



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XD320

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Missile Launch Activities at San Nicolas Island, CA

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of 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 Naval Air Warfare Center Weapons Division, U.S. Navy (Navy), to take three species of seals and sea lions incidental to missile launch operations at San Nicolas Island (SNI), California, a military readiness activity.

DATES: Effective June 3, 2014, through June 3, 2019.

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 be viewed, by appointment, during regular business hours, at the aforementioned address and at the West Coast Regional Office, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: John Fiorentino, Office of Protected Resources, NMFS, 301-427-8401, 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 NMFS 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 (Pub. 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 (where relevant). 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 [insert date of publication in Federal Register] and are effective June 3, 2014, through June 3, 2019. For detailed information on this action, please refer to that document. The regulations include

mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during missile launches at SNI.

This LOA is effective from June 3, 2014, through June 3, 2019, and authorizes the incidental take of the three marine mammal species listed above that may result from missile launch activities at SNI.

These activities may result in take, by Level B harassment, of marine mammals. In summary, potential effects of the specified activity on marine mammals involve both acoustic and non-acoustic effects. Acoustic effects are related to sound produced by the engines of all launch vehicles, and, in some cases, their booster rockets. Potential non-acoustic effects could result from the physical presence of personnel during placement of video and acoustical monitoring equipment. However, careful deployment of monitoring equipment is not expected to result in any disturbance to pinnipeds hauled out nearby. Any visual disturbance caused by passage of a vehicle overhead is likely to be minor and brief as the launch vehicles are relatively small and move at great speed. Detailed information on each potential effect (acoustic impacts, behavioral reactions of pinnipeds to missile launches, stampede-related injury or mortality from missile launches) is provided in the final rule.

Take of marine mammals will be minimized through the implementation of the following mitigation measures, provided that doing so will not compromise operational safety, human safety, national security, or other requirements or mission goals:

- (1) Limit activities near the beaches in advance of launches;
- (2) Avoid launch activities during harbor seal pupping season (February through April);
- (3) Limit launch activities during other pinniped pupping seasons;

(4) Not launch missiles from the Alpha Complex at low elevation (less than 305 m) on launch azimuths that pass close to pinniped haul-out sites when occupied;

(5) Avoid launching multiple missiles in quick succession over haul-out sites, especially when young pups are present;

(6) Limit launch activities during nighttime hours, except when required by mission objectives;

(7) Maintain a minimum altitude of 305 m from pinniped haul-outs and rookeries for aircraft and helicopter flight paths during missile launch operations, except in emergencies or for real-time security incidents (e.g., search-and-rescue, fire-fighting, adverse weather conditions), which may require approaching pinniped haul-outs and rookeries closer than 305 m.

(8) Review the launch procedure and monitoring methods, in cooperation with NMFS, if any incidents of injury or mortality of a pinniped discovered during post-launch surveys or indications of affects to the distribution, size, or productivity of the affected pinniped populations as a result of the authorized activities are thought to have occurred. If necessary, appropriate changes must be made through modification to this LOA prior to conducting the next launch of the same vehicle.

Through this LOA, the Navy is required to monitor for marine mammals. The Navy will submit annual technical reports to NMFS no later than December 31 of each year for the duration of the regulations. These reports will provide full documentation of methods, results, and interpretation pertaining to all monitoring tasks for launches during each calendar year. However, only preliminary information will be included for any launches during the 60-day period immediately preceding submission. The Navy will submit a draft comprehensive technical report to NMFS 180 days prior to the expiration of the regulations, providing full

documentation of the methods, results, and interpretation of all monitoring tasks for launches to date. A revised final comprehensive technical report, including all monitoring results during the entire period of the regulations will be due 90 days after the regulations expire.

Dated: June 3, 2014.

Perry F. Gayaldo,
Deputy Director,
Office of Protected Resources,
National Marine Fisheries Service.

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