

Dated: March 15, 2007.

**P. Michael Payne,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 022007C]

#### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Rocket Launches at Vandenberg Air Force Base, CA

**AGENCY:** National Marine Fisheries  
Service, National Oceanic and  
Atmospheric Administration,  
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, notification  
is hereby given that a 1-year letter of  
authorization (LOA) has been issued to  
the 30th Space Wing, U.S. Air Force, to  
take four species of seals and sea lions  
incidental to rocket and missile  
launches on Vandenberg Air Force Base  
(VAFB), California.

**DATES:** Effective March 17, 2007,  
through March 16, 2008.

**ADDRESSES:** The LOA and supporting  
documentation are available for review  
by writing to P. Michael Payne, Chief,  
Permits, Conservation, and Education  
Division, Office of Protected Resources,  
National Marine Fisheries Service  
(NMFS), 1315 East-West Highway,  
Silver Spring, MD 20910-3225 or by  
telephoning one of the contacts listed  
below (see **FOR FURTHER INFORMATION  
CONTACT**). Documents cited in this  
notice may be viewed, by appointment,  
during regular business hours, at the  
aforementioned address and at the  
Southwest Regional Office, NMFS, 501  
West Ocean Boulevard, Suite 4200,  
Long Beach, CA 90802.

**FOR FURTHER INFORMATION CONTACT:** Jolie  
Harrison or Candace Nachman, Office of  
Protected Resources, NMFS, (301) 713-  
2289, or Monica DeAngelis, NMFS,  
(562) 980-3232.

#### 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, upon 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  
Pacific harbor seals (*Phoca vitulina  
richardsi*), northern elephant seals  
(*Mirounga angustirostris*), California sea  
lions (*Zalophus californianus*), and  
northern fur seals (*Callorhinus ursinus*),  
by harassment, incidental to missile and  
rocket launches, aircraft flight test  
operations, and helicopter operations at  
VAFB, were issued on February 6, 2004  
(69 FR 5720), and remain in effect until  
February 6, 2009. For detailed  
information on this action, please refer  
to that document. These regulations  
include mitigation, monitoring, and  
reporting requirements for the  
incidental take of marine mammals  
during missile and rocket launches at  
VAFB.

This LOA is effective from March 17,  
2007 through March 16, 2008 and  
authorizes the incidental take of the four  
marine mammal species listed above  
that may result from the launching of up  
to 30 space and missile vehicles and up  
to 20 rockets annually from VAFB, as  
well as from aircraft and helicopter  
operations. Harbor seals haul-out on  
several sites on VAFB, and harbor seals,  
California sea lions, elephant seals, and  
northern fur seals are found on various  
haul-out sites and rookeries on San  
Miguel Island (SMI). Currently, five  
space launch vehicle programs use  
VAFB to launch satellites into polar  
orbit: Atlas IIAS, Delta II, Minotaur,  
Taurus, and Titan (II and IV). Also a

variety of small missiles, several types  
of interceptor and target vehicles, and  
fixed-wing aircraft are launched from  
VAFB.

The activities under these regulations  
create two types of noise: continuous  
(but short-duration) noise, due mostly to  
combustion effects of aircraft and  
launch vehicles, and impulsive noise,  
due to sonic boom effects. Launch  
operations are the major source of noise  
on the marine environment from VAFB.  
The operation of launch vehicle engines  
produces significant sound levels. The  
noise generated by VAFB activities will  
result in the incidental harassment of  
pinnipeds, both behaviorally and in  
terms of physiological (auditory)  
impacts. The noise and visual  
disturbances from space launch vehicle  
and missile launches and aircraft and  
helicopter operations may cause the  
animals to move towards or enter the  
water. Take of pinnipeds will be  
minimized through implementation of  
the following mitigation measures: (1)  
all aircraft and helicopter flight paths  
must maintain a minimum distance of  
1,000 ft (305 m) from recognized seal  
haul-outs and rookeries; (2) missile and  
rocket launches must, whenever  
possible, not be conducted during the  
harbor seal pupping season of March  
through June; (3) VAFB must avoid,  
whenever possible, launches which are  
predicted to produce a sonic boom on  
the Northern Channel Islands during  
harbor seal, elephant seal, and  
California sea lion pupping seasons,  
March through June; and 4) monitoring  
methods will be reviewed by NMFS if  
post-launch surveys determine that an  
injurious or lethal take of a marine  
mammal occurred. VAFB will also use  
monitoring surveys, audio-recording  
equipment, and time-lapse video to  
monitor the animals before, during, and  
after rocket launches, and to measure  
sound levels generated by the launches.  
Reports will be submitted to NMFS after  
each LOA expires, and a final report  
will be submitted before the rule  
expires.

#### Summary of Request

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

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

In compliance with the 2006 LOA,  
VAFB submitted an annual report on  
the rocket launches at VAFB. A

summary of that report (SRS Technologies, 2007) follows.

A total of five space vehicle launches and five launches of other vehicle types

were conducted at VAFB between January 1, 2006, and December 31, 2006. The dates, locations, and monitoring

required for the launches are summarized in Tables 1 and 2.

TABLE 1. SUMMARY OF SPACE VEHICLE LAUNCHES AND MONITORING THAT OCCURRED AT VAFB IN 2006.

Vehicle	Date	Time	Launch Site	Monitoring Conducted
Minotaur COSMIC	14-Apr	18:40	SLC-8	South VAFB
Delta II CLOUDSAT & CALIPSO	28-Apr	3:02	SLC-2	North VAFB and SMI
Delta IV NROL-22	27-Jun	20:33	SLC-6	South VAFB and SMI
Delta IV DMSP-17	4-Nov	5:53	SLC-6	South VAFB
Delta II NROL-21	14-Dec	13:00	SLC-2	SMI

TABLE 2. SUMMARY OF OTHER LAUNCHES AND MONITORING THAT OCCURRED AT VAFB IN 2006.

Vehicle	Date	Time	Launch Site	Monitored
Minuteman III SERV-3	16-Feb	0:01	LF-10	No
Minuteman III GT 190-GM	7-Apr	6:00	LF-26	Yes
Minuteman III GT 191-GM	14-Jun	1:22	LF-04	Yes
Minuteman III GT 192-GT	20-Jul	3:14	LF-09	No
Ground based Interceptor FTG-02	1-Sep	10:39	LF-23	No

Two of the Minuteman III and the one Ground Based Interceptor launches occurred outside of the harbor seal pupping season, and a sonic boom of greater than 1 lb/ft<sup>2</sup> (psf) was not predicted to occur at SMI as a result of the launch; therefore, no biological monitoring was required or conducted. With the exception of the Delta IV NROL-22 and Delta IV DMSP-17, acoustic measurements of all of the vehicles launched in 2006 had previously been taken and were not required or conducted again.

VAFB also conducted 578 helicopter flights and 13,644 airfield operations in 2006. There were no observed effects to pinnipeds from these activities. Also, no sea lion pups were born on VAFB in 2006.

#### *Minotaur COSMIC*

Although no sonic boom greater than 1 psf was predicted at SMI, the Minotaur COSMIC vehicle was launched during the harbor seal pupping season; therefore, monitoring was required at VAFB. Monitoring surveys at First Ledge and Flat Iron Rock haul-out sites in the days surrounding the launch revealed between 28 and 149 adult and juvenile seals and between nine and 29 pups. Between 11 and 76 seals and five to 29 pups were found at the Amphitheatre, Brokeback, and Weaner Cove haul-out and pupping sites in the days just preceding and following the launch. The highest numbers of seals and pups were seen on April 15, the day after the launch. A video recording during the launch showed 23 of the 24 harbor seals present at the First Ledge haul-out site

entering the water at the time of the launch. The remaining seal stopped just short of entering the water. No seals were seen returning to the beach within 13 minutes of the launch, at which point darkness occurred. A harbor seal pup was found "fresh dead" 18 hours post-launch at the First Ledge haul-out site. This is discussed in further detail below.

#### *Delta II CLOUDSAT & CALIPSO*

The Delta II CLOUDSAT & CALIPSO rocket was launched during harbor seal pupping season, and a sonic boom of greater than 1 psf was predicted to reach SMI, so monitoring was required at both SMI and VAFB. At the Spur Road haul-out site on north VAFB, a maximum of 47 seals were seen during pre-launch surveys, and a maximum of 27 were seen in the days immediately following the launch. No pups were seen in the days surrounding the launch. No video recording was made because of the early hour of the launch. Point Bennett and Otter Harbor haul-out sites were monitored on SMI on the days surrounding the launch. Approximately 250 California sea lions and 100 northern elephant seals were seen. No sonic boom was heard by the monitors or registered on the acoustic monitoring equipment. There was no evidence of injury, mortality, or abnormal behavior in any harbor seals at VAFB or the monitored pinnipeds on SMI as a result of this launch.

#### *Delta IV NROL-22*

The Delta IV NROL-22 was launched during harbor seal pupping season, and a sonic boom of greater than 1 psf was

expected to reach SMI; therefore, monitoring was required at both SMI and VAFB. Diurnal observations were conducted at Flat Iron Rock on south VAFB between 23 and 29 June. Pre-launch counts recorded a maximum of 263 seals and no dependent pups, and post-launch counts found a maximum of 243 seals and no dependent pups. A follow-up survey on 7 July recorded between 127 and 205 seals. Video recording during the launch was not possible because it was too dark. Monitors also surveyed Glass Float Beach on SMI from 25 through 29 June. A sonic boom was heard. All of the sea lions raised their heads. Thirty percent entered the water; 40 percent moved rapidly to the waterline but did not enter; and the remaining 30 percent stood alert and gradually moved toward the wave slopes. All harbor seals present immediately entered the water and swam away. There was no evidence of injury or mortality to any pinnipeds monitored on VAFB or SMI as a result of this launch. Due to an equipment malfunction during the calibration period, the amplitude of the sonic boom could not be determined. Additional measurements for this vehicle will be taken in the future.

#### *Delta IV DMSP-17*

Though no sonic boom greater than 1 psf was predicted at SMI, and the launch occurred outside of the harbor seal pupping season, monitoring was still required for the Delta IV DMSP-17 launch, as per the implementing regulations (69 FR 5720, February 6, 2004). According to the regulations, acoustic and biological monitoring is

required for the first three launches of the Delta IV vehicle. Diurnal observations were made at Flat Iron Rock on south VAFB. Pre-launch counts indicate a daily maximum of seals ranging between 26 and 87 seals and between 11 and 68 seals post-launch. No dependent pups were seen in the days surrounding the launch. As the launch occurred in the pre-dawn hours, no video recording was taken. It is unknown if any seals were present at the time of the launch; however, the high level of the tide indicates that it is unlikely. The 1-hour average sound level during the hour of the Delta IV launch was 69.1 decibels (dB), approximately 17 dB above the average background noise levels at this site.

Two juvenile harbor seals (approximately seven months old) were captured for hearing tests using auditory brainstem response (ABR) technique just prior to the Delta IV DMSP-17 launch under Scientific Research Permit No. 859-1680. They were held for a total of 2 days, and were ABR tested prior to and then again after the launch. Each seal was fitted with a plastic numbered tag in the hind flipper and a VHF radio transmitter immediately prior to release. There was no evidence indicating that the launch noise from the Delta IV caused a loss in hearing acuity. There was no evidence of injury, mortality, or abnormal behavior in any of the monitored harbor seals at VAFB as a result of this launch.

#### *Delta II NROL-21*

No monitoring was conducted on VAFB for the Delta II NROL-21 launch since it occurred outside of the harbor seal pupping season. However, biological and acoustic monitoring were conducted on SMI. Survey counts found 521 sea lions and 75 northern elephant seals. No sonic boom was heard or recorded. There was no evidence of injury, mortality, or abnormal behavior of any monitored pinnipeds on SMI as a result of this launch.

#### *Minuteman III*

Two of the Minuteman III launches (7 April and 14 June) occurred during the harbor seal pupping season, so monitoring was required at VAFB. Between seven and 16 seals and one dependent pup were seen in the days surrounding the April 7 launch at Lion's Head haul-out site. Between five and 11 seals and one weaned pup were seen at the same site in the days surrounding the June 14 launch. Video recordings were not possible during the time of either launch due to darkness. However, it is unlikely that any seals were present since the launches occurred during high

tide. There was likely only a small, temporary effect on hearing, if any.

#### **Harbor Seal Pup Mortality**

One dead harbor seal pup was observed at First Ledge on VAFB on April 15, approximately 18 hours post-launch of the Minotaur COSMIC rocket. The pup appeared to be "fresh dead" when first observed at 1430 PDT. VAFB monitors were unable to determine if the death was related to the launch. The area where the pup was found has a lot of ledges and caves, making it difficult to see all areas at the site. It is possible the pup washed up dead on the beach, but there is no way to know for certain. The animal did not show any signs of being orphaned. Gulls were already pecking at the carcass when it was discovered, so there was no way to assess the injuries. Also, approaching the animal would have disturbed other mother/pup pairs on the beach.

Additional conditions have been added to the 2007 LOA relating to serious injury and mortality. No take by serious injury or mortality is authorized in the LOA. VAFB is required to immediately contact staff at the NMFS Office of Protected Resources, Permits, Conservation, and Education Division, as well as staff at the Southwest Regional Office, NMFS if a dead pinniped is found during the monitoring period following a launch. In addition, the National Stranding Network must be notified immediately so that personnel can retrieve the carcass for examination, whenever possible. Every attempt will be made to collect a dead pinniped carcass discovered within 48 hours following a launch provided that the collection does not result in the disturbance (flushing) of other animals from the site. Any carcasses collected will be transferred to the Long Marine Laboratory in Santa Cruz, California for complete necropsy.

#### **Authorization**

The U.S. Air Force complied with the requirements of the 2006 LOA, and NMFS has determined that the marine mammal take resulting from the 2006 launches is within that analyzed in and anticipated by the associated regulations. Accordingly, NMFS has issued a LOA to the 30th Space Wing, U.S. Air Force authorizing the take by harassment of marine mammals incidental to missile and rocket launches at VAFB. Issuance of this LOA is based on findings described in the preamble to the final rule (67 FR 5720, February 6, 2004) and supported by information contained in VAFB's 2006 annual report that the activities described under this LOA will result in

the take of small numbers of marine mammals, will have a negligible impact on marine mammal stocks, and will not have an unmitigable impact on the availability of the affected marine mammal stocks for subsistence uses.

Dated: March 13, 2007.

**James H. Lecky,**

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

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## **DEPARTMENT OF COMMERCE**

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

[I.D. 031607A]

#### **Pacific Fishery Management Council; Public Meetings**

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

**DATES:** The Council and its advisory entities will meet April 2-6, 2007. The Council meeting will begin on Monday, April 2, at 2 p.m., reconvening each day through Friday. All meetings are open to the public, except a closed session will be held from 2 p.m. until 3 p.m. on Monday, April 2 to address litigation and personnel matters. The Council will meet as late as necessary each day to complete its scheduled business.

**ADDRESSES:** The meetings will be held at the Seattle Marriott Hotel, 3201 South 176th Street, Seattle, WA 98188; telephone: (206) 241-2000.

*Council address:* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

**FOR FURTHER INFORMATION CONTACT:** Dr. Donald O. McIsaac, Executive Director; telephone: (503) 820-2280.

**SUPPLEMENTARY INFORMATION:** The following items are on the Council agenda, but not necessarily in this order:

#### **A. Call to Order**

1. Opening Remarks and Introductions
2. Roll Call
3. Executive Director's Report
4. Approve Agenda

#### **B. Enforcement Issues**

1. U. S. Coast Guard Annual Fishery Enforcement Report