



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XA216

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 April 30, 2012, through April 29, 2013.

ADDRESSES: The LOA and supporting documentation are available for review by writing to Tammy C. Adams, Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, by telephoning the contact listed under FOR FURTHER INFORMATION CONTACT, or 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 above address.

FOR FURTHER INFORMATION CONTACT: Michelle Magliocca, 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 February 27, 2012, NMFS received a request from the AAC for renewal of an LOA issued on April 30, 2011, 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 2011-2012 LOA, and submitted the reports and other documentation required by the final rule and the 2011-2012 LOA.

Summary of Activity under the 2011-2012 LOA

As described in the AAC's 2011-2012 annual report, launch activities conducted at the KLC were within the scope and amounts authorized by the 2011-2012 LOA and the levels of take remain within the scope and amounts contemplated by the final rule. Only one launch occurred at the KLC under the 2011-2012 LOA.

Planned Activities and Estimated Take for 2012-2013

In 2012-2013, the AAC expects to conduct the same type and amount of launches identified in the 2011-2012 LOA. Similarly, the authorized take will remain within the annual estimates analyzed in the final rule.

Summary of Monitoring and Reporting under the 2011-2012 LOA

The AAC submitted their annual monitoring report within the required timeframe and the report is posted on NMFS website:

<http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>. NMFS has reviewed the

report and it contains the information required by the 2011-2012 LOA. The AAC's monitoring

activities included a quarterly aerial survey on September 21, 2011, and launch-related monitoring on September 26-27, 2011, using a remote camera system. One of the planned quarterly aerial surveys was postponed twice due to stormy weather. Another aerial survey is scheduled to occur before the 2011-2012 LOA expires. The annual report for last year's LOA reported no Steller sea lions observed in the area before or after the launch and there were no sightings of injury or mortality to Pacific harbor seals. Last year, no launches occurred during harbor seal pupping season (May 15-June 30).

Authorization

The AAC complied with the requirements of the 2011-2012 LOA. Based on our review of the record, NMFS has determined that the marine mammal take resulting from the 2011-2012 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 2012-2013 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 April 30, 2012, through April 29, 2013.

Dated: April 11, 2012.

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

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