sup> The current contract has an option to extend the performance period for an additional six months. If necessary, NTIA will exercise this option in order to complete the contract procurement process. See Contract Clause 1.5 of the current contract, which can be viewed at [http://www.ntia.doc.gov/ntiahome/domainname/iana/ianacontract\\_081406.pdf](http://www.ntia.doc.gov/ntiahome/domainname/iana/ianacontract_081406.pdf).