

funded for 2 to 5 years. Once approved, full applications are not required for the continuations into the out years.

(3) *Additional Evaluation Criteria.* The Evaluation Criteria set out in section(12)(b) of the November 8, 2002 **Federal Register** Notice, under Research Performance Competence, is amended to include the following: The capability of the investigator and collaborators to complete the proposed work in light of present commitments to other projects. Therefore, please discuss the percentage of time investigators and collaborators have devoted to other Federal or non-Federal projects, as compared to the time that will be devoted to the project solicited under this notice.

(4) *Other requirements.* The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** October 1, 2001 (66 FR 49917), as amended by the **Federal Register** notice published on October 30, 2002 (67 FR 66109), are applicable to this solicitation.

(5) *Intergovernmental review.* Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs." It has been determined that this notice is not significant for purposes of Executive Order 12866. Pursuant to 5 U.S.C. 553(a) (2), an opportunity for public notice and comment is not required for this notice relating to grants, benefits and contracts. Because this notice is exempt from the notice and comment provisions of the Administrative Procedure Act, a Regulatory Flexibility Analysis is not required, and none has been prepared. It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

(6) *Collection of information requirements.* This notification involves collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, has been approved by the Office of Management and Budget (OMB) under control numbers 0348-0043 and 0348-0044.

The following requirements have been approved by OMB under control number 0648-0384; a Summary Proposal Budget Form (30 minutes per response), a Project Summary Form (30 minutes per response), a standardized format for the annual Performance Report (5 hours per response), a standardized format for the Final Report (10 hours per response), and the submission of up to 20 copies of proposals (10 minutes per response). The response estimates include the time

for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these requirements and the burden estimate, or any other aspect of this collection of information, including suggestions for reducing this burden, to [leslie.mcdonald@noaa.gov](mailto:leslie.mcdonald@noaa.gov). Copies of these forms and formats can be found on the CSCOR/COP home page under Grant Information sections, Parts D and F.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

Dated: May 7, 2003.

**Ted. I. Lillestolen,**

*Captain, (NOAA) Associate Deputy Assistant Administrator, National Ocean and Atmospheric Administration, National Ocean Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 052802D]

#### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Rocket Launches

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

**ACTION:** Notice of issuance of a modification to a letter of authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that NMFS has amended the letter of authorization (LOA) to take small numbers of seals and sea lions that was issued on May 31, 2002, to the 30th Space Wing, U.S. Air Force.

**DATES:** Effective from May 9, 2003, through May 31, 2003.

**ADDRESSES:** The amended letter of authorization and supporting documentation are available for review during regular business hours in the following offices: Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, and the Southwest Region, NMFS, 501 West

Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Hollingshead, Office of Protected Resources, NMFS, (301) 713-2322, ext 128, or Christina Fahy, NMFS, (562) 980-4023.

**SUPPLEMENTARY INFORMATION:** 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.

Permission 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 pertaining to the monitoring and reporting of such taking. Regulations governing the taking of seals and sea lions incidental to missile and rocket launches, aircraft flight test operations, and helicopter operations at Vandenberg Air Force Base, CA (Vandenberg AFB) were published on March 1, 1999 (64 FR 9925), and remain in effect until December 31, 2003.

#### Summary of Request

In accordance with the MMPA, as amended, and implementing regulations, a 1-year LOA to take small numbers of seals and sea lions was issued on May 31, 2002, to the 30th Space Wing (67 FR 38939, June 6, 2002). On August 22, 2002, the 30th Space Wing, U.S. Air Force at Vandenberg AFB, requested an amendment to this LOA to include launches of the Ground-Based Interceptor (GBI) and Alternative Boost Vehicle (ABV).

The Missile Defense Agency is developing the Ground-Based Midcourse Defense (GMD) Element of the conceptual Ballistic Missile Defense

System (BMDS). The GMD Element is designed to protect the United States in the event of a limited ballistic missile attack by destroying the threat missile in mid-course phase of its flight. The GBI canisterized booster and uncanisterized ABV that make up part of the GMD Element, will be flight-tested from Launch Facility (LF)-21 and 23 on the northern end of north Vandenberg AFB. Previously, pinnipeds rarely used this area, but during recent marine mammal surveys conducted in March and April, 2002 and with the overall increase in the harbor seal populations at Vandenberg AFB, a new harbor seal haul-out site was discovered that is regularly used by harbor seal mothers and their pups. This site, designated as Lions Head, is approximately 2.0 km (1 mi) from LF-21 and LF-23; therefore, the 30<sup>th</sup> Space Wing, Vandenberg AFB, has requested that the GBI boost vehicle launches be included under the 10 ICBM launches authorized for taking pinnipeds incidental to launches at Vandenberg AFB under the regulations (64 FR 9925, March 1, 1999).

In 1999, the potential environmental impacts of the activities associated with two canisterized GBI booster verification test flights from LF-21 in northern Vandenberg AFB were analyzed in the 1999 Booster Verification Test Environmental Assessment (EA). The 1999 EA analyzed the potential environmental impacts of all pre-flight, launch, and post-launch activities. Congressional direction in the Defense Authorization Act for fiscal year 2001 included the development of a backup or alternative booster option involving proven technologies. A decision was made to develop and test a second boost vehicle, the uncanisterized ABV. The proposed ABV test flights are an important step in the development of the GMD Element. The ABV being proposed for launch from LF-23 would consist of the GMD Element. The ABV being proposed for launch from LF-23 would consist of a commercially available, solid propellant booster consisting of three stages and an exo-atmospheric kill vehicle emulator that may contain a divert and attitude control system.

#### Impacts on Marine Mammals

A detailed description of the pinniped stocks potentially affected by missile and rocket launches from Vandenberg AFB and an assessment of those impacts can be found in the final rule on the taking of marine mammals incidental to these activities (64 FR 9925, March 1, 1999).

The primary potential for impacts to pinnipeds would be from the noise

created during the proposed missile launches. Noise from Minuteman launches, which have been previously launched from LF-21 and LF-23, ranges from 98 dBA approximately 4.2 km (2.6 mi) from the launch site to 80 dBA approximately 13 km (8 mi) from the launch site. The level of noise for the ABV during launch and flight is expected to be less and relatively short in duration. At approximately the same distance from LF-21, the previous BVT-2 launch (GBI canisterized vehicle) was 6 dB less than the Minuteman III launch and 17 dB less than Peacekeeper launches. Pacific harbor seals (*Phoca vitulina*), the main pinniped species using north Vandenberg AFB, would normally be at least 2.0 km (1 mi) from the launch site. Other pinnipeds, such as California sea lions (*Zalophus californianus*) and northern elephant seals (*Mirounga angustirostris*), may haul-out temporarily on beaches several kilometers from the launch facilities. Noise from prior launches has not appeared to affect pinniped use of the coastal areas on Vandenberg AFB. Pinniped monitoring has been performed for launches of larger missiles on north Vandenberg AFB, such as the Peacekeeper and Delta II. The effect on harbor seals, which were most susceptible to disturbance, has been limited to a negligible short-term (5–30 min) abandonment of nearby haul-out areas. No pinniped mother-pup separations have been noted at the harbor seal haul-out sites closest to launch site. Recent surveys discovered a new harbor seal haul-out site on north Vandenberg AFB that is regularly used by up to 3 harbor seal mothers and their pups. The 30<sup>th</sup> Space Wing began monitoring harbor seals at this site for ICBM (Minuteman and Peacekeeper) launches that occurred during the harbor seal pupping season (March-June) in accordance with the small take regulations and LOA.

The GBI canisterized and uncanisterized booster launches would be included in the 10 ICBM launches per year that are currently allowed under the regulations and LOA. The planned 6 GBI launches over the next five years will not cause the number of ICBM launches to go over the authorized 10/year.

#### Monitoring and Reporting

In accordance with the regulations (64 FR 9925, March 1, 1999) and LOA, acoustic monitoring will be performed during initial launch of each type of vehicle (this would be accomplished for the initial GBI canisterized booster launch) and harbor seal monitoring would be conducted during the pupping

season in accordance with Vandenberg AFB guidelines. The intermittent launches planned for the ABV test flights (6 flights over the next 5 years) and the relatively small size (smaller than Minuteman and Peacekeeper missiles) are not expected to have more than a negligible impact on harbor seals at Vandenberg AFB.

#### National Environmental Policy Act (NEPA)

Under rulemaking conducted in 1999 (64 FR 9925, March 1, 1999), NMFS reviewed this action in accordance with NEPA and the Endangered Species Act (ESA). Please refer to that document for additional information. Because the action discussed in this document is not substantially different from the 1999 action, and because no significant new scientific information or analyses have been developed in the past several years significant enough to warrant new NEPA documentation, this action is categorically excluded from further review under NOAA Administrative Order 216–6.

#### ESA

This action will not affect listed marine mammal species as these species are not expected to haulout on north Vandenberg AFB and thereby potentially be affected through harassment and fleeing from the haulout. No other species listed under the ESA will be affected by this modification.

#### Determinations

Because the addition of the GBI and ABV missiles to the launch list at Vandenberg AFB will not result in an increase in the number of missile launches authorized to take pinnipeds by Level B harassment under the LOA, NMFS does not expect additional impacts, individually or cumulatively, to occur and therefore, NMFS has determined that the incidental harassment will remain small and not have more than a negligible impact on the pinniped populations off the Vandenberg AFB coast.

Dated: May 6, 2003.

Laurie K. Allen,

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

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