

foraging ecology of California sea lions. This research will help determine the ability of these animals to adapt to environmental change. Over the course of five years, up to twenty animals will be captured, flipper tagged, anesthetized, and equipped with a backpack blood oxygen recorder during foraging trips to sea. Animals will be recaptured after the foraging trip to remove the recorders. Research will occur on San Nicolas Island off the coast of California. Annually, up to 6,000 California sea lions, 500 harbor seals (*Phoca vitulina*), 1,000 northern elephant seals (*Mirounga angustirostris*), and 150 northern fur seals (*Callorhinus ursinus*) may be incidentally harassed during research. The permit is valid until February 1, 2015.

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

Dated: January 20, 2010.

**Tammy C. Adams,**

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

[FR Doc. 2010-1494 Filed 1-25-10; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Materials Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Technical Advisory Committee will meet on February 11, 2010, 10 a.m., Herbert C. Hoover Building, Room 6087B, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

#### Agenda

##### Open Session

1. Opening Remarks and Introduction.
2. Remarks from the Bureau of Industry and Security Management.
3. Industry Presentation on Composite Technology.
4. Report of Composite Working group and ECCN review subgroup.
5. New business.

##### Closed Session

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at [Yspringer@bis.doc.gov](mailto:Yspringer@bis.doc.gov) no later than February 4, 2010.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the materials should be forwarded prior to the meeting to Ms. Springer via e-mail.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 18, 2009, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the portion of the meeting dealing with matters the premature disclosure of which would likely frustrate the implementation of a proposed agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482-2813.

Dated: January 19, 2010.

**Yvette Springer,**

*Committee Liaison Officer.*

[FR Doc. 2010-1347 Filed 1-25-10; 8:45 am]

**BILLING CODE 3510-JT-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-AW91**

#### Taking and Importing Marine Mammals; U.S. Navy Training in the Southern California Range Complex

**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), as amended, and implementing regulations, notice is hereby given that NMFS has issued a letter of authorization (LOA) to the U.S. Navy (Navy) to take marine mammals incidental to Navy training, maintenance, and research, development, testing, and evaluation (RDT&E) activities to be conducted within the Southern California (SOCAL) Range Complex, which extends south and southwest off the southern California coast, for the period of January 22, 2010, through January 21, 2011.

**DATES:** This Authorization is effective from January 22, 2010, through January 21, 2011.

**ADDRESSES:** The LOA and supporting documentation may be obtained by writing to P. Michael Payne, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, or by telephoning one of the contacts listed here.

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

**SUPPLEMENTARY INFORMATION:** Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, upon request, the incidental taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing), if certain findings are made by NMFS and regulations are issued. Under the MMPA, the term "take" means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill marine mammals.

Regulations governing the taking of marine mammals by the Navy incidental to training, maintenance, and RDT&E in the SOCAL Range Complex became effective on January 14, 2009 (74 FR 3881, January 21, 2009), and remain in effect through January 13, 2014. For detailed information on this action, please refer to that document. These regulations include mitigation, monitoring, and reporting requirements and establish a framework to authorize incidental take through the issuance of LOAs.

#### Summary of Request

On November 3, 2009, NMFS received a request from the Navy for a renewal of an LOA issued on January 22, 2009, for the taking of marine mammals incidental to training and research activities conducted within the SOCAL Range Complex under regulations issued on January 14, 2009 (74 FR 3881, January 21, 2009). NMFS received an addendum to the request on December

28, 2009. The Navy has complied with the measures required in 50 CFR 216.274 & 216.275, as well as the associated 2009 LOA, and submitted the reports and other documentation required in the final rule and the 2009 LOA.

#### Summary of Activity under the 2009 LOA

As described in the Navy's exercise reports (both classified and unclassified), in 2009, the training activities conducted by the Navy were within the scope and amounts contemplated by the final rule and authorized by the 2009 LOA. In fact, the amount of sonar use in 2009 was less than planned such that a recalculation of marine mammal takes suggests a reduction of 34% below the number estimated in the 2009 LOA.

#### Planned Activities for 2010

In 2010, the Navy expects to conduct the same type and general amount of training identified in the final rule and 2009 LOA, with a few increases in three sound source types.

Following are the modifications:

- The Navy anticipates an increase in the use of Extended Echo Ranging (EER)/Improved Extended Echo Ranging (IEER) SSQ-110A sonobuoys. Use will likely increase from 54 to 1675 sonobuoys annually.

- The Navy anticipates an increase in the use of Advanced Echo Ranging (AEER) SSQ-125 sonobuoys. Use will likely increase from 54 to 1150 sonobuoys annually.

- The Navy anticipates an increase in the use of the AN/SLQ-25 NIXIE towed countermeasure. Use will likely increase from 227 to 1600 hours annually.

While these modifications to Navy training are not expected to change the nature of the anticipated impacts to marine mammals, they are expected to result in minor increases in the number of individuals taken. However, when these increases are contemplated in light of the overall underuse of sonar proposed and actually used in 2009 (and the likelihood of the same in 2010), NMFS has determined the anticipated takes in 2010 will not effect marine mammals in a manner not previously considered or analyzed in NMFS' final rule and other associated documents.

#### Estimated Impacts for 2010

The Navy recalculated the estimated number of marine mammal takes based on the projected modifications in IEER, AEER, and NIXIE use (see the Navy's addendum to the LOA renewal application) and the result was a projected increase of between 0 and 111

takes annually for most species, with higher increases (590 and 293, respectively) for the very abundant California sea lion and short beaked common dolphin. These Navy estimates were based on projected increases in IEER, AEER, and NIXIE use and the original planned amount of use of the other sound sources. However, when these projected increases are balanced against the fact that the Navy used substantively fewer hours of other sonar sources in 2009, the authorization of the same amount of take for 2010 as was authorized in 2009 is appropriate. The anticipated training modifications will not affect marine mammals in a manner not previously considered or analyzed in NMFS' final rule and other associated documents.

#### Summary of Monitoring, Reporting, and other requirements under the 2009 LOA

##### Annual Exercise Reports

The Navy submitted their classified and unclassified 2009 exercise reports within the required timeframes and the unclassified report is posted on NMFS website: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. NMFS has reviewed both reports and they contain the information required by the 2009 LOA. The reports indicate the amounts of different types of training that occurred from January 8, 2009, through August 1, 2009, and estimate the amounts of training occurring from August 2, 2009, through January 7, 2010. As mentioned above, the amount of sonar use in SOCAL in 2009 was less than planned (e.g., 2 of 4 planned COMPTUEXs and 2 of 4 planned JTFEXs (both major exercises) were conducted) such that a recalculation of marine mammal takes suggests a reduction of 34% below the number estimated in the 2009 LOA.

The reports also list specific information gathered when marine mammals were detected by Navy watchstanders, such as how far an animal was from the vessel, whether sonar was in use, and whether it was powered or shut down. This information indicates that the Navy implemented the safety zone mitigation measures as required. No instances of obvious behavioral disturbance were reported by the Navy watchstanders in their 358 marine mammal sightings totaling 2683 animals.

##### Monitoring and Annual Monitoring Reports

The Navy conducted the monitoring required by the 2009 LOA and described in the Monitoring Plan, which included

aerial and vessel surveys of sonar and exercises, passive acoustic monitoring utilizing high frequency acoustic recording packages (HARPs), and marine mammal tagging and tracking. The Navy submitted their 2009 Monitoring Report, which is posted on NMFS' website (<http://www.nmfs.noaa.gov/pr/permits/incidental.htm>), within the required timeframe. The Navy included a summary of their 2009 monitoring effort and results (beginning on page 66 of the monitoring report) and the specific reports for each individual effort are presented in the appendices. Because data is gathered through August 1 and the report is due in October, some of the data analysis will occur in the subsequent year's report.

##### Integrated Comprehensive Management Program (ICMP) Plan

The ICMP will be used both as: (1) a planning tool to focus Navy monitoring priorities (pursuant to ESA/MMPA requirements) across Navy Range Complexes and Exercises; and (2) an adaptive management tool, through the consolidation and analysis of the Navy's monitoring and watchstander data, as well as new information from other Navy programs (e.g., R&D), and other appropriate newly published information. The Navy finalized a 2009 ICMP Plan outlining the program on December 22, 2009, as required by the 2009 LOA. The ICMP may be viewed at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

The ICMP is a program that will be in place for years and NMFS and Navy anticipate the ICMP may need to be updated yearly in order to keep pace with new advances in science and technology and the collection of new data. In the 2009 ICMP Plan, the Navy outlines three areas of targeted development for 2010, including:

- Identifying more specific monitoring sub-goals under the major goals that have been identified
- Characterizing Navy Range Complexes and Study Areas within the context of the prioritization guidelines described here
- Continuing to Develop Data Management, Organization and Access Procedures

##### Stranding Response Plan

NMFS and the Navy developed a Stranding Response Plan for SOCAL and certain components of the Plan were included as mitigation measures in the 2009 LOA. The Navy was required to work with NMFS to develop a communication plan to facilitate response and information exchange in

the event of a marine mammal stranding event. The communication plan was completed and disseminated to the necessary NMFS and Navy staff, although it is not available to the public because it contains personal information.

The Navy was also required to work with NMFS to develop a Memorandum of Agreement (MOA), or other mechanism consistent with federal fiscal law requirements to establish a framework whereby the Navy can assist NMFS with stranding investigations in certain circumstances. NMFS and the Navy have developed a draft memorandum of understanding (MOU) that is currently under review at both agencies. The MOU includes agreement between the NMFS and the Navy to further develop regional stranding investigation assistance plans to identify regional assets, equipment, locations, or services that Navy may be able to provide and the process by which this will operate within a given geographic area.

#### *Adaptive Management and 2010 Monitoring Plan*

NMFS and the Navy conducted an adaptive management meeting in October, 2009 wherein we reviewed the Navy monitoring results through August 1, 2009, discussed other Navy research and development efforts, and discussed other new information that could potentially inform decisions regarding Navy mitigation and monitoring. Because this is the first year of the regulation's period of effectiveness, the review only covered about 7 months of monitoring, which limited NMFS and the Navy's ability to undertake a robust review of the Navy's exercises and their effects on marine mammals. Based on the implementation of the 2009 monitoring, the Navy proposed some minor modifications to their monitoring plan for 2010, which NMFS agreed were appropriate. Beyond those changes, none of the information discussed led NMFS to recommend any modifications to the existing mitigation or monitoring measures. The final modifications to the monitoring plan and justifications are described in Section 13 of the Navy's 2010 LOA Application, which may be viewed at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. As additional data is obtained in subsequent years, NMFS and Navy will be better positioned to conduct more extensive reviews and modify existing mitigation and monitoring measures, if appropriate.

#### **Whale Strikes in 2009**

In their SOCAL Range Complex Environmental Impact Statement (EIS), the Navy, in consultation with NMFS as a cooperating agency, determined that take of marine mammals incidental to ship strike was unlikely. Therefore, the Navy did not request (nor did NMFS grant) MMPA authorization for take of marine mammals from ship strikes in the 2009 SOCAL Range Complex LOA, nor was that take contemplated in the final SOCAL Range Complex regulations.

Following the issuance of these regulations and the LOA, two incidents occurred in which a Navy vessel associated with the activities covered by the regulations collided with and injured or killed (one strike resulted in a confirmed death, the ultimate status of the other whale is unknown) a large whale, one of which was later identified as a fin whale. Of note, in both cases the Navy was in compliance with the mitigation and monitoring measures required by the rule and LOA and contacted NMFS in a timely manner and provided the specific information outlined in the SOCAL Stranding Response Plan for whale strikes, as well as additional information.

In light of this new information NMFS is developing a proposed rule to amend the 2009 SOCAL Range Complex regulations. NMFS' proposed regulations would establish a framework to authorize the incidental take of large whales by injury or mortality from the remainder of the five-year regulatory period.

#### **Authorization**

The Navy complied with the requirements of the 2009 LOA. Based on our review of the record, NMFS has determined that the marine mammal take resulting from the 2009 military readiness training and research activities falls within the levels previously anticipated, analyzed, and authorized, and was likely lower given the fact that Navy conducted fewer operations in 2009 than originally planned. Further, the level of taking authorized in 2010 for the Navy's SOCAL Range Complex activities is consistent with our previous findings made for the total taking allowed under the SOCAL Range Complex regulations. Finally, the record supports NMFS' conclusion that the total number of marine mammals taken by the 2010 activities in the SOCAL Range Complex will have no more than a negligible impact on the affected species or stock of marine mammals and will not have an unmitigable adverse impact on the

availability of these species or stocks for taking for subsistence uses. Accordingly, NMFS has issued a one-year LOA for Navy training exercises conducted in the SOCAL Range Complex from January 22, 2010, through January 21, 2011.

Dated: January 20, 2010

**James H. Lecky,**

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

[FR Doc. 2010-1491 Filed 1-25-10; 8:45 am]

**BILLING CODE 3510-22-S**

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

**RIN 0648-AW86**

#### **Taking and Importing Marine Mammals; U.S. Navy Training in the Hawaii Range Complex**

**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), as amended, and implementing regulations, notice is hereby given that NMFS has issued a letter of authorization (LOA) to the U.S. Navy (Navy) to take marine mammals incidental to training and research activities conducted within the Hawaii Range Complex (HRC) for the period of January 15, 2010 through January 14, 2011.

**DATES:** This Authorization is effective from January 15, 2010, through January 14, 2011.

**ADDRESSES:** The LOA and supporting documentation may be obtained by writing to P. Michael Payne, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, or by telephoning one of the contacts listed here.

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

**SUPPLEMENTARY INFORMATION:** Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, upon request, the incidental taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing), if certain findings are made by NMFS and regulations are issued. Under the MMPA, the term "take" means to harass, hunt, capture, or