

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

RIN 0648–XC185

**Taking and Importing Marine Mammals: Taking Marine Mammals Incidental to Navy Operations of Surveillance Towed Array Sensor System Low Frequency Active Sonar**

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

**ACTION:** Notice; issuance of four Letters of Authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that NMFS has issued four 1-year Letters of Authorization (LOAs) to take marine mammals by harassment incidental to the U.S. Navy's operation of Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA) sonar operations to the Chief of Naval Operations, Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350 and persons operating under his authority.

**DATES:** Effective from August 15, 2012, through August 14, 2013.

**ADDRESSES:** Electronic copies of the Navy's April 19, 2012, LOA application letter and the LOAs are available by writing to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Jeannine Cody, 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 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 military readiness activity if certain findings are made and regulations are issued.

Authorization may be granted for periods of 5 years or less 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. 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 also must include requirements pertaining to the monitoring and reporting of such taking.

Regulations governing the taking of marine mammals incidental to the U.S. Navy's operation of SURTASS LFA sonar were effective on August 15, 2012 (77 FR 50290, August 20, 2012) and remain in effect through August 15, 2017. They are codified at 50 CFR part 218 subpart X. These regulations include mitigation, monitoring, and reporting requirements for the incidental taking of marine mammals by the SURTASS LFA sonar system. For detailed information on this action, please refer to the August 20, 2012 **Federal Register** document and 50 CFR part 218 subpart X.

**Summary of LOA Request**

NMFS received an application from the U.S. Navy for four LOAs, one covering the USNS VICTORIOUS (T-AGOS 19), one covering the USNS ABLE (T-AGOS 20), one covering the USNS EFFECTIVE (T-AGOS 21), and one covering the USNS IMPECCABLE (T-AGOS 23), under the regulations effective on August 15, 2012 (77 FR 50290, August 20, 2012). The Navy requested that these LOAs become effective on August 15, 2012. The application requested authorization, for a period not to exceed one year, to take, by harassment, marine mammals incidental to employment of the SURTASS LFA sonar system for training, testing and routine military operations on the aforementioned ships in areas of the Pacific Ocean, as described in the 2012 regulations.

**Monitoring and Reporting**

In compliance with NMFS' 2007 SURTASS LFA sonar regulations which expired on August 15, 2007, the Navy submitted a comprehensive report on SURTASS LFA sonar operations and the mitigation and monitoring activities conducted under the LOAs issued under its previous rule for the 2007 through 2012 period. A copy of this report can

be viewed and/or downloaded at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>. Based on this report and other annual and comprehensive reports, the Navy has conducted the specified activities in the manner described in the regulations and LOAs, and has implemented the required mitigation and monitoring measures. Additionally, marine mammal detections and behavioral observations suggest that the actual impacts of SURTASS LFA sonar operation and training fall within the scope and nature of those analyzed and anticipated by the regulations and LOAs.

In accordance with the current SURTASS LFA sonar regulations (50 CFR 218.230), the Navy must submit quarterly mitigation monitoring reports; annual reports; and a 5-year comprehensive report. Under the previous two rulemakings, the Navy has not exceeded the take authorized by NMFS. Upon receipt, NMFS will post this annual report at <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>.

**Authorization**

NMFS has issued four LOAs to the U.S. Navy, authorizing the incidental harassment of marine mammals, incidental to operating the four SURTASS LFA sonar systems for routine training, testing and use during military operations. Issuance of these four LOAs is based on findings, described in the preamble to the final rule (77 FR 50290, August 20, 2012) and supported by information contained in the Navy's required reports on SURTASS LFA sonar, that the activities described under these four LOAs will have no more than a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stocks for subsistence uses.

These LOAs remain valid through August 14, 2013, provided the Navy remains in conformance with the conditions of the regulations and the LOAs, and the mitigation, monitoring, and reporting requirements described in 50 CFR 218.230 through 218.241 (77 FR 50290, August 20, 2012) and in the LOAs are undertaken.

Dated: August 23, 2012.

**Helen M. Golde,**

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

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