



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XD964]

#### **Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Lighthouse Repair and Tour Operations at Northwest Seal Rock, California**

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

**ACTION:** Notice of issuance of letter of authorization.

**SUMMARY:** Pursuant to 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 St. George Reef Lighthouse Preservation Society (Society) for the take of marine mammals incidental to conducting aircraft operations, lighthouse renovation, light maintenance activities, and tour operations on the St. George Reef Lighthouse Station (Station) on Northwest Seal Rock (NWSR).

**DATES:** This authorization is effective from May 15, 2024 through May 14, 2027.

**ADDRESSES:** The LOA and supporting documentation are available online at:

*<https://www.fisheries.noaa.gov/action/incidental-take-authorization-lighthouse-repair-and-tour-operations-northwest-seal-rock>*. In case of problems accessing these

documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

**FOR FURTHER INFORMATION CONTACT:** Kate Fleming, Office of Protected Resources, NMFS, (301) 427-8401.

**SUPPLEMENTARY INFORMATION:**

**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, 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 or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for the incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the 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. 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, 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 April 15, 2022, we issued a final rule upon request from the Society for authorization to take marine mammals incidental to lighthouse maintenance and preservation activities at NWSR, offshore of Crescent City, CA (87 FR 22484). These activities include aircraft operations, lighthouse renovation, light maintenance activities,

and tour operations. These regulations include mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during the specified activities.

NMFS previously issued an LOA under the regulations that was effective from May 15, 2022, through May 14, 2023 (87 FR 30918, May 20, 2022). The Society has requested issuance of a subsequent LOA for remaining work described in the regulations, to be effective until expiration of the regulations on May 15, 2027.

The 2022 LOA included a requirement for quarterly monitoring report submissions, and the notice of issuance for the 2022 LOA stated that NMFS would reevaluate that requirement prior to issuance of subsequent LOAs to the Society. Upon review of the Society's reporting, NMFS has determined that annual reporting is sufficient, as allowed under the regulations (50 CFR 217.55(b)(1)(i)).

#### **Authorization**

NMFS has issued an LOA to the Society for the harassment of small numbers of four marine mammal species incidental to conducting aircraft operations, lighthouse renovation, light maintenance activities, and tour operations at NWSR.

Dated: May 17, 2024.

**Kimberly Damon-Randall,**

*Director, Office of Protected Resources,*

*National Marine Fisheries Service.*