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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC247

Taking and Importing Marine Mammals; U.S. Navy Training in the Northwest Training Range Complex

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, notice is hereby given that NMFS has issued a 3-year Letter of Authorization (LOA) to the U.S. Navy (Navy) to take marine mammals incidental to Navy training and research activities to be conducted within the Northwest Training Range Complex (NWTRC), off the coasts of Washington, Oregon, and northern California. These activities are considered military readiness activities pursuant to the Marine Mammal Protection Act (MMPA), as amended by the National Defense Authorization Act of 2004 (NDAA).

DATES: This Authorization is effective from November 12, 2012, through November 9, 2015.

ADDRESSES: The LOA and supporting documentation may be obtained by writing to P. Michael Payne, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, or by telephoning one of the contacts listed here.

FOR FURTHER INFORMATION CONTACT: Brian D. Hopper, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, upon request, the incidental taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing), if certain findings are made by NMFS and regulations are issued. Under the MMPA, the term "take" means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill marine mammals.

Regulations governing the taking of marine mammals by the Navy incidental to training and research activities in the NWTRC became effective on November 10, 2010 (75 FR 69296), and remain in effect through November 9, 2015. For detailed information on this action, please refer to that document. These regulations include mitigation, monitoring, and reporting requirements and establish a framework to authorize incidental take through the issuance of LOAs. On February 1, 2012, NMFS amended the regulations for 12 Navy Range Complexes, including NWTRC, to allow for multi-year LOAs (77 FR 4917).

Summary of Request

On June 27, 2012, NMFS received a request from the Navy for an LOA for the taking of marine mammals incidental to training and research activities conducted within the NWTRC under regulations issued on November 10, 2010 (75 FR 69296). The Navy has complied with the measures required in 50 CFR 216.274 and 216.275, as well as the LOA issued on November 12, 2011, and submitted the reports and other documentation required in the final rule and the 2011 LOA.

Summary of Activity Under the 2011 LOA

As described in the Navy's exercise reports (both classified and unclassified), from May 2, 2011 to May 1, 2012, the training activities conducted by the Navy were within the scope and

amounts indicated in the 2011 LOA and the levels of take remain within the scope and amounts contemplated by the final rule.

Planned Activities and Estimated Take for 2012 through 2015

Between 2012 and 2015, the Navy expects to conduct the same type and amount of training identified in the 2011 LOA; however, the Navy does not plan to conduct any Sinking Exercises (SINKEXs). While the Navy requested the same amount of take that was authorized in the 2011 LOA, NMFS has slightly adjusted those numbers to account for the exposure analysis contained in the Biological Opinion. However, the authorized take remains within the annual estimates analyzed in the final rule.

Summary of Monitoring, Reporting, and Other Requirements Under the 2011 LOA

Annual Exercise Reports

The Navy submitted their classified and unclassified 2011 exercise reports within the required timeframes and the unclassified report is posted on NMFS website:
<http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. NMFS has reviewed both reports and they contain the information required by the 2011 LOA. The reports indicate the amounts of different types of training that occurred from May 2, 2011, to May 1, 2012. The Navy conducted zero SINKEXs and all other exercise types conducted (classified data) fell within the amount indicated in the LOA.

2011 Monitoring

The Navy conducted the monitoring required by the 2011 LOA and described in the Monitoring Plan, which included passive acoustic monitoring utilizing high-frequency acoustic recording packages (HARPs) and marine mammal tagging and tracking. The Navy submitted their 2011 Monitoring Report, which is posted on NMFS' website

(<http://www.nmfs.noaa.gov/pr/permits/incidental.htm>), within the required timeframe. Because data is gathered through May 1 and the report is due in July, some of the data analysis will occur in the subsequent year's report. Navy-funded marine mammal monitoring accomplishments within NWTRC for the past year consisted of the following:

Passive Acoustic Monitoring

Two high-frequency acoustic monitoring packages (HARP) have been deployed by Scripps Institute of Oceanography (SIO) within the NWTRC. The first HARP was deployed in January 2011 approximately 25 nm from the coast in the southern part of NOAA's Olympic Coast National Marine Sanctuary. SIO has had HARPs in the same approximate location periodically since 2004. A second HARP was deployed in May 2011 near the edge of an underwater canyon west of the Olympic Coast National Marine Sanctuary boundary. Both HARPs were field serviced in early December 2011. Over 10,617 hours of passive acoustic data have been recorded. Subsequent analysis confirmed detection of the following marine mammals: blue whale, fin whale, humpback whale, nine toothed whale species, and sounds dominated by shipping noise.

Tagging

Under the 2011 LOA, the Navy purchased a total of 10 satellite tracking tags suitable for deployment on a number of marine mammal species within the NWTRC. Field deployment for tagging marine mammals commenced 2011 as part of a three-year joint project between the Navy, NMFS, Cascadia Research Collective, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife. During the May 2011 to May 2012 reporting period, three fin whales and one humpback whale were tagged off the Washington Coast. Approximately 43 days of animal movement data was obtained. More information detailing the

results of the tagging study can be found in the Navy's Year 2 Northwest Training Range Complex Monitoring Report (2012), which is posted on the NMFS permits website:
<http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

In conclusion, the Navy successfully implemented the monitoring requirements for the NWTRC by the end of the second monitoring period. Over the next three years, the Navy will continue to maintain the two HARPs that are currently in the water, while analyzing and presenting results from previously recorded data. Furthermore, the Navy will continue to report tagging results within the NWTRC from tags the Navy purchased in 2010, which have not yet been deployed.

Adaptive Management

The Navy's adaptive management of the NWTRC monitoring program involves close coordination with NMFS to align marine mammal monitoring with the overall objectives of the monitoring plan. Monitoring under the 2011 LOA only represents the second year of a planned five-year effort. Therefore, it would be premature to draw detailed conclusions or initiate comprehensive monitoring changes before more monitoring and data analysis is complete.

Authorization

The Navy complied with the requirements of the 2011 LOA. Based on our review of the record, NMFS has determined that the marine mammal take resulting from the 2011 military readiness training and research activities falls within the levels previously anticipated, analyzed, and authorized. Further, the level of taking authorized from 2012 to 2015 for the Navy's NWTRC activities is consistent with our previous findings made for the total taking allowed under the NWTRC regulations. Finally, the record supports NMFS' conclusion that the total number of marine mammals taken by the 2012 to 2015 activities in the NWTRC will have no

more than a negligible impact on the affected species or stocks 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 an LOA for Navy training and research activities conducted in the NWTRC from November 12, 2012, through November 9, 2015.

Dated: October 16, 2012.

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

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