

property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: March 13, 2007.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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**BILLING CODE 3520-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 022807G]

#### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Rocket Launches from Kodiak, AK

**AGENCY:** National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Notice; issuance of a Letter of Authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that a 1-year letter of authorization (LOA) has been issued to the Alaska Aerospace Development Corporation (AADC), to take Steller sea lions (*Eumetopias jubatus*) and Pacific harbor seals (*Phoca vitulina richardii*) incidental to rocket launches from the Kodiak Launch Complex (KLC).

**DATES:** Effective March 12, 2007, through March 11, 2008.

**ADDRESSES:** The LOA and supporting documentation are available by writing to Michael Payne, 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 one of the contacts listed here (see **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.

**FOR FURTHER INFORMATION CONTACT:** Jolie Harrison, Office of Protected Resources,

NMFS, (301) 713-2289, or Brad Smith, NMFS, (907) 271-3023.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the National Marine Fisheries Service (NMFS) to allow, on 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. 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. 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 Steller sea lions (SSLs) and harbor seals incidental to rocket launches at KLC, became effective on February 27, 2006 (71 FR 4297), and remain in effect until February 28, 2011. 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 during rocket launches at KLC.

##### Summary of Request

NMFS received a request for an LOA pursuant to the aforementioned regulations that would authorize, for a period not to exceed 1 year, take of marine mammals incidental to rocket launches at KLC.

##### Summary of Activity and Monitoring Under the Current LOA

In compliance with the 2006 LOA, AADC submitted an annual report on the rocket launches at KLC. A summary of that report (R&M Consultants, 2006) follows.

One launch was conducted at KLC between February 27, 2006, and February 28, 2007. This was a monitored launch of an Interceptor FTG-02 on September 1, 2006, at 9:22 am. Aerial surveys to document abundance of SSLs and harbor seals were flown 3 days prior to, immediately after, and 2 days post launch. Video monitoring equipment and a sound level meter were deployed on the northeast end of Ugak Island, 4.5 miles (7.2 km) from the launch site, overlooking East Ugak Rock, and another sound level meter was deployed at Narrow Cape, 0.9 miles from the launch site. No SSLs were observed at the traditional haul-out site on the northern tip of Ugak Island during pre-launch surveys; therefore, no monitoring at that site was conducted. As an alternative, the northeast end of Ugak Island was chosen as a monitoring location as two to five SSLs were observed there during pre-launch aerial survey flights.

Sound level monitoring equipment at the SSL haulout site registered noise above general ambient levels for one minute eight seconds. Noise levels peaked at 105.6 dBC. During pre-launch aerial surveys, 2 to 4 sea lions were observed hauled out at this site and one was seen swimming in the area on 2 of the 3 days. Video monitoring showed two SSLs resting on East Ugak Rock during the launch. No change in SSL activity was observed during the ignition, during the peak noise levels that followed the launch, or for the remaining duration of the video monitoring (4 hrs 7 min). Post launch surveys documented 1-2 SSLs using this haul-out site.

Video monitoring for harbor seal reaction during the launch was not required in conjunction with SSL response monitoring. Abundance monitoring via aerial surveys conducted pre and post launch around Ugak Island revealed that harbor seals concentrated at two haul-out sites. Average haul-out attendance increased on days following the launch at these two locations, Northeast and Southeast Ugak Island. Pre launch surveys showed 876 and 1154, respectively, seals hauled-out while post launch surveys revealed 1207 and 1497 seals at these locations. Therefore, NMFS believes that harbor seal attendance at these haul-out sites was not affected negatively by this launch.

In summary, no impacts to any marine mammals were detected during the launches. There was no evidence of injury or mortality as a result of the launches and numbers of hauled out animals were similar to or higher than

pre-launch levels within 1 day of the launch.

#### Authorization

Accordingly, NMFS has issued an LOA to AADC authorizing takes of marine mammals incidental to rocket launches at the KLC. Issuance of this LOA is based on findings, described in the preamble to the final rule (71 FR 4297, January 26, 2006) and supported by information contained in AADC's required 2006 annual report, that the activities described under this LOA will result in the take of small numbers of marine mammals, have 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.

Dated: March 12, 2007.

**James H. Lecky,**

Director, Protected Resources, National Marine Fisheries Service.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 021207D]

#### Notice of Availability of Final Stock Assessment Reports

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

**ACTION:** Notice of availability; response to comments.

**SUMMARY:** As required by the Marine Mammal Protection Act (MMPA), NMFS has incorporated public comments into revisions of marine mammal stock assessment reports (SARs). These reports for 2006 are now final and available to the public.

**ADDRESSES:** Electronic copies of SARs are available on the Internet as regional compilations and individual reports at the following address: <http://www.nmfs.noaa.gov/pr/sars/>. You also may send requests for copies of reports to: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3226, Attn: Stock Assessments.

Copies of the Alaska Regional SARs may be requested from Robyn Angliss, Alaska Fisheries Science Center, 7600

Sand Point Way, BIN 15700, Seattle, WA 98115.

Copies of the Atlantic Regional SARs may be requested from Gordon Waring, Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543.

Copies of the Pacific Regional SARs may be requested from Jim Carretta, Southwest Fisheries Science Center, NMFS, 8604 La Jolla Shores Drive, La Jolla, CA 92037-1508.

**FOR FURTHER INFORMATION CONTACT:** Tom Eagle, Office of Protected Resources, 301-713-2322, ext. 105, e-mail [Tom.Eagle@noaa.gov](mailto:Tom.Eagle@noaa.gov); Robyn Angliss, Alaska Fisheries Science Center, 206-526-4032, email [Robyn.Angliss@noaa.gov](mailto:Robyn.Angliss@noaa.gov); Gordon Waring, Northeast Fisheries Science Center, email [Gordon.Waring@noaa.gov](mailto:Gordon.Waring@noaa.gov); or Jim Carretta, Southwest Fisheries Science Center, 858-546-7171, email [Jim.Carretta@noaa.gov](mailto:Jim.Carretta@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 117 of the MMPA (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare stock assessments for each stock of marine mammals occurring in waters under the jurisdiction of the United States. These reports must contain information regarding the distribution and abundance of the stock, population growth rates and trends, the stock's Potential Biological Removal level (PBR), estimates of annual human-caused mortality and serious injury from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial reports were completed in 1995.

The MMPA requires NMFS and FWS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available, and at least once every 3 years for non-strategic stocks. NMFS and FWS are required to revise a SAR if the status of the stock has changed or can be more accurately determined. NMFS, in conjunction with the Alaska, Atlantic, and Pacific Scientific Review Groups (SRGs), reviewed the status of marine mammal stocks as required and revised reports in each of the three regions.

As required by the MMPA, NMFS updated SARs for 2006, and the revised reports were made available for public review and comment (71 FR 42815, July 28, 2006). The MMPA also specifies that the comment period on draft SARs must be 90 days. NMFS received comments on the draft SARs and has revised the reports as necessary. The final reports for 2006 are available.

#### Comments and Responses

At the end of the comment period on October 26, 2005 NMFS received letters from three organizations (Marine Mammal Commission (Commission), Hawaii Longline Association (HLA), and the Humane Society of the United States) and two individuals. Each letter contained more than one comment.

Unless otherwise noted, comments suggesting editorial or minor clarifying changes were included in the reports. Such editorial comments and responses to them are not included in the summary of comments and responses below. Other comments recommended development of Take Reduction Plans or to initiate or repeat large data collection efforts, such as abundance surveys or observer programs. Comments on the need to develop additional Take Reduction Plans are not related to the SARs; therefore, these comments are not included below. Comments recommending additional data collection (e.g., additional abundance surveys or observer programs) have been addressed in recent years. NMFS' resources for surveys or observer programs are fully utilized, and no new large surveys or observer programs may be initiated until additional resources are available or ongoing monitoring or conservation efforts can be terminated. Such comments on the 2006 SARs and responses to them may not be included in the summary below because the responses have not changed. Uncertainties in each of the reports (e.g., age of estimates, large coefficients of variation (CVs), or lack of available data) in each of the affected SARs are clearly indicated.

In some cases, NMFS' responses state that comments would be considered for, or incorporated into, future revisions of the SAR rather than being incorporated into the final 2006 SARs. The delay is due to review of the reports by the regional SRGs. NMFS provides preliminary copies of updated SARs to SRGs prior to release for public review and comment. If a comment on the draft SAR results in a substantive change to the SAR, NMFS may discuss the comment and prospective change with the SRG at its next meeting prior to incorporating the change. Some new events that may affect marine mammal status or take (e.g., the establishment of the Northwest Hawaiian Islands National Monument in 2006) are not included in the 2006 SARs because these reports were initially drafted in the fall of 2005 to begin the internal and SRG review prior to their availability for public review and comment. Such new events would be incorporated in the