

Council on Environmental Quality (40 CFR parts 1500–1508), and NOAA Administrative Order 216–6, NMFS is preparing an Environmental Assessment (EA) to consider the direct, indirect, and cumulative effects to marine mammals and other applicable environmental resources resulting from issuance of a 1-year IHA and the potential issuance of future authorizations for incidental harassment for the ongoing project. Upon completion, this EA will be available on the NMFS Web site listed in the beginning of this document (see **ADDRESSES**). The U.S. Army Corps of Engineers also prepared an Environmental Impact Statement (EIS) to consider the environmental effects from the seawater air conditioning project.

Dated: July 18, 2012.

Wanda Cain,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC111

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Coastal Commercial Fireworks Displays at Monterey Bay National Marine Sanctuary, CA

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

ACTION: Notice of 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 5-year Letter of Authorization (LOA) has been issued to the Monterey Bay National Marine Sanctuary (MBNMS) to incidentally take, by Level B harassment only, California sea lions (*Zalophus californianus*) and harbor seals (*Phoca vitulina*) incidental to professional fireworks displays within the MBNMS.

DATES: This authorization is effective from July 4, 2012, through July 3, 2017.

ADDRESSES: The LOA and supporting documentation are available for review in the Permits, and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, by contacting the individual listed below (**FOR FURTHER**

INFORMATION CONTACT), or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>.

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (Secretary) upon request, to allow, during periods of not more than five consecutive years each, the incidental, but not intentional, taking of marine mammals by United States 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 Secretary shall grant the authorization for incidental taking if NMFS finds, after notice and opportunity for public comment, that the total of such taking during each five-year (or less) period concerned, 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, 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.”

In addition, NMFS must prescribe regulations that include permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species for subsistence uses. The regulations must include requirements for monitoring and reporting of such taking.

Regulations governing the taking of California sea lions and harbor seals, by Level B harassment, incidental to commercial fireworks displays within the Monterey Bay National Marine Sanctuary (MBNMS) became effective on July 4, 2012, and remain in effect until July 3, 2017. For detailed information on this action, please refer

to the original **Federal Register** notice (77 FR 31537, May 29, 2012). These regulations include mitigation, monitoring, and reporting requirements for the incidental taking of marine mammals during the fireworks displays within the Sanctuary boundaries.

Summary of Request

On July 7, 2011, we received a request for new regulations and a subsequent 5-year LOA that would authorize take of marine mammals incidental to fireworks displays at the MBNMS. We first issued an incidental harassment authorization (IHA) under section 101(a)(5)(D) of the MMPA to MBNMS on July 4, 2005 (70 FR 39235; July 7, 2005), and subsequently issued 5-year regulations governing the annual issuance of LOAs under section 101(a)(5)(A) of the MMPA (71 FR 40928; July 19, 2006). Upon expiration of those regulations, NMFS issued MBNMS an IHA (76 FR 29196; May 20, 2011), which expired on July 3, 2012. A full description of fireworks displays within the MBNMS can be found in the proposed rule (77 FR 19976; April 3, 2012).

Under all previous authorizations, MBNMS conducted activities as described, implemented the required mitigation measures, and conducted the required monitoring. The total number of potentially harassed pinnipeds for all fireworks displays has been well below the authorized limits as stated in the authorizations.

No injuries or fatalities to marine mammals have been reported as resulting from any of the events. Hence, monitoring results have supported our findings that fireworks displays will result in no more than Level B behavioral harassment of small numbers of California sea lions and harbor seals and that the effects will be limited to short-term behavioral changes, including temporary abandonment of haul-out areas to avoid the sights and sounds of commercial fireworks.

Authorization

NMFS has issued an LOA to MBNMS authorizing the Level B harassment of marine mammals incidental to coastal commercial fireworks displays within the Sanctuary. Issuance of this LOA is based on the results of past monitoring reports which verify that the total number of potentially harassed sea lions and harbor seals was well below the authorized limits. Based on these findings and the information discussed in the preamble to the final rule, the activities described under this LOA will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the

availability of the affected marine mammal stock for subsistence uses. No injury, serious injury, or mortality of affected species is anticipated.

Dated: July 17, 2012.

Wanda Cain,

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

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COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Submission for OMB Emergency Review; Comment Request: Exemptive Order Regarding Compliance With Certain Swap Regulations

AGENCY: Commodity Futures Trading
Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (“Commission” or “CFTC”) has submitted a request for review and approval of an information collection request (“ICR”) titled “Exemptive Order Regarding Compliance with Certain Swap Regulations,” utilizing emergency review procedures in accordance with the Paperwork Reduction Act of 1995 (“PRA”), 44 U.S.C. 3501 *et seq.*, and Office of Management and Budget (“OMB”) regulation 5 CFR 1320.13. The Commission is requesting that this information collection be approved by August 8, 2012. The Commission is initially requesting a six-month approval for this collection. The Commission plans to follow this emergency request with a request for a 3-year approval, through OMB’s normal clearance procedures of OMB regulation 5 CFR 1320.10.

DATES: OMB approval has been requested by August 8, 2012. Comments must be submitted to OMB on or before August 23, 2012.

ADDRESSES: Submit written comments on the burden estimated or any other aspect of the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CFTC, 725 17th Street, Washington, DC 20503 or via electronic mail to oira.submission@omb.eop.gov. Please refer to Comments Proposed New Information Collection—Exemptive Order Regarding Compliance with Certain Swap Regulations in any correspondence. Comments also may be

submitted to the Commission by any of the following methods:

- The Agency’s Web site, at <http://comments.cftc.gov/>. Follow the instructions for submitting comments through the Web site.
- **Mail:** David A. Stawick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- **Hand Delivery/Courier:** Same as mail above.
- **Federal eRulemaking Portal:** <http://www.regulations.gov>.

Please submit your comments to the CFTC using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to www.cftc.gov. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission’s regulations.¹

FOR FURTHER INFORMATION CONTACT:

Laura B. Badian, Counsel, at 202-418-5969, lbadian@cftc.gov, Gail Scott, Counsel, at 202-418-5139, gscott@cftc.gov, Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: The Commission has submitted a request for review and approval of an ICR titled “Exemptive Order Regarding Compliance with Certain Swap Regulations,” utilizing emergency review procedures in accordance with the PRA, 44 U.S.C. 3501 *et seq.*, and OMB regulation 5 CFR 1320.13. The Commission is initially requesting a six-month approval for this collection. The Commission plans to follow this emergency request with a request for a 3-year approval, through OMB’s normal clearance procedures of OMB regulation 5 CFR 1320.10.

I. Background on Proposed Information Collection Activities

A. Overview

Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), Public Law 111-203, 124 Stat. 1376 (2010) amended the Commodity Exchange Act (“CEA”) to establish a new statutory framework for swaps. To implement the Dodd-Frank Act, the Commission has

promulgated, or proposed, rules and regulations pursuant to the various provisions of the CEA, including those specifically applicable to swap dealers (“SDs”) and major swap participants (“MSPs”). The Dodd-Frank Act requires all swap dealers and major swap participants to be registered with the Commission. It contains definitions of “swap,” “swap dealer” and “major swap participant” but directs the Commission to adopt regulations that further define those terms. On May 23, 2012, the Commission adopted final regulations further defining the terms “swap dealer” and “major swap participant.” On July 10, 2012, the Commission adopted final regulations further defining the term “swap” and “security-based swap” in sections 712(d) and 721(c) of the Dodd-Frank Act (the “Products Definitions Final Rule”).² Registration of SDs and MSPs will become mandatory on the later of the effective date or the compliance date of the Products Definitions Final Rule.

Recently, the Commission approved for publication a proposed interpretive guidance and policy statement (“Cross-Border Interpretive Guidance”) on the application of the CEA’s swap provisions and the implementing Commission regulations to cross-border activities and transactions.³ The Commission is not expected to adopt the Cross-Border Interpretive Guidance prior to the date that registration of SDs and MSPs become mandatory (*i.e.*, the later of the effective date or compliance date) of the Products Definitions Final Rule.

Because the Cross-Border Interpretive Guidance is not expected to be adopted before the date upon which each then existing SD and MSP must apply for registration, the Commission has proposed to provide temporary relief under the Exemptive Order Regarding Compliance with Certain Swap Regulations (“Exemptive Order”) pursuant to section 4(c) of the CEA.⁴ Specifically, the proposed relief would allow non-U.S. SDs and non-U.S. MSPs to delay compliance with certain Entity-Level Requirements (as defined in the Exemptive Order) of the CEA (and

² See CFTC and Securities and Exchange Commission (“SEC”), Further Definition of “Swap,” “Security-Based Swap,” and “Security-Based Swap Agreement”; Mixed Swaps; Security-Based Swap Agreement Recordkeeping (July 10, 2012), available at <http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/federalregister071012c.pdf>.

³ See Cross-Border Application of Certain Swaps Provisions of the Commodity Exchange Act, 77 FR 41213, July 12, 2012.

⁴ See Exemptive Order Regarding Compliance with Certain Swap Regulations, 77 FR 41110, July 12, 2012.

¹ See 17 CFR 145.9.