

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.

As required by the ESA, issuance of this permit was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 21, 2014.

Julia Harrison,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XD371

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Space Vehicle and Missile Launch Operations at Kodiak Launch Complex, Alaska

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

ACTION: Notice of issuance of a Letter of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that a Letter of Authorization (LOA) has been issued to the Alaska Aerospace Corporation (AAC) to take two species of pinnipeds incidental to space vehicle and missile launch operations at the Kodiak Launch Complex (KLC) in Kodiak, Alaska.

DATES: Effective from August 1, 2014, through July 31, 2015.

ADDRESSES: The LOA and supporting documentation are available for review on the Internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>. Documents cited in this notice may also be viewed, by appointment, during regular business hours at the following address: Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, 301-427-8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 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 either regulations are issued. Under the MMPA, the term “take” means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill marine mammals.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the identified species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth in the regulations. 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.”

Regulations governing the taking of Steller sea lions (*Eumetopias jubatus*), by harassment, and harbor seals (*Phoca vitulina*) (adults by harassment and pups by injury or mortality), incidental to space vehicle and missile launch operations at the KLC, were issued on March 22, 2011 (76 FR 16311, March 23, 2011), and remain in effect until March 21, 2016. For detailed information on the action, please refer to that document. The regulations include mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during space vehicle and missile launch operations at the KLC.

Summary of Request

On July 1, 2014, NMFS received a request from the AAC for renewal of an LOA issued on July 16, 2013, authorizing the take of marine mammals incidental to a maximum of 12 space launch vehicles, long-range ballistic target missiles, and other smaller missile systems at the KLC. The AAC has complied with the measures required in 50 CFR 217.70-75, as well as the associated 2013-2014 LOA, and

submitted the reports and other documentation required by the final rule and the 2013-2014 LOA.

Summary of Activity Under the 2013-2014 LOA

As described in the AAC's 2013-2014 annual report, launch activities conducted at the KLC were within the scope and amounts authorized by the 2013-2014 LOA and the levels of take remain within the scope and amounts contemplated by the final rule. Zero launches occurred at the KLC under the 2013-2014 LOA.

Planned Activities and Estimated Take for 2014-2015

In 2014-2015, the AAC expects to conduct the same type and amount of launches identified in the 2013-2014 LOA. Similarly, the authorized take will remain within the annual estimates analyzed in the final rule.

Summary of Monitoring and Reporting Under the 2013-2014 LOA

The AAC submitted their annual monitoring report within the required timeframe and the report is posted on NMFS Web site: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>. NMFS has reviewed the report and it contains the information required by the 2013-2014 LOA. The AAC's monitoring activities included four quarterly aerial surveys on July 16, 2013, October 1, 2013, November 14, 2013, and January 21, 2014. The results from these surveys were typical and showed 144-955 harbor seals and no Steller sea lions.

Authorization

The AAC complied with the requirements of the 2013-2014 LOA. Based on our review of the record, NMFS has determined that the marine mammal take resulting from the 2013-2014 launch operations falls within the levels previously anticipated, analyzed, and authorized. The record supports NMFS' conclusion that the number of marine mammals taken by the 2014-2015 launch operations will have no more than a negligible impact on the affected species or stock of marine mammals and will not have an unmitigable adverse impact on the availability of these species or stocks for taking for subsistence uses. Accordingly, NMFS has issued a 1-year LOA for launch operations conducted at the KLC from August 1, 2014, through July 31, 2015.

Dated: July 22, 2014.

Donna S. Wieting,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XD341

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Marine Reconstruction Project

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from the Port of Friday Harbor, WA (Port) for authorization to take marine mammals incidental to construction activities as part of a marina reconstruction project. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to the Port to incidentally take marine mammals, by Level B Harassment only, during the specified activity.

DATES: Comments and information must be received no later than August 25, 2014.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Supervisor, Incidental Take Program, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to ITP.Laws@noaa.gov.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted to the Internet at www.nmfs.noaa.gov/pr/permits/incidental.htm without change.

All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of the Port's application and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at:

www.nmfs.noaa.gov/pr/permits/incidental.htm. In case of problems accessing these documents, please call the contact listed above (see **FOR FURTHER INFORMATION CONTACT**).

National Environmental Policy Act (NEPA)

We are preparing an Environmental Assessment (EA) in accordance with NEPA and the regulations published by the Council on Environmental Quality and will consider comments submitted in response to this notice as part of that process. The EA will be posted at the foregoing Web site once it is finalized.

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified area, the incidental, but not intentional, taking of small numbers of marine mammals, providing that certain findings are made and the necessary prescriptions are established.

The incidental taking of small numbers of marine mammals may be allowed only if NMFS (through authority delegated by the Secretary) finds that the total taking by the specified activity during the specified time period will (i) have a negligible impact on the species or stock(s) and (ii) not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). Further, the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking must be set forth.

The allowance of such incidental taking under section 101(a)(5)(A), by harassment, serious injury, death, or a combination thereof, requires that regulations be established.

Subsequently, a Letter of Authorization may be issued pursuant to the prescriptions established in such regulations, providing that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations. Under section 101(a)(5)(D), NMFS may authorize such incidental taking by harassment only, for periods of not more than one year, pursuant to requirements and conditions contained within an IHA. The establishment of these prescriptions requires notice and opportunity for public comment.

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." Except with respect to certain activities not pertinent here, section 3(18) of 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

On August 12, 2013, we received a request from the Port for authorization to take marine mammals incidental to pile driving and removal associated with the reconstruction of a marina at Friday Harbor, WA. The Port submitted revised versions of the request on February 28, 2014, June 4, 2014, and June 11, 2014, after which we deemed the application adequate and complete. The Port proposes to conduct in-water work that may incidentally harass marine mammals (i.e., pile driving and removal) during a portion of the in-water work window established to protect fish species. This IHA would be valid from September 1, 2014, through February 15, 2015. Please note that any general reference to pile driving in this document is intended to refer to both pile driving and removal.

The use of vibratory pile driving is expected to produce underwater sound at levels that have the potential to result in behavioral harassment of marine mammals. Species with the expected potential to be present during all or a portion of the in-water work window include the Steller sea lion (*Eumetopias jubatus monteriensis*), California sea