45-day public comment period in September 1995.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 20, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

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BILLING CODE 3510–22–F

[I.D. 050195E]

Small Takes of Marine Mammals Incidental to Specified Activities; Lockheed Launch Vehicles at Vandenberg Air Force Base, CA

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

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization to take small numbers of harbor seals by harassment incidental to launches of Lockheed's launch vehicles (LLVs) at Space Launch Complex 6 (SLC–6), Vandenberg Air Force Base, CA (VAFB) has been issued.

EFFECTIVE DATE: This authorization is effective from July 18, 1995 until July 18, 1996.

ADDRESSES: The application and authorization are available for review in the following offices: Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 and the Southwest Region, NMFS, 501 West Ocean Blvd. Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, Marine Mammal Division, Office of Protected Resources at 301–713–2055, or Craig Wingert, Southwest Regional Office at 301–980–4021.

SUPPLEMENTARY INFORMATION:

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 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.

Permission may be granted if NMFS finds that the taking 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 the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth.

On April 30, 1994, the President signed Public Law 103–238, the Marine Mammal Protection Act Amendments of 1994. One part of this law added a new subsection 101(a)(5)(D) to the MMPA to establish an expedited process by which citizens of the United States can receive an authorization, without regulations, to incidentally take small numbers of marine mammals by harassment. New subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days after the comment period, NMFS must either issue, or deny issuance, of the authorization.

On March 13, 1995, NMFS received an application from Lockheed requesting an authorization for the harassment of small numbers of harbor seals (*Phoca vitulina*) incidental to LLV launches at SLC–6, VAFB. These launches would place commercial payloads into low earth orbit using its family of vehicles (LLV–1, LLV–2 and LLV–3). Because of the requirements for circumpolar trajectories of the LLV and its payloads, the use of SLC–6 is the only feasible alternative within the United States. Lockheed intends to launch approximately two LLVs during the period of this proposed 1-year authorization (Air Force, 1995)[1]. The noise associated with the launch itself and the resultant sonic boom have the potential to cause a startle response to harbor seals that haul out on the coastline south and southwest of VAFB and possibly on the northern Channel Islands. Launch noise would be expected to occur over the coastal habitats in the vicinity of SLC–6 while low-level sonic booms potentially could be heard on the Channel Islands, specifically San Miguel Island (SMI) and Santa Rosa Island.

A notice of receipt of the application and the proposed authorization was published on May 10, 1995 (60 FR 24840) and a 30-day public comment period was provided on the application and proposed authorization. During the comment period, one comment was received. The Marine Mammal Commission recommended that NMFS (1) determine whether additional marine mammals should be included in the authorization; (2) justify the conclusion that no harbor seals, including pups, would be killed or seriously injured during launches; and (3) demonstrate that only small numbers of harbor seals or other marine mammals would be taken. These recommendations are discussed in detail below. Other than information necessary to respond to the comments, additional background information on the activity and request can be found in the above-mentioned notice and needs not be repeated here.

1. Determine whether additional marine mammals should be included in the authorization. While there are approximately 29 species of cetaceans and 6 species of pinnipeds that have the potential to be under the flight path of the LLV and thereby subject to hearing either launch or sonic boom noise, only harbor seals are expected to haul out along the coast at VAFB and be subject to taking by harassment. Launch noises, which are predicted to be about 93 dBA (118 dB) at the principal haulout at Rocky Point, are expected to be almost unnoticeable offshore. In order to be detectable by a marine mammal, noise needs to be greater than ambient within the same frequency band as the animal's hearing range. With launch noises attenuating to approximately 85 dBA within 2.5 km offshore, and ambient noise level expected to range between 56 and 96 dBA (Lockheed, 1995), there is no scientific evidence that any marine mammals, other than harbor seals onshore at the time of launch, would be subject to harassment by launch noises, although the potential does exist that other marine mammal species may hear the launch noise.

Sonic booms resulting from launches of the LLV vary with the type of vehicle, vehicle trajectory and the specific ground location. Sonic booms are not expected to intersect with the ocean surface until the vehicle changes its launch trajectory. This location will vary depending upon the LLV type, but will be well offshore. For example, the sonic boom from LLV–3 (the largest of the LLV rockets) is not expected to intersect any portion of the northern Channel Islands, but instead will focus approximately 37 miles from the launch site, in open water southwest of the Channel Islands.

The maximum magnitude of sonic booms from launches of the LLV–1 (6.3 lb/ft^2 (psf)/130.7.6 dB), LLV–2 (3.5 psf/125.6 dB) and the LLV–3 (3.5 psf/125.6 dB), as predicted by Lockheed, will be less than those measured for other launch vehicles, such as the Titan IV and the Space Shuttle (10 psf), for

[1] A list of references used in this document can be obtained by writing to the address provided above (see **ADDRESSES**).

which small take authorizations for harassment have been issued previously (see 56 FR 41628, August 22, 1991 and 51 FR 11737, April 7, 1986). Also, while it is predicted that launches of the LLV–1 and LLV–2 will produce sonic booms over portions of the Channel Islands, the maximum overall sound pressure levels over the islands are not expected to exceed 80 dBA and in most cases will not exceed 70 dBA (Air Force, 1995). These sonic boom levels are likely to be indistinguishable from background noises caused by wind and surf (Air Force, 1995). Furthermore, as the expected noise level is well below the threshold response criteria of 101.8 dBA identified during previous research on harbor seal behavior resulting from sonic booms (Stewart et al., 1993), and as harbor seals have shown themselves to be more sensitive to noise than other species of seals and sea lions (Bowles and Stewart, 1980) and, therefore, more likely to flee to the water than other pinniped species, there is no evidence that either harbor seals or other pinniped species on the Channel Islands would be impacted by sonic booms from LLVs. However, to ensure that this assumption is valid, NMFS will require acoustic monitoring of the first launch of each type of LLV that takes place at the same time that pinnipeds are hauled out on SMI to determine sound pressure levels. If noise levels exceed the predicted levels, and/or there are indications that pinnipeds responded to the sonic booms, Lockheed will be requested to seek a modification to its authorization to include pinnipeds on the Channel Islands.

Cetaceans and pinnipeds in the water should also be unaffected by the sonic booms, although, depending upon location and ambient noise levels, they may be able to hear the sonic boom. First, sound entering a water surface at an angle greater than 13 degrees from the vertical has been shown to be largely deflected at the surface with very little sound entering the water (Chappell, 1980; Richardson et al., 1991), although rough seas may provide some surfaces at the proper angle for penetration (Richardson et al., 1991). As this area is relatively small, the chance that a marine mammal would be within it and thereby capable of hearing the sonic boom is low. Also, Chappell (1980) believes that a sonic boom would need to have a peak overpressure in the range of 138 to 169 dB to cause a temporary hearing threshold shift (TTS) in marine mammals, lasting at most a few minutes. Therefore, with the likelihood that a marine mammal will be directly under the line of flight of the LLV being remote, and with the LLVs having overpressures below the threshold for potentially causing TTS in marine mammals, NMFS believes that sonic booms are not likely to result in the harassment of cetacean or pinniped populations in offshore southern California.

2. Justify the conclusion that no harbor seals, including pups, would be killed or seriously injured during launches. NMFS is not aware of any Titan IV launchings by the U.S. Air Force during the harbor seal pupping season (February through end of May (post-weaning)); direct observations to conclude whether harbor seal pups would be incidentally killed or seriously injured during launches or not is therefore not available. However, several studies on other pinniped species support this assumption. First, Stewart (1981, 1982) exposed breeding California sea lions and northern elephant seals on San Nicolas Island to loud implosive noises created by a carbide pest control cannon. Sound pressure levels varied from 125.7 to 146.9 dB. While behavioral responses of each species varied by sex, age, and season, Stewart found that habitat use, population growth, and pup survival of both species appeared unaffected by periodic exposure to the noise. In addition, while monitoring the August 2, 1993, Titan IV launch, Stewart et al. (1993) reported that the rocket explosion created a sonic boom-like pressure wave that caused approximately 45 percent of the California sea lions (approximately 23,400, including 14 to 15 thousand 1-month old pups, were hauled-out on SMI during the launch) and 2 percent of the northern fur seals to enter the surf zone. Although approximately 15 percent of the sea lion pups were temporarily abandoned when their mothers fled into the surf, no injuries or mortalities were observed. After forming rafts offshore, most animals returned to shore within 2 hours of the disturbance (Stewart et al., 1993). However, to ensure that no harbor seals (or other pinnipeds) are killed or seriously injured by launchings of LLVs, monitoring of the impact of LLV launches on the harbor seal haulouts at Rocky Point or in the absence of harbor seals at that location, at another South VAFB location, and on the northern part of SMI during the 1-year period of authorization will be required.

3. Demonstrate that only small numbers of harbor seals or other marine mammals would be taken. Based upon the information discussed above, NMFS believes that only those harbor seals hauled out along the coast of VAFB at the time of either of the two planned launches could potentially be taken by harassment. As the population at this haulout numbers fewer than 500 animals at the peak haulout time of the year (Lockheed, 1995), and as only a portion of the population is expected to react to launch noises, NMFS considers that this authorization will result in the taking by harassment of only a small number of harbor seals and have a negligible impact on the species.

Therefore, since NMFS is assured that the taking will not result in more than the harassment (as defined by the MMPA Amendments of 1994) of a small number of harbor seals, would have only a negligible impact on the species, and would result in the least practicable impact on the stock, NMFS has determined that the requirements of section 101(a)(5)(D) have been met and the authorization can be issued.

Dated: July 19, 1995.

Patricia A. Montanio,

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

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[I.D. 071995A]

New England Fishery Management Council; Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a public meeting to review and approve a public hearing document and a Draft Supplemental Impact Statement (DSEIS) for Amendment #7 to the Council's multispecies fishery management plan.

DATES: The meeting will be held on August 2, 1995, at 9:00 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, Route 1, (1 Newbury Street), Peabody, MA 01960; telephone: (508) 535–4600.

Council address: New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1097.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council; telephone: (617) 231–0422.

SUPPLEMENTARY INFORMATION: The public hearing document will describe the alternatives currently under active consideration by the Council for eliminating overfishing and rebuilding