

shallow hazards survey in the Chukchi Sea.

Endangered Species Act (ESA)

There are three marine mammal species listed as endangered under the ESA with confirmed or possible occurrence in the project area: The bowhead, humpback, and fin whales. NMFS' Permits, Conservation and Education Division consulted with NMFS' Protected Resources Division under section 7 of the ESA on the issuance of an IHA to Statoil under section 101(a)(5)(D) of the MMPA for this activity. A Biological Opinion was issued on July 22, 2011, which concludes that issuance of an IHA is not likely to jeopardize the continued existence of the fin, humpback, or bowhead whale. NMFS has issued an Incidental Take Statement under this Biological Opinion which contains reasonable and prudent measures with implementing terms and conditions to minimize the effects of take of listed species.

National Environmental Policy Act (NEPA)

In 2010, NMFS prepared an EA and issued FONSI for open-water seismic and marine surveys in the Beaufort and Chukchi seas by Shell and Statoil. A review of Statoil's proposed 2011 open-water shallow hazards surveys indicates that the planned action is essentially the same as the marine survey conducted by Shell in 2010, but on a smaller scale. In addition, the review indicated that there is no significant change in the environmental baselines from those analyzed in 2010. Therefore, NMFS has prepared a Supplemental EA which incorporates by reference the 2010 EA and other related documents and updates the activity to reflect the lower impacts compared to the previous season. A FONSI was issued for this action on July 21, 2011. Therefore, preparation of an EIS is not necessary.

Authorization

As a result of these determinations, NMFS has issued an IHA to Statoil to take marine mammals incidental to its 2011 open-water shallow hazards and geotechnical surveys in the Chukchi Sea, Alaska, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: July 28, 2011.

Helen Golde,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XA571

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; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from the Monterey Bay National Marine Sanctuary (MBNMS or sanctuary) for authorization to take small numbers of marine mammals incidental to permitting professional fireworks displays within the sanctuary in California waters, over the course of five years, from July 4, 2012 to July 3, 2017. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of MBNMS's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on MBNMS's application and request.

DATES: Comments and information must be received no later than September 2, 2011.

ADDRESSES: Comments on the application should be addressed to P. 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. The mailbox address for providing e-mail comments is ITP.Laws@noaa.gov. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size.

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

SUPPLEMENTARY INFORMATION:

Availability

A copy of MBNMS's application may be obtained by writing to the address specified above (see **ADDRESSES**), telephoning the contact listed above (see **FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>.

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 et seq.) direct the Secretary of Commerce (Secretary) 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) if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for certain subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking 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." Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On April 28, 2011, NMFS received a complete application from MBNMS requesting authorization for take of two species of marine mammals incidental to coastal fireworks displays conducted at MBNMS under permits issued by MBNMS. NMFS first issued an incidental harassment authorization (IHA) to MBNMS on July 4, 2005 (70 FR 39235; July 7, 2005), and subsequently issued 5-year regulations governing the annual issuance of Letters of Authorization 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 expires on July 3, 2012. The requested regulations would be valid from July 4, 2012 until July 3, 2017. Marine mammals would be exposed to

elevated levels of sound as a result of permitted fireworks displays, as well as increased human activity associated with those displays. Because the specified activities have the potential to take marine mammals present within the action area, MBNMS requests authorization to take, by Level B harassment only, California sea lions (*Zalophus californianus*) and harbor seals (*Phoca vitulina*).

Specified Activities

Since 1993, the MBNMS, a component of NOAA's Office of National Marine Sanctuaries, has processed requests for the professional display of fireworks that affect the sanctuary. The MBNMS has determined that debris fallout (i.e., spent pyrotechnic materials) from fireworks events may constitute a discharge into the sanctuary and thus violate sanctuary regulations, unless a permit is issued by the superintendent. Therefore, sponsors of fireworks displays conducted in the MBNMS are required to obtain sanctuary authorization prior to conducting such displays (see 15 CFR 922.132).

Authorization of professional firework displays has required a steady refinement of policies and procedures related to this activity. Fireworks displays, and the attendant increase in human activity, are known to result in the behavioral disturbance of pinnipeds, although there is no known instance of this disturbance resulting in more than temporary abandonment of haul-outs. As a result, pinnipeds hauled out in the vicinity of permitted fireworks displays may exhibit behavioral responses that indicate incidental take by Level B harassment under the MMPA. Numbers of California sea lions and harbor seals, the species that may be subject to harassment, have been recorded extensively at four regions where fireworks displays are permitted in MBNMS.

From 1993 through 2010, MBNMS has issued 87 permits for professional fireworks. However, the MBNMS staff projects that as many as 20 coastal displays per year may be conducted in, or adjacent to, MBNMS boundaries in the future. Thus, the number of displays would be limited to not more than 20 events per year in four specific areas along 276 mi (444 km) of coastline. Fireworks displays would not exceed 30 minutes (with the exception of up to two displays per year, each not to exceed one hour) in duration and would occur with an average frequency of less than or equal to once every 2 months within each of the four prescribed display areas. NMFS believes—and extensive monitoring data indicates—that incidental take resulting from fireworks displays causes, at most, the short-term flushing and evacuation of non-breeding haul-out sites by California sea lions and harbor seals.

MBNMS' four designated display areas include Half Moon Bay, the Santa Cruz/Soquel area, the northeastern Monterey Peninsula, and Cambria (Santa Rosa Creek). This effectively limits permitted fireworks displays to approximately five percent of the MBNMS coastline.

A more detailed description of the fireworks displays permitted by MBNMS may be found in MBNMS' application, in MBNMS' Assessment of Pyrotechnic Displays and Impacts within the MBNMS 1993–2001 (2001), or in the report of Marine Mammal Acoustic and Behavioral Monitoring for the MBNMS Fireworks Display, 4 July 2007 (2007), which are available at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning MBNMS's request (see **ADDRESSES**). All information, suggestions, and comments related to

MBNMS's request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by MBNMS will be considered by NMFS in developing, if appropriate, regulations governing the issuance of letters of authorization.

Dated: July 29, 2011.

Helen M. Golde,

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

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DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 11–32]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 11–32 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: July 28, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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