

13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427-2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is NMFS.Pr1Comments@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: File No. 14483.

FOR FURTHER INFORMATION CONTACT:

Jennifer Skidmore or Kristy Beard, (301)713-2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant requests authorization to import three female California sea lions from Zoo Tiergarten Nuremberg in Nuremberg, Germany to Ocean World, Crescent City, California. The applicant requests this import for the purpose of public display. The receiving facility, Ocean World, is: (1) open to the public on a regularly scheduled basis with access that is not limited or restricted other than by charging for an admission fee; (2) offers an educational program based on professionally accepted standards; and (3) holds an Exhibitor's License, number 93-C-0389, issued by the U.S. Department of Agriculture under the Animal Welfare Act (7 U.S.C. 2131 - 59).

In addition to determining whether the applicant meets the three public display criteria, NMFS must determine whether the applicant has demonstrated that the proposed activity is humane and does not represent any unnecessary risks to the health and welfare of marine mammals; that the proposed activity by itself, or in combination with other activities, will not likely have a significant adverse impact on the species or stock; and that the applicant's expertise, facilities and resources are adequate to accomplish successfully the objectives and activities stated in the application.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to

prepare an environmental assessment or environmental impact statement.

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: April 14, 2009.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9-8998 Filed 4-20-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XO62

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 richardsi*) incidental to rocket launches from the Kodiak Launch Complex (KLC).

DATES: Effective April 15, 2009, through April 14, 2010.

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: Howard Goldstein or Jaclyn Daly, Office of Protected Resources, NMFS, (301)

713-2289, or Brad Smith, Alaska Regional Office, 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 five 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 and harbor seals, by harassment, 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 2008 LOA, AADC submitted a report on the rocket launches at KLC. A summary of those reports (R&M Consultants, 2008) follows.

FTX-03 Mission

Two launches were conducted at KLC between March 12, 2008, and March 11, 2009. The first was a monitored launch of a Flight Test Experimental-03 (FTX-03) long range ballistic missile on July 18, 2008 at 13:47:00 hr ADT. Aerial surveys to document marine mammals in the primary survey area (6-mile radius of the KLC launch pads) were flown using single-engine fixed-wing aircraft 1 day prior to (July 17), the day of (July 18), and 3 days (July 19-21) post launch. On July 17, 2008, video equipment and a noise monitor were deployed on the northeast side of Ugak Island, 4.2 miles (6.8 km) from the launch site, and another noise monitor was deployed on Narrow Cape, 0.9 miles (1.4 km) from the launch site. Sound level monitoring equipment at Ugak Island registered noise above general ambient levels for one minute thirty three seconds with an SEL of 89.6 dBA. The one-second broadband peak noise level was 108.3 dBC. The 1/3 octave broadband noise level peaked between 63 and 250 Hz with a maximum noise level of 90.7 dB at 100 Hz. Sound level monitoring equipment at Narrow Cape registered noise above general ambient levels for one minute fifty seconds with an SEL of 112.6 dBA. The one-second broadband peak noise level was 145.6 dBC. The 1/3 octave broadband noise level peaked between 63 and 400 Hz with a maximum noise level at 105.8 dB at 315 Hz.

Video equipment was focused on the Steller sea lion haulout on the east side of Ugak Island because no seal lions were present at the traditional haulout on the gravel spit at Ugak. This haulout was occupied by 1-5 seal lions during the aerial surveys, and 0-3 sea lions during video monitoring. However, the camera battery was depleted about two hours before the launch so the immediate effects of the launch on Steller sea lions could not be determined. However, three sea lions were seen at the haulout during the aerial survey conducted within two hours after the launch, the same number recorded when the camera battery died; therefore, if any behavioral impacts did occur, they were short lived.

Harbor seals were the most abundant marine mammal counted. Daily totals ranged from 610 seals on July 20, 2008 to 1,534 seals on July 21, 2008. The count of harbor seals before the launch (853 seals) was similar immediately post launch (840 seals). For the three days after launch, 744, 610, and 1,534 harbor seals, respectively, were sighted in the primary study area. Therefore, NMFS does not expect that the launch had a

long term impact on harbor seals in the action area.

FTG-05 Mission

The second monitored launch of an Flight Test Ground-based Interceptor-05 (FTG-05) ballistic missile was conducted at KLC on December 5, 2008 at 11:04 hr ADT. Five monitoring surveys were scheduled between December 4-8, 2008; however, foul weather precluded flying from all but one day. No monitoring survey was completed pre-launch and only one survey was completed post-launch; however, one aerial survey was flown over part of the primary study area three days before the launch (December 2) prior to the designated monitoring surveys. Foul weather precluded helicopter access to Ugak Island, therefore no video equipment or sound monitoring device was deployed at this location. However, a sound level monitor was deployed on Narrow Cape. This noise monitoring device registered noise above general ambient levels for one minute forty one seconds with an SEL of 112.4 dBA. The one-second broadband peak noise level was 126.1 dBC. The 1/3 octave broadband noise level peaked between 63 and 400 Hz with a maximum noise level at 106.6 dB at 200 Hz.

Steller sea lions did not use the spit on northern Ugak Island (the traditional haulout site) during the December 7 survey; however, this has been the trend during the past few years. One sea lion was sighted during that day on the suprtidal rock on the eastern side of Ugak, the same location where they were sighted during the FTX-03 launch, as described above.

During the December 7 survey, 971 harbor seals were sighted in the primary study area. All were sighted on Ugak Island with the largest single haulout located on the northeast side of the island with 444 seals. Because only one survey was completed and no video monitoring system was set up during the FTG-05 launch, the actual impacts to Steller sea lions and harbor seals can not be determined. However, AADC did collect video monitoring data of Steller sea lions during a FTG-02 launch in 2006. During that launch, two sea lions were present on Ugak Rock. The animals raised their heads in response to launch noise, which peaked at 105.6 dBC and had an SEL of 90.1dBA over one minute and eight seconds; however, they did not flush into the water. For comparative purposes, the Narrow Cape the peak noise level during this launch was 128 dBC with a SEL of 112.5dBA over one minute 23-seconds which is comparable to the December FTG-05

launch, as described above. Therefore, NMFS anticipates that reactions of Steller sea lions, if present, were likely similar to those recorded previously.

In summary, NMFS concludes the impacts from the FTX-03 and FTG-05 flight were similar based on similar acoustic monitoring measurements from both launches. No mortality or injury was observed during the FTX-03 launch and likely did not occur during the FTG-05 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 2007 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: April 16, 2009.

James H. Lecky,

Director, Protected Resources, National Marine Fisheries Service.

[FR Doc. E9-9117 Filed 4-20-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF EDUCATION

Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students; Overview Information; Foreign Language Assistance Program—Local Educational Agencies With Institutions of Higher Education; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2009

Catalog of Federal Domestic Assistance (CFDA) Number: 84.293A.

DATES:

Applications Available: April 21, 2009.

Deadline for Notice of Intent to Apply: May 11, 2009.

Deadline for Transmittal of Applications: May 27, 2009.

Deadline for Intergovernmental Review: July 27, 2009.

Full Text of Announcement**I. Funding Opportunity Description**

Purpose of Program: The Foreign Language Assistance Program (FLAP)