

### Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action.

### Endangered Species Act

Of the species of marine mammals that may occur in the proposed survey area, five are listed as endangered under the ESA, including the humpback, sei, fin, blue, and sperm whales. Under Section 7 of the ESA, NSF has initiated formal consultation with the NMFS, Office of Protected Resources, Endangered Species Division, on this proposed seismic survey. NMFS' Office of Protected Resources, Permits, Conservation and Education Division, has initiated formal consultation under section 7 of the ESA with NMFS' Office of Protected Resources, Endangered Species Division, to obtain a Biological Opinion evaluating the effects of issuing the IHA on threatened and endangered marine mammals and, if appropriate, authorizing incidental take. NMFS will conclude formal section 7 consultation prior to making a determination on whether or not to issue the IHA. If the IHA is issued, L-DEO, in addition to the mitigation and monitoring requirements included in the IHA, will be required to comply with the Terms and Conditions of the Incidental Take Statement corresponding to NMFS' Biological Opinion issued to both NSF and NMFS' Office of Protected Resources.

### National Environmental Policy Act (NEPA)

To meet NMFS' National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) requirements for the issuance of an IHA to L-DEO, NMFS will prepare an Environmental Assessment (EA) titled "Issuance of an Incidental Harassment Authorization to the Lamont-Doherty Earth Observatory to Take Marine Mammals by Harassment Incidental to a Marine Geophysical Survey in the Pacific Ocean off Costa Rica, April–May, 2011." This EA will incorporate the NSF's Environmental Analysis Pursuant To Executive Order 12114 (NSF, 2010) and an associated report (Report) prepared by LGL Limited Environmental Research Associates (LGL) for NSF, titled, "Environmental Assessment of a Marine Geophysical Survey by the R/V Marcus G. Langseth in the Pacific Ocean off Costa Rica (LGL, 2010) (draft)," by reference pursuant to 40 CFR 1502.21 and NOAA Administrative Order (NAO) 216–6 § 5.09(d). Prior to making a final decision on the IHA application, NMFS

will make a decision of whether or not to issue a Finding of No Significant Impact (FONSI).

### Preliminary Determinations

NMFS has preliminarily determined that the impact of conducting the specific seismic survey activities described in this notice and the IHA request in the specific geographic region within the ETP off Costa Rica may result, at worst, in a temporary modification in behavior (Level B harassment) of small numbers of marine mammals. Further, NMFS has preliminarily determined that this activity is expected to result in a negligible impact on the affected species or stocks of marine mammals. The provision requiring that the activity not have an unmitigable impact on the availability of the affected species or stock of marine mammals for subsistence uses is not implicated for this proposed action.

For reasons stated previously in this document, the specified activities associated with the proposed survey are not likely to cause TTS, PTS or other non-auditory injury, serious injury, or death to affected marine mammals because:

- (1) The likelihood that, given sufficient notice through relatively slow ship speed, marine mammals are expected to move away from a noise source that is annoying prior to its becoming potentially injurious;
- (2) The fact that cetaceans would have to be closer than 450 m (1,476 ft) in deep water when the 18-airgun subarray is in use at a 7 m (23 ft) tow depth from the vessel to be exposed to levels of sound believed to have even a minimal chance of causing PTS;
- (3) The fact that marine mammals would have to be closer than 3,800 m (2.4 mi) in deep water when the full array is in use at a 7 m (23 ft) tow depth from the vessel to be exposed to levels of sound (160 dB) believed to have even a minimal chance at causing TTS; and
- (4) The likelihood that marine mammal detection ability by trained observers is high at that short distance from the vessel.

As a result, no take by injury, serious injury, or death is presently anticipated nor would it be authorized were NMFS to issue a final IHA, and the potential for temporary or permanent hearing impairment is very low and would likely be avoided through the incorporation of the proposed monitoring and mitigation measures.

While the number of marine mammals potentially incidentally harassed would depend on the distribution and abundance of marine

mammals in the vicinity of the survey activity, the number of potential Level B incidental harassment takings (see Table 3 above this section) should a final IHA be issued is estimated to be small, less than two percent of any of the estimated population sizes based on the data disclosed in Table 2 of this notice. NMFS has preliminarily determined that impacts to affected species or stocks of marine mammals have been mitigated to the lowest level practicable through incorporation of the monitoring and mitigation measures mentioned previously in this document.

### Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to L-DEO for conducting a marine geophysical survey in the ETP off Costa Rica, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The duration of the IHA would not exceed one year from the date of its issuance.

### Information Solicited

NMFS requests interested persons to submit comments and information concerning this proposed project and NMFS' preliminary determination of issuing an IHA (see **ADDRESSES**). Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: January 31, 2011.

**James H. Lecky,**

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

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**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XA178**

### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Space Vehicle and Test Flight Activities From Vandenberg Air Force Base, CA

**AGENCY:** National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 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 30th Space Wing, U.S. Air Force (USAF), to take four species of seals and sea lions incidental to rocket and missile launches on Vandenberg Air Force Base (VAFB), California, a military readiness activity.

**DATES:** Effective February 7, 2011, through February 6, 2012.

**ADDRESSES:** The LOA and supporting documentation are available for review by writing to P. Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service (NMFS), 1315 East-West Highway, Silver Spring, MD 20910, by telephoning one of the contacts listed here (**FOR FURTHER INFORMATION CONTACT**) or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address and at the Southwest Regional Office, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

**FOR FURTHER INFORMATION CONTACT:** Candace Nachman, Office of Protected Resources, NMFS, (301) 713-2289 ext. 156, 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. The National Defense Authorization Act (Pub. L. 108-136) removed the “small numbers” and “specified geographical region” limitations for a “military readiness activity.” Under the MMPA, the term “taking” 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 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 Pacific harbor seals (*Phoca vitulina richardsi*), northern elephant seals (*Mirounga angustirostris*), California sea lions (*Zalophus californianus*), and northern fur seals (*Callorhinus ursinus*), by harassment, incidental to missile and rocket launches, aircraft flight test operations, and helicopter operations at VAFB, were issued on February 6, 2009 (74 FR 6236), and remain in effect until February 6, 2014. For detailed information on this action, please refer to that document. These regulations include mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during missile and rocket launches at VAFB.

This LOA is effective from February 7, 2011, through February 6, 2012, and authorizes the incidental take, by Level B harassment only, of the four marine mammal species listed here that may result from the launching of up to 30 space and missile vehicles and up to 20 rockets annually from VAFB, as well as from aircraft and helicopter operations. Harbor seals haul-out on several sites on VAFB, and harbor seals, California sea lions, elephant seals, and northern fur seals are found on various haul-out sites and rookeries on San Miguel Island (SMI). Currently, six space launch vehicle programs use VAFB to launch satellites into polar orbit: Delta II; Taurus; Atlas V; Delta IV; Falcon; and Minotaur. Also a variety of small missiles, several types of interceptor and target vehicles, and fixed-wing aircrafts are launched from VAFB.

The activities under these regulations create two types of noise: continuous (but short-duration) noise, due mostly to combustion effects of aircraft and launch vehicles, and impulsive noise, due to sonic boom effects. Launch operations are the major source of noise on the marine environment from VAFB. The operation of launch vehicle engines produces significant sound levels. The noise generated by VAFB activities will result in the incidental harassment of pinnipeds, both behaviorally and in terms of physiological (auditory) impacts. The noise and visual disturbances from space launch vehicle and missile launches and aircraft and

helicopter operations may cause the animals to move towards or enter the water. Take of pinnipeds will be minimized through implementation of the following mitigation measures: (1) All aircraft and helicopter flight paths must maintain a minimum distance of 1,000 ft (305 m) from recognized seal haul-outs and rookeries; (2) missile and rocket launches must, whenever possible, not be conducted during the harbor seal pupping season of March through June; (3) VAFB must avoid, whenever possible, launches which are predicted to produce a sonic boom on the Northern Channel Islands during the primary pinniped pupping seasons of March through June; and (4) monitoring methods will be reviewed by NMFS if post-launch surveys determine that an injurious or lethal take of a marine mammal occurred. VAFB will also use monitoring surveys, audio-recording equipment, and time-lapse video to monitor the animals before, during, and after rocket launches, and to measure sound levels generated by the launches. Reports will be submitted to NMFS after each LOA expires, and a final comprehensive report, which will summarize all previous reports and assess cumulative impacts, will be submitted before the rule expires.

##### **Summary of Request**

On December 15, 2010, NMFS received a request for a LOA renewal pursuant to the aforementioned regulations that would authorize, for a period not to exceed 1 year, take of marine mammals, by harassment, incidental to space vehicle and test flight activities at VAFB.

##### **Summary of Activity and Monitoring Under the 2010 LOA**

In compliance with the 2010 LOA, VAFB submitted an annual report on the activities at VAFB, covering the period of December 1, 2009, through November 30, 2010. In addition to launches that occurred between February 7 and November 30, 2010, the report also contained information on a December 14, 2009, launch that was covered under the 2009 LOA, as it was not described in any previous reports. A summary of the 2010 report (MMCG and SAIC, 2010) follows.

During the reporting period covered by the 2010 report, there were a total of 10 launches from VAFB: Five space vehicle launches and five missile launches. The dates, locations, and monitoring required for the launches are summarized in Tables 1 and 2 next.

TABLE 1—SUMMARY OF SPACE VEHICLE LAUNCHES FROM VAFB AND MONITORING CONDUCTED IN 2010

Vehicle	Date	Launch site	Monitoring conducted
Delta II .....	14-Dec-09 .....	SLC-2W .....	No.
Minotaur IV HTV-2A .....	22-Apr-10 .....	SLC-8 .....	VAFB.
Atlas V NRO L-41 .....	17-Sept-10 .....	SLC-3E .....	No.
Minotaur IV .....	25-Sept-10 .....	SLC-8 .....	No.
Delta II .....	5-Nov-10 .....	SLC-2W .....	No.

TABLE 2—SUMMARY OF ALL OTHER LAUNCHES FROM VAFB AND MONITORING CONDUCTED IN 2010

Launch vehicle	Date (2010)	Launch site	Monitored
Minuteman III .....	22-Jan .....	LF-23 .....	No.
MDA .....	6-Jun .....	LF-24 .....	Yes.
Minuteman III .....	16-Jun .....	LF-10 .....	Yes.
Minuteman III .....	30-Jun .....	LF-04 .....	Yes.
Minuteman III .....	17-Sept .....	LF-09 .....	No.

All of the space vehicle launches, except for the April 22, 2010, launch of the Minotaur IV occurred outside of the harbor seal pupping season. Therefore, monitoring on VAFB was only required for that one space vehicle launch.

Additionally, acoustic modeling indicated that no sonic boom of greater than 1 lb/ft<sup>2</sup> (psf) would occur at SMI as a result of the launch; therefore, no biological or acoustical monitoring was required or conducted at SMI. The fourth launch was not modeled or monitored because the vehicle's westerly trajectory would carry it north of the northern Channel Islands.

None of the five missile launches required monitoring at SMI because the westerly trajectory of these launches. Similarly, the January 22 and September 10, 2010, Minuteman III launches occurred outside of the VAFB harbor seal pupping season; therefore, no biological or acoustical monitoring was required or performed on VAFB for these two launches.

During the reporting period, 977 fixed-wing aircraft and helicopter operations were conducted from the VAFB airfield. Most of these consisted of training exercises involving "touch and goes" (West, 2010). Helicopter operations were greatly reduced from previous years because the helicopter squadron at VAFB was relocated in 2007 to other Air Force bases in the U.S. About two helicopter flights a week are now flown over VAFB. Three helicopter search and rescue operations were flown during the reporting period. There were no observed impacts to pinnipeds from these activities.

#### *Minotaur IV Launch (April 22, 2010)*

Because this launch occurred during the harbor seal pupping season on VAFB, biological monitoring at VAFB was required. However, no sonic boom

greater than 1 psf was predicted over SMI, so no monitoring was required at SMI. Counts of northern harbor seals done between April 17 and 21, 2010, recorded from 20 to 160 adult seals, with the daily maximum ranging between 111 and 160 animals. Pup counts ranged from 12 to 48 seals, with the daily maximum ranging between 31 and 48 pups. Post-launch counts fell within the pre-launch range. Counts of harbor seals done within 48 hours post-launch recorded between 115 to 167 seals, with the daily maximum ranging between 165 and 167. Post-launch pup counts ranged between 17 and 39, with daily maximums of 38 to 39 pups. In addition to the harbor seals, two northern elephant seals were observed at separate locations (one of which appeared emaciated), and three California sea lions (either juveniles or adult females) were observed.

Time-lapse video monitoring was conducted of this launch. Immediately prior to the launch, the video showed the presence of 15 adult harbor seals and three pups at the First Ledge haul-out site on south VAFB. Within 18 seconds of the launch, all but two adults had flushed into the water. The two remaining adult seals moved to within 3 m (10 ft) of the water but remained on the ledge. Within 10 minutes after the launch, one adult had hauled back out on the ledge followed by a few more a little later. About an hour and a half post-launch, the entire ledge was submerged by waves, and all the animals had returned to the water (ManTech SRS, 2010).

Six dead harbor seal pups were recorded during the pre-launch counts. One of them was observed to be "torn open." This was an unusually high number of pup mortalities, as previous counts revealed a high of four dead pups in 2004. One dead pup was noted

after the launch. It had a deep, 5-cm (2-in) gash on its side. The USAF monitors were unable to determine if this was one of the six pups observed prior to the launch or a previously uncounted animal. None of the dead pups were recovered for two reasons. First, attempting to recover the carcasses would have disturbed other animals, possibly resulting in the abandonment of pups. Second, the haul-out site is along a stretch of coast that lies beneath steep, unstable bluffs subject to sudden collapses.

On follow-up counts made 2 weeks post-launch, between 67 and 161 harbor seals were counted along with 22 to 34 pups. One adult was observed to have a deep wound, possibly inflicted by a shark. In summary, based on post-launch analysis, there was no evidence of injury, mortality, or abnormal behavior in any of the monitored pinnipeds on VAFB as a result of this launch.

#### *MDA Launch (June 6, 2010)*

Because this launch occurred during the harbor seal pupping season on VAFB, biological monitoring at VAFB was required. However, its westerly trajectory did not require any sonic boom modeling or monitoring at SMI. Pre-launch surveys conducted from June 3–5, 2010, recorded between 0 and 13 harbor seals. Post-launch surveys conducted within 48 hours after the launch recorded between 0 and 11 harbor seals. During counts 2 weeks post-launch, between zero and four harbor seals were seen. No pups were observed, which was not unexpected, as only one pup was observed on April 21, 2010. No pups were reported in surveys performed after the June launches during the period from July through November (MMCG and SAIC, 2010).

Time-lapse video monitoring was conducted of this launch. Some harbor seals and sea otters were observed on the rocks between 1.5 and 4 hours prior to the launch. However, nearly 30 minutes before the launch, the video did not reveal the presence of any marine mammals because the incoming tide and surf was washing over the rocks. None were present at the time of the launch. Nearly 1.5 hours post-launch, the rocks were still abandoned.

No northern elephant seals were observed. On two occasions, individual California sea lions hauled out on the rocks and nearby beach. On another occasion, one was noted swimming immediately offshore. In summary, there was no evidence of injury, mortality, or abnormal behavior in any of the monitored pinnipeds at VAFB as a result of the MDA launch.

#### *Minuteman III Launch (June 16, 2010)*

Because this launch occurred during the harbor seal pupping season on VAFB, biological monitoring at VAFB was required. However, its westerly trajectory did not require any sonic boom modeling or monitoring at SMI. Pre-launch monitoring was conducted from Jun 13–15, 2010. Zero to five harbor seals were hauled out at Lion's Head during these counts. Zero to one seal was hauled out the day of the launch, and the following day, up to three harbor seals were hauled out. No harbor seal pups were seen. Only one sea lion was noted swimming a short distance offshore. No northern elephant seals were sighted. Since this launch occurred during darkness, no time-lapse video monitoring was conducted. In summary, there was no evidence of injury, mortality, or abnormal behavior of the monitored pinnipeds on VAFB as a result of this launch.

#### *Minuteman III Launch (June 30, 2010)*

Because this launch occurred during the harbor seal pupping season on VAFB, biological monitoring at VAFB was required. However, its westerly trajectory did not require any sonic boom modeling or monitoring at SMI. Pre-launch monitoring was conducted from June 27–29, 2010. Zero to four harbor seals were counted during pre-launch surveys. On the day of the launch, the count was zero to three animals, as it was during the post-launch monitoring. No harbor seals were sighted during the two-week follow-up count because the rocks were awash. No harbor seal pups were seen during any of these surveys. No California sea lions or elephant seals were seen during these surveys. Since this launch occurred during darkness,

no time-lapse video monitoring was conducted. In summary, there was no evidence of injury, mortality, or abnormal behavior in any monitored harbor seals on VAFB resulting from this launch.

#### **Authorization**

The USAF complied with the requirements of the 2010 LOA, and NMFS has determined that the marine mammal take resulting from the 2010 launches is within that analyzed in and anticipated by the associated regulations. Accordingly, NMFS has issued a LOA to the 30th Space Wing, USAF, authorizing the take by harassment of marine mammals incidental to space vehicle and test flight activities at VAFB. Issuance of this LOA is based on findings described in the preamble to the final rule (74 FR 6236, February 6, 2009) and supported by information contained in VAFB's 2010 annual report that the activities described under this LOA will have a negligible impact on marine mammal stocks. The provision requiring that the activity not have an unmitigable adverse impact on the availability of the affected species or stock for subsistence uses does not apply for this action.

Dated: January 31, 2011.

**James H. Lecky,**

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

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**BILLING CODE 3510–22–P**

### **COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED**

#### **Procurement List; Proposed Addition and Deletions**

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed Addition to and Deletions from the Procurement List.

**SUMMARY:** The Committee is proposing to add a service to the Procurement List that will be provided by the nonprofit agency employing persons who are blind or have other severe disabilities and to delete services previously provided by such agencies.

*Comments Must be Received on or Before: 3/7/2011.*

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

*For Further Information or To Submit Comments Contact:* Barry S. Lineback,

Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail [CMTEFedReg@AbilityOne.gov](mailto:CMTEFedReg@AbilityOne.gov).

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

#### **Addition**

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice will be required to procure the service listed below from nonprofit agency employing persons who are blind or have other severe disabilities.

#### *Regulatory Flexibility Act Certification*

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will provide the service to the Government.
2. If approved, the action will result in authorizing small entities to provide the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

#### *End of Certification*

The following service is proposed for addition to the Procurement List for production by the nonprofit agency listed:

#### **Service**

*Service Type/Location:* Custodial Service, Donald J. Pease Federal Building, 143 West Liberty Street, Medina, OH.

*NPA:* VGS, Inc., Cleveland, OH.

*Contracting Activity:* GSA, Public Buildings Service, Property Management Division, Independence, OH.

#### **Deletions**

#### *Regulatory Flexibility Act Certification*

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in additional reporting,