

Sea samplers are NMFS-certified observers that conduct activities under an EFP rather than normal observer activities on an Amendment 80 vessel.

The AKSC would be required to submit a report in 2012 of the EFP results after EFP experimental fishing has ended in 2011, including an estimate of halibut mortality from halibut sampled during the EFP, and halibut mortality under standard IPHC halibut mortality rates for those target fisheries.

AKSC will be required to contract with a third party familiar with NMFS in-season management protocols to track halibut catch amounts, assign a fishery target, calculate what halibut mortality would have been based on NMFS published mortality rates, and calculate actual halibut mortality based on the sampled halibut and calculations described in the EFP application. This third party would be approved by NMFS as part of the permit process after review of that party's experience and knowledge of the Amendment 80 catch accounting system.

The AKSC would be limited to no more than the AKSC's Amendment 80 groundfish allocation. The amount of halibut mortality accrued by the AKSC and under the EFP would not exceed the 75 mt halibut mortality limit. The amount of halibut mortality applied to the EFP activities would be subject to review and approval by NMFS.

This EFP would apply for the period of time required to complete the experiment during 2012, in areas of the BSAI open to directed fishing by the Amendment 80 cooperative. It would be of limited scope and duration and would not be expected to change the nature or duration of the groundfish fishery, gear used, or the amount or species of fish caught by the Amendment 80 cooperative.

The activities that would be conducted under this EFP are not expected to have a significant impact on the human environment as detailed in the categorical exclusion issued for this action (see **ADDRESSES**).

In accordance with § 679.6, NMFS has determined that the proposal warrants further consideration and has forwarded the application to the Council to initiate consultation. The Council is scheduled to consider the EFP application during its December 2011 meeting, which will be held at the Hilton Hotel, Anchorage, Alaska. The applicant has been invited to appear in support of the application.

#### Public Comments

Interested persons may comment on the application at the December 2011 Council meeting during public

testimony. Information regarding the meeting is available at the Council's Web site at <http://alaskafisheries.noaa.gov/npfmc/council.htm>. Copies of the application and categorical exclusion are available for review from NMFS (see **ADDRESSES**). Comments also may be submitted directly to NMFS (see **ADDRESSES**) by the end of the comment period (see **DATES**).

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

Dated: November 9, 2011.

**Steven Thur,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-AW91**

#### Taking and Importing Marine Mammals; U.S. Navy Training in the Northwest Training 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 and research activities to be conducted within the Northwest Training Range Complex (NWTRC), off the coasts of Washington, Oregon, and northern California. These activities are considered military readiness activities pursuant to the Marine Mammal Protection Act (MMPA), as amended by the National Defense Authorization Act of 2004 (NDAA).

**DATES:** This Authorization is effective from November 12, 2011, through November 11, 2012.

**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:** Michelle Magliocca, 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 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 and research activities in the NWTRC became effective on November 10, 2010 (75 FR 69296), and remain in effect through November 9, 2015. 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 June 27, 2011, NMFS received a request from the Navy for a renewal of an LOA issued on November 12, 2010, for the taking of marine mammals incidental to training and research activities conducted within the NWTRC under regulations issued on November 10, 2010 (75 FR 69296). The Navy has complied with the measures required in 50 CFR 216.274 and 216.275, as well as the associated 2010 LOA, and submitted the reports and other documentation required in the final rule and the 2010 LOA.

## Summary of Activity Under the 2010 LOA

As described in the Navy's exercise reports (both classified and unclassified), from November 12, 2010 to May 1, 2011, the training activities conducted by the Navy were within the scope and amounts indicated in the 2010 LOA and the levels of take remain within the scope and amounts contemplated by the final rule.

## Planned Activities and Estimated Take for 2011

In 2011, the Navy expects to conduct the same type and amount of training identified in the 2010 LOA. While the Navy requested the same amount of take that was authorized in the 2010 LOA, NMFS has slightly adjusted those numbers to account for the exposure analysis contained in the Biological Opinion. However, the authorized take remains within the annual estimates analyzed in the final rule.

### Summary of Monitoring, Reporting, and other Requirements Under the 2010 LOA Annual Exercise Reports

The Navy submitted their classified and unclassified 2010 exercise reports within the required timeframes and the unclassified report is posted on NMFS Web site: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. NMFS has reviewed both reports and they contain the information required by the 2010 LOA. The reports indicate the amounts of different types of training that occurred from November 12, 2010, to May 1, 2011. The Navy conducted zero Sinking Exercises (SINKEX) and all other exercise types conducted (classified data) fell within the amount indicated in the LOA.

### 2010 Monitoring

The Navy conducted the monitoring required by the 2010 LOA and described in the Monitoring Plan, which included passive acoustic monitoring utilizing high-frequency acoustic recording packages (HARPs) and marine mammal tagging and tracking. The Navy submitted their 2010 Monitoring Report, which is posted on NMFS' Web site (<http://www.nmfs.noaa.gov/pr/permits/incidental.htm>), within the required timeframe. Because data is gathered through May 1 and the report is due in July, some of the data analysis will occur in the subsequent year's report. Navy-funded marine mammal monitoring accomplishments within NWTRC for the past year consisted of the following:

#### Passive Acoustic Monitoring

Two high-frequency acoustic monitoring packages (HARP) were deployed by Scripps Institute of Oceanography (SIO) within the NWTRC. The first HARP was deployed in January 2011 approximately 25 nm from the coast in the southern part of NOAA's Olympic Coast National Marine Sanctuary. SIO has had HARPs in the same approximate location periodically since 2004. A second HARP was deployed in May 2011 near the edge of an underwater canyon west of the Olympic Coast National Marine Sanctuary boundary. Vocalization data from these HARPs is currently undergoing analysis by SIO and results will be presented in next year's Monitoring Report.

#### Tagging

The Navy purchased a total of 10 satellite tracking tags suitable for deployment on a number of marine mammal species within the NWTRC. Field deployment for tagging marine mammals should occur before the end

of summer 2011 and will result in a three-year joint project between the Navy, NMFS, Cascadia Research Collective, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife.

In conclusion, the Navy successfully implemented the monitoring requirements for the NWTRC by the end of the first monitoring period. Over the next year, the Navy will continue to maintain the two HARPs that are currently in the water, while analyzing and presenting results from previously recorded data. Furthermore, the Navy will continue the joint tagging study of marine species within the NWTRC.

### Adaptive Management

The Navy's adaptive management of the NWTRC monitoring program involves close coordination with NMFS to align marine mammal monitoring with the overall objectives of the monitoring plan. Monitoring under the 2010 LOA only represents the beginning of the first year of a planned five-year effort. Therefore, it would be premature to draw detailed conclusions or initiate comprehensive monitoring changes before more monitoring and data analysis is complete.

### Authorization

The Navy complied with the requirements of the 2010 LOA. Based on our review of the record, NMFS has determined that the marine mammal take resulting from the 2010 military readiness training and research activities falls within the levels previously anticipated, analyzed, and authorized. Further, the level of taking authorized in 2011 for the Navy's NWTRC activities is consistent with our previous findings made for the total taking allowed under the NWTRC regulations. Finally, the record supports NMFS' conclusion that the total number of marine mammals taken by the 2010 activities in the NWTRC 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 an LOA for Navy training and research activities conducted in the NWTRC from November 12, 2011, through November 11, 2012.

Dated: November 9, 2011.

#### James H. Lecky,

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

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### CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket Number: CPSC-2011-0087]

### Petition Requesting Exception From Lead Content Limits

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** The Consumer Product Safety Commission ("Commission" or "CPSC" or "we") has received a petition requesting an exception from the 100 ppm lead content limit under section 101(b) of the Consumer Product Safety Improvement Act of 2008 ("CPSIA"), as amended by Public Law 112-28. We invite written comments concerning the petition.

**DATES:** Submit comments by December 16, 2011.

**ADDRESSES:** You may submit comments, identified by Docket No. CPSC-2011-0087, by any of the following methods:

#### Electronic Submissions

Submit electronic comments in the following way:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (email), except through <http://www.regulations.gov>.

#### Written Submissions

Submit written submissions in the following way:

*Mail/Hand delivery/Courier (for paper, disk, or CD-ROM submissions), preferably in five copies, to:* Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

*Instructions:* All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to <http://www.regulations.gov>. Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Kristina Hatlelid, Ph.D., M.P.H.,