

Dated: August 19, 2005.

William T. Hogarth,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

[FR Doc. 05-16940 Filed 8-24-05; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080405A]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Navy Operations of Surveillance Towed Array Sensor System Low Frequency Active Sonar

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

ACTION: Notice; issuance of two Letters of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that NMFS has issued two 1-year Letters of Authorization (LOAs) to take marine mammals by harassment incidental to the U.S. Navy's operation of Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA) sonar operations to the Chief of Naval Operations, Department of the Navy, 2000 Navy Pentagon, Washington, D.C., and persons operating under his authority.

DATES: Effective from August 16, 2005, through August 15, 2006.

ADDRESSES: Copies of the LOAs and the Navy's March 31, 2005 application, which contains a list of references used in this document, are available by writing to Steve Leathery, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or online at: http://www.nmfs.noaa.gov/protected_resources/SmallTake/smalltake1.info.htm#applications. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Jolie Harrison (ext 166) or Kenneth Hollingshead (ext 128), Office of Protected Resources, NMFS, (301) 713-2289.

SUPPLEMENTARY INFORMATION:

Background

Section 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 regulations are issued.

Authorization may be granted for periods of 5 years or less if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. 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 pertaining to the monitoring and reporting of such taking.

Regulations governing the taking of marine mammals incidental to the U.S. Navy's operation of SURTASS LFA sonar were published on July 16, 2002 (67 FR 46712), and remain in effect until August 15, 2007. For detailed information on this action, please refer to that document. These regulations include mitigation, monitoring, and reporting requirements for the incidental taking of marine mammals by the SURTASS LFA sonar system.

On November 24, 2003, the President signed into law the National Defense Authorization Act of 2004 (NDAA) (Public Law 108-136). Included in this law were amendments to the MMPA that apply where a "military readiness activity" is concerned. Of specific importance for the SURTASS LFA sonar take authorization, the NDAA amended section 101(a)(5) of the MMPA to exempt military readiness activities from the "specified geographical region" and "small numbers" requirements. The term "military readiness activity" is defined in Public Law 107-314 (16 U.S.C. 703 note) to include all training and operations of the Armed Forces that relate to combat; and the adequate and realistic testing of military equipment, vehicles, weapons and sensors for proper operation and suitability for combat use. The term expressly does not include the routine operation of installation operating support functions, such as military

offices, military exchanges, commissaries, water treatment facilities, storage facilities, schools, housing, motor pools, laundries, morale, welfare and recreation activities, shops, and mess halls; the operation of industrial activities; or the construction or demolition of facilities used for a military readiness activity.

NMFS published a proposed rule to amend its SURTASS LFA sonar final rule and regulations, to implement provisions of the NDAA (69 FR 38873; June 29, 2004). The public comment period ended on July 29, 2004. NMFS has not issued a final rule as of the date of this notice.

Summary of LOA Request

NMFS received an application from the U.S. Navy for two LOAs, one covering the *R/V Cory Chouest* and one the USNS IMPECCABLE, under the regulations issued on July 16, 2002 (67 FR 46712). The Navy requested that the LOAs become effective on August 16, 2005. The application requested authorization, for a period not to exceed 1 year, to take, by harassment, marine mammals incidental to employment of the SURTASS LFA sonar system for training, testing and routine military operations on the aforementioned ships. The application's take estimates are based on 16 nominal 9-day active sonar missions (or equivalent shorter missions) between both vessels, regardless of which vessel is performing a specific mission, not to exceed a total of 432 hours of LFA sonar transmission time combined for both vessels.

The specified geographic regions identified in the application in which the Navy proposes to operate SURTASS LFA sonar are the following oceanographic provinces described in Longhurst (1998) and identified in 50 CFR 216.180(a): the Archipelagic Deep Basins Province, the Western Pacific Warm Pool Province, and the North Pacific Tropical Gyre West Province, all within the Pacific Trade Wind Biome; the Kuroshio Current Province and the Northern Pacific Transition Zone Province within the Pacific Westerly Winds Biome; the North Pacific Epicontinental Sea Province within the Pacific Polar Biome; and the China Sea Coastal Province within the North Pacific Coastal Biome. The operational areas proposed in the Navy's application are portions of the provinces but do not encompass the entire area of the provinces. Due to critical naval warfare requirements, the U.S. Navy has identified the necessity for both SURTASS LFA sonar vessels to be stationed in the North Pacific Ocean during fiscal year 2006.

Summary of Activity Under the Current LOAs

In compliance with the 2004–2005 LOAs, on May 28, 2005, the Navy submitted the annual report on SURTASS LFA sonar operations. A summary of that report (Navy, 2005) follows.

During the period between February 16, 2004 and February 15, 2005 (the reporting period required under the 2004 LOAs), the *R/V Cory Chouest* operated in the Philippine Sea in the winter and spring of 2004. The *RV Cory Chouest* conducted four training missions covering a period of 38.8 days with 93.3 hours of transmissions by the LFA sonar array. The purposes of the training missions are to provide fully functional hardware and software, extensive personnel training, job experience, and operational/system monitoring in a variety of LFA sonar mission scenarios and acoustic environments. All LFA sonar operations included the operation of the High-Frequency Marine Mammal Monitoring (HF/M3) sonar and compliance with all mitigation requirements.

The second SURTASS LFA sonar system, onboard the USNS IMPECCABLE (T-AGOS 23), commenced sea trials in late February 2004. During the spring and summer of 2004, the USNS IMPECCABLE conducted five training missions in the Philippine Sea and the northwest Pacific Ocean covering a period of 26.2 days with 63.0 hours of transmissions by the LFA array. All LFA sonar operations included the operation of the HF/M3 sonar and compliance with all mitigation requirements.

In summary, SURTASS LFA sonar operations from February 16, 2004 to February 15, 2005 consisted of nine training missions totaling 65.1 days of operations with 156.3 hours of active transmissions by the LFA sonar array. Operations were conducted at three different sites in the Philippine sea located in the Kuroshio Current and North Pacific Tropical Gyre West Provinces.

Summary of Monitoring Under the 2004–2005 LOAs

In the annual report, the Navy provides a post-operational assessment of whether incidental harassment occurred within the LFA sonar mitigation and buffer zones and estimates of the percentages of marine mammal stocks possibly harassed using predictive modeling based on dates/times/location of actual operations, system characteristics, oceanographic conditions, and animal demographics.

Post-operational incidental harassment estimates indicate that there were no marine mammal exposures to received levels at or above 180 dB (Navy, 2005).

The percentage of marine mammal stocks estimated to be exposed to noise between 120 and 180 dB (re 1 microPa) from the LFA sonar array, both pre- and post-operational risk assessment estimates, were all below the 12-percent maximum percentage authorized under the LOAs. The majority of the estimates were below 1 percent; however, there were marine mammal stocks at all three sites with more than 1 percent estimated exposed to between 120 and 180 dB: (1) east of Japan, the short-finned pilot whale (1.67 percent) and the false killer whale (1.58 percent); (2) in the North Philippine Sea, the short-finned pilot whale (1.50 percent); and (3) in the West Philippine Sea, the Pacific white-sided dolphin (9.72 percent), the melon-headed whale (9.46 percent), the false killer whale (4.22 percent), Risso's dolphin (3.6 percent), the short-finned pilot whale (3.46 percent), the humpback whale (3.27 percent), the bottlenose dolphin (2.45 percent), the Minke whale (1.75 percent), the pygmy killer whale (1.69 percent), Blainville's beaked whale (1.27 percent), and the rough-toothed dolphin (1.10 percent).

During the nine missions, no sightings of marine mammals were noted by the trained personnel responsible for marine animal monitoring, and no marine mammal vocalizations were identified on the SURTASS passive sonar displays.

The HF/M3 sonar operated continuously during the course of the missions in accordance with the LOAs. As required by the LOAs, the HF/M3 sonar was "ramped up" prior to operations. During seven of the nine missions, there were 12 HF/M3 alerts that were identified as possible marine mammal detections. No additional correlating data were available to further verify, identify, or clarify these detections. Because these detections met the minimum shutdown criteria (i.e., multiple detections (two or more) within the same area), the Navy's requisite protocols were followed, and LFA sonar transmissions were suspended a total of 12 times. In addition, during one mission there were two suspensions of LFA sonar operations due to HF/M3 sonar software failures.

Authorization

Accordingly, NMFS has issued two LOAs to the U.S. Navy, authorizing the incidental harassment of marine mammals incidental to operating the two SURTASS LFA sonar systems for

training, testing and routine military operations. Issuance of these two LOAs is based on findings, described in the preamble to the final rule (67 FR 46712, July 16, 2002) and supported by information contained in the Navy's required annual report on SURTASS LFA sonar, that the activities described under these two LOAs will have no more than a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stocks for subsistence uses. These LOAs also comply with the NDAA amendments to the MMPA.

These LOAs remain valid through August 15, 2006, provided the Navy remains in conformance with the conditions of the regulations and the LOAs, and the mitigation, monitoring, and reporting requirements described in 50 CFR 216.184–216.186 (67 FR 46712, July 16, 2002) and in the LOAs are undertaken.

Dated: August 22, 2005.

Michael Payne,

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

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DEPARTMENT OF DEFENSE

Office of the Secretary; Defense Science Board

AGENCY: Department of Defense (DoD).

ACTION: Notice of Advisory Committee meeting; improvised explosive devices (IEDs).

SUMMARY: The Defense Science Board Task Force on Improvised Explosive Devices (IEDs) will meet in closed session on September 13, 2005, at Strategic Analysis, Inc., 3601 Wilson Boulevard, Arlington, VA. The Task Force will explore methods and techniques to significantly reduce the effects of IEDs on U.S. and coalition forces in operations such as are currently being conducted in Operation Iraqi Freedom (OIF). The Task Force should examine ways to counter the use as well as mitigate the consequences of IEDs. The Task Force should examine ways to counter the use as well as mitigate the consequences of IEDs.

DATES: September 13, 2005.

ADDRESSES: Strategic Analysis, Inc., 3601 Wilson Boulevard, Arlington, VA.
FOR FURTHER INFORMATION CONTACT: LTC Scott Dolgoff, USA, Defense Science Board, 3140 Defense Pentagon, Room 3C553, Washington, DC 20301–3140, via