Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

FOR FURTHER INFORMATION CONTACT: Kate Swails or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: On June 2, 2008 notice was published in the **Federal Register** (73 FR 31436) that an amendment of Permit No. 774–1847–02 had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 774–1847–02, issued October 11, 2007 (72 FR 57914), authorizes the permit holder to continue a long-term ecosystem monitoring program of pinniped species in the South Shetland Islands, Antarctica. The permit holder is authorized to take up to 710 Antarctic fur seals (Arctophalus gazell) and 20 leopard seals (Hydrurga leptonyx) annually. The animals are captured, measured, weighed, tagged, blood sampled, and have time-depth recorders, VHF transmitters, and platform terminal transmitters attached. A subset of fur seals are given an enema, have a tooth extracted, milk sampled, and are part of a doubly-labeled water study on energetics. A subset of leopard seals are blubber and muscle sampled. Annual research-related mortality of up to eight Antarctic fur seals (3 adults and 5 pups) and two leopard seals is also authorized.

The amendment authorizes the permit holder to collect tissue samples from and bleach mark 50 leopard seals. Additional capture is not required to collect these samples. The amendment also authorizes the researchers to begin a southern elephant seal (Mirounga leonina) study. Up to 180 southern elephant seals would be captured, measured, and tagged annually. A subset would have blood and vibrissae collected, muscle/blubber biopsied, and satellite tags attached. The permit amendment authorizes up to four research-related mortalities (two adults and two juveniles) of southern elephant seals. The amendment is valid until September 30, 2011.

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: August 14, 2008.

P. Michael Payne,

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

[FR Doc. E8–19577 Filed 8–21–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XJ68

Incidental Takes of Marine Mammals Incidental to Specified Activities; Harbor Activities Related to the Delta IV/Evolved Expendable Launch Vehicle at Vandenberg Air Force Base, CA

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: In accordance with the provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to United Launch Alliance (ULA) to take small numbers of marine mammals, by Level B harassment only, incidental to harbor activities related to the Delta IV/Evolved Expendable Launch Vehicle (EELV) at south Vandenberg Air Force Base, CA (VAFB).

DATES: This authorization is effective from August 20, 2008 through August 19, 2009.

ADDRESSES: A copy of the IHA and the application are available by writing 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, or by telephoning the contact listed here. A copy of the application may be obtained by writing to this address, by telephoning the contact listed here (**FOR FURTHER INFORMATION CONTACT**) or online at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Jeannine Cody or Candace Nachman, (301) 713–2289.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either 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), 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.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except for certain categories of 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(].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS' review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

Summary of Request

On February 18, 2008, NMFS received an application from ULA requesting an

authorization for the harassment of small numbers of Pacific harbor seals (**PHOCA VITULINA RICHARDSI**) and California sea lions (*Zalophus californianus*) incidental to harbor activities related to the Delta IV/EELV, including: transport vessel operations, cargo movement activities, harbor maintenance dredging, and kelp habitat mitigation operations. In addition, northern elephant seals (*Mirounga angustirostris*) may also be incidentally harassed but in even smaller numbers. IHAs were issued to The Boeing Company, now ULA, on May 15, 2002 (67 FR 36151, May 23, 2002), May 20, 2003 (68 FR 36540, June 18, 2003), May 20, 2004 (69 FR 29696, May 25, 2004), May 23, 2005 (70 FR 30697, May 27, 2005), June 20, 2006 (71 FR 36321, June 26, 2006), and June 21, 2007 (72 FR 34444, June 22, 2007) each for a 1–year period. No work and, therefore, no monitoring was conducted under the 2007 IHA. The harbor where activities will take place is on south VAFB approximately 2.5 miles (mi) (4.02 kilometers (km)) south of Point Arguello, CA and approximately 1 mi (1.61 km) north of the nearest marine mammal pupping site (i.e., Rocky Point).

Additional background relating to this application and the scope of the activities is set forth in the proposed IHA notice (73 FR 38176, July 3, 2008) and is not repeated here. The activities to be conducted have not changed between the proposed IHA notice and this final notice announcing the issuance of the IHA.

Specified Activities

The *Delta Mariner* is a 312 foot (ft)-long (95.1–meter (m)), 84 ft-wide (25.6 m) steel hull ocean-going vessel capable of operating at an 8 ft (2.4–m) draft. Containers containing flight hardware items will be towed off the *Delta Mariner* by a tractor tug that generates a sound level of approximately 87 decibels (dB) A-weighted at 50 ft (15.2 m) while in operational mode. Total docking and cargo movement activities is estimated to be approximately 14 to 18 hours (hr) in good weather.

To accommodate the *Delta Mariner*, the harbor will need to be dredged, removing up to 5,000 cubic yards of sediment per dredging. Dredging will involve the use of heavy equipment, including a clamshell dredge, dredging crane, a small tug, dredging barge, dump trucks, and a skip loader. Measured sound levels from this equipment are roughly equivalent to those estimated for the wharf modification equipment: 43 to 81 dB A-weighted at 250 ft (76.2 m). Dredge operations, from set-up to tear-down, would continue 24–hr a day for 3 to 5 weeks. Sedimentation surveys have shown that initial dredging indicates that maintenance dredging should be required annually or twice per year, depending on the hardware delivery schedule.

A more detailed description of the work proposed for 2008 is contained in the application which is available upon request (see **ADDRESSES**) and in the Final U.S. Air Force Environmental Assessment for Harbor Activities Associated with the Delta IV Program at Vandenberg Air Force Base (ENSR International, 2001).

Comments and Responses

On July 3, 2008 (73 FR 38176), NMFS published a notice of receipt of proposed IHA for ULA(s request to take marine mammals, by harassment, incidental to harbor activities related to the Delta IV/EELV, including: transport vessel operations, cargo movement activities, harbor maintenance dredging, and kelp habitat mitigation and requested comments, information, and suggestions concerning the request. During the 30–day public comment period, NMFS received one comment from the Marine Mammal Commission (Commission), which recommended that NMFS issue the authorization as proposed.

Comment: The Commission recommends that NMFS approve the request provided that all reasonable measures will be taken to ensure the least practicable impact on the subject species and the required mitigation and monitoring activities are carried out as described in the July 3, 2008 **Federal Register** notice and the IHA application.

Response: NMFS agrees with the Commission's recommendation, and all monitoring and mitigation measures described in the previous **Federal Register** notices (67 FR 36151, May 23, 2002; 68 FR 36540, June 18, 2003; 69 FR 29696, May 25, 2004; 70 FR 30697, May 27, 2005; 71 FR 36321, June 26, 2006; and 72 FR 34444, June 22, 2007) are required in the current IHA.

Marine Mammals Affected by the Activity

The marine mammal species likely to be harassed incidental to harbor activities at south VAFB are the Pacific harbor seal, California sea lion, and northern elephant seal, which haul out in the area where these activities are conducted. None of the haul-out areas near these activities are used for breeding, molting, or mating. A more detailed discussion of the status of these stocks and their occurrence at VAFB, as well as other marine mammal species that occur at VAFB, was included in the notice of the proposed IHA (73 FR 38176, July 3, 2008).

Potential Effects of Activities on Marine Mammals

The primary impacts to marine mammals from these activities are expected to be short-term behavioral reactions in response to the acoustic and visual stimuli produced by the heavy machinery used. NMFS anticipates that no injury will result from these actions. A discussion of the sound levels produced by the equipment, behavioral reactions of marine mammals to loud noises or looming visual stimuli, and some specific observations of the response of marine mammals to this activity gathered during previous monitoring were presented in the notice of proposed IHA (73 FR 38176, July 3, 2008) and is not repeated here. For a further discussion of anticipated effects of the planned activities on pinnipeds in the area, refer to the application, NMFS(2005 Environmental Assessment (EA) and ENSR International(s 2001 Final EA.

Numbers of Marine Mammals Expected to be Harassed

ULA estimates that a maximum of 43 harbor seals per day may be hauled out near the south VAFB harbor, with a daily average of 21 seals sighted when tidal conditions were favorable during previous harbor dredging operations. Considering the maximum and average number of seals hauled out per day, assuming that the seals may be seen twice a day, and using a maximum total of 73 operating days in 2008–2009, NMFS estimates that a maximum of 767 to 1,570 Pacific harbor seals may be subject to Level B harassment out of a total estimated population of 31,600. These numbers are small relative to this population size (2.4 - 5 percent).

During wharf modification activities, a maximum of six California sea lions were seen hauling out in a single day. Based on the above-mentioned calculation, NMFS believes that a maximum of 219 California sea lions may be subject to Level B harassment out of a total estimated population of 240,000. These numbers are small relative to this population size (less than 0.1 percent). Up to 10 northern elephant seals (because they may be in nearby waters) may be subject to Level B harassment out of a total estimated population of 101,000. These numbers are small relative to this population size (less than 0.01 percent).

Possible Effects of Activities on Marine Mammal Habitat

ULA does not anticipate any loss or modification to the habitat used by Pacific harbor seals or California sea lions that haul out near the south VAFB harbor. The harbor seal and sea lion haul-out sites near south VAFB harbor are not used as breeding, molting, or mating sites; therefore, it is not expected that the activities in the harbor will have any impact on the ability of Pacific harbor seals or California sea lions in the area to reproduce.

ULA anticipates unavoidable kelp removal during dredging. This habitat modification will not affect the marine mammal habitat. However, ULA will mitigate for the removal of kelp habitat by placing 150 tons of rocky substrate in a sandy area between the breakwater and the mooring dolphins to enhance an existing artificial reef. This type of mitigation was implemented by the U.S. Army Corps of Engineers following the 1984 and 1989 dredging.

The anticipated negative effects of dredging and kelp mitigation (short-term increase in noise and sedimentation) will be short-term and are not expected to result in a loss or modification to the habitat used by Pacific harbor seals, California sea lions, or northern elephant seals that haul out near the south VAFB harbor. Additional details were provided in the notice of proposed IHA (73 FR 38176, July 3, 2008).

Mitigation

To reduce the potential for disturbance from visual and acoustic stimuli associated with the activities, ULA and/or its designees will undertake the following marine mammal mitigating measures:

(1) If activities occur during nighttime hours, lighting will be turned on before dusk and left on the entire night to avoid startling pinnipeds at night.

(2) Activities will be initiated before dusk.

(3) Construction noises will be kept constant (i.e., not interrupted by periods of quiet in excess of 30 minutes) while pinnipeds are present.

(4) If activities cease for longer than 30 minutes and pinnipeds are in the area, start-up of activities will include a gradual increase in noise levels.

(5) A NMFS-approved marine mammal observer will visually monitor the pinnipeds on the beach adjacent to the harbor and on rocks for any flushing or other behaviors as a result of ULA's activities (see Monitoring).

(6) To the extent possible, the *Delta Mariner* and accompanying vessels will enter the harbor only when the tide is too high for harbor seals to haul-out on the rocks. The vessel will reduce speed 1.5 to 2 knots (2.8–3.7 km/hr) once the vessel is within 3 mi (4.83 km) of the harbor. The vessel will enter the harbor stern first, approaching the wharf and mooring dolphins at less than 0.75 knot (1.4 km/hr).

(7) As alternate dredge methods are explored, the dredge contractor may introduce quieter techniques and equipment.

Monitoring

As part of its 2002 application, Boeing, now ULA, provided a proposed monitoring plan for assessing impacts to harbor seals from the activities at south VAFB harbor and for determining when mitigation measures should be employed. NMFS is requiring the same plan for this IHA.

A NMFS-approved and VAFB-designated biologically trained observer will monitor the area for pinnipeds during all harbor activities. During nighttime activities, the harbor area will be illuminated, and the monitor will use a night vision scope. Monitoring activities will consist of:

(1) Conducting baseline observation of pinnipeds in the project area prior to initiating project activities.

(2) Conducting and recording observations on pinnipeds in the vicinity of the harbor for the duration of the activity occurring when tides are low enough for pinnipeds to haul out

(2) ft, 0.61 m, or less).

(3) Conducting post-construction observations of pinniped haul-outs in the project area to determine whether animals disturbed by the project activities return to the haul-out.

Monitoring results from previous years of these activities have been reviewed and incorporated into the analysis of potential effects in this document, as well as the take estimates.

Reporting

ULA will notify NMFS two weeks prior to initiation of each activity. ULA will submit a draft report on all activities, 120 days prior to the expiration of this Authorization if a new Authorization will be requested for 2009–2010, and a final report within 120 days after the expiration of this Authorization, regardless of whether or not a new Authorization will be requested. The report will provide dates, times, durations and locations of specific activities, details of pinniped behavioral observations, and estimates of numbers of affected pinnipeds and impacts (behavioral or other). In addition, the report will include information on the weather, tidal state, horizontal visibility, and composition (species, gender, and age class) and locations of haul-out group(s). In the unanticipated event that any cases of pinniped injury or mortality are judged to result from these activities, ULA or its designee shall cease operations immediately and report the incident to NMFS immediately.

Endangered Species Act (ESA)

This action will not affect species listed under the ESA that are under the jurisdiction of NMFS. VAFB formally consulted with U.S. Fish and Wildlife Service in 1998 on the possible take of southern sea otters during Boeing(s, now ULA, harbor activities at south VAFB. A Biological Opinion was issued in August 2001, which concluded that the EELV Program is not likely to jeopardize the continued existence of the southern sea otter and no injury or mortality is expected. The activities covered by this IHA are analyzed in that Biological Opinion, and this IHA does not modify the action in a manner that was not previously analyzed.

National Environmental Policy Act

In 2001, the United States Air Force (USAF) prepared an EA for harbor activities associated with the Delta IV Program at VAFB. In 2005, NMFS prepared an EA supplementing the information contained in the USAF EA and issued a Finding of No Significant Impact (FONSI) on the issuance of an IHA for Boeing(s, now ULA, harbor activities in accordance with section 6.01 of the National Oceanic and Atmospheric Administration Administrative Order 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999). ULA's activities and impacts for 2008–2009 are expected to be within the scope of NMFS(2005 EA and FONSI.

Determinations

NMFS has determined that the impact of harbor activities related to the Delta IV/EELV at VAFB (transport vessel operations, cargo movement activities, harbor maintenance dredging, and kelp habitat mitigation) will result in the Level B Harassment of small numbers of Pacific harbor seals, California sea lions, and northern elephant seals. The effects of ULA(s harbor activities are expected to be in the form of short-term and localized behavioral changes, and no take by injury or death is anticipated or authorized. NMFS has further determined that these takes will have a negligible impact on the affected marine mammal species and stocks.

While the number of incidental harassment takes will depend on the distribution and abundance of marine mammals in the vicinity of the activity, the number of potential harassment takings is estimated to be small (less than five percent of any of the estimated population sizes) and has been mitigated to the lowest level practicable through incorporation of the measures mentioned previously in this document.

The provision requiring that the activity not have an unmitigable adverse impact on the availability of the affected species or stock for subsistence uses is not implicated by this action.

Northern fur seals, Guadalupe fur seals, and Steller sea lions are unlikely to be found in the area and, therefore, will not be affected. No rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near south VAFB harbor.

Authorization

As a result of these determinations, NMFS has issued an IHA to ULA to take marine mammals, by Level B harassment, incidental to conducting harbor activities at VAFB for a one-year period, provided that the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: August 18, 2008.

James H. Lecky,

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

[FR Doc. E8–19582 Filed 8–21–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Advisory Council on Dependents' Education

AGENCY: Department of Defense Education Activity (DoDEA), DoD.

ACTION: Notice of open meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces the following Federal advisory committee meeting of the Advisory Council on Dependents' Education.

DATES: Tuesday, September 23, 2008 (8 a.m. to 5 p.m., Eastern Daylight Time).

ADDRESSES: DoDEA Headquarters, Webb Building, 9th Floor, Director's Conference Room, 4040 North Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Jarrard, at (703) 588–3121, or at *james.jarrard@hq.dodea.edu.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: Recommend to the Director, DoDEA, general policies for the operation of the Department of Defense Dependents Schools (DoDDS); provide the Director with information about effective educational programs and practices that should be considered by DoDDS; and perform other tasks as may be required by the Secretary of Defense.

Agenda: The meeting agenda will be the current operational qualities of schools and the institutionalized school improvement processes, as well as other educational matters.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis. Appropriate government issued identification will be required to enter the meeting facility, which is a controlled access facility.

Committee's Point of Contact: Mr. Jim Jarrard, tel. (703) 588–3121, 4040 North Fairfax Drive, Arlington, VA 22203, e-mail: *james.jarrard@hq.dodea.edu.*

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the Advisory Council on Dependents' Education about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of the planned meeting of the Advisory Council on Dependents' Education.

All written statements shall be submitted to the Designated Federal Officer for the Advisory Council on Dependents' Education and this individual will ensure that the written statements are provided to the membership for their consideration. For the next meeting of the Advisory Council on Dependents' Education, Mr. Jim Jarrard, telephone (703) 588–3121, 4040 North Fairfax Drive, Arlington, VA 22203; e-mail: *james.jarrard@hq.dodea.edu*, will be acting in the capacity of the Designated Federal Officer for this committee.

Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed above at least fourteen calendar days prior to the meeting which is the subject of this notice. Written statements received after this date may not be provided to or considered by the Advisory Council on Dependents' Education until its next meeting.

The Designated Federal Officer will review all timely submissions with the Advisory Council on Dependents' Education Chairpersons and ensure they are provided to all members of the Advisory Council on Dependents' Education before the meeting that is the subject of this notice.

Oral Statements by the Public to the Membership: Pursuant to 41 CFR 102–3.140(d), time will be allotted for public comments to the Advisory Council on Dependents' Education. Individual comments will be limited to a maximum of five minutes' duration. The total time allotted for public comments will not exceed thirty minutes.

Dated: August 12, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–19499 Filed 8–21–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Closed Meeting of the Defense Policy Board Advisory Committee

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Defense Policy Board Advisory Committee will meet in closed session on September 25, 2008 from 0800 until 1830 and September 26, 2008 from 0800 until 1200 at the Pentagon.

The purpose of the meeting is to provide the Secretary of Defense, Deputy Secretary of Defense and Under Secretary of Defense for Policy with independent, informed advice on major matters of defense policy. The Board will hold classified discussions on national security matters.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended [5 U.S.C. App II (1982)], it has been determined that this meeting concerns matters listed in 5 U.S.C. 552B (c)(1)(1982), and that accordingly this meeting will be closed to the public.

Dated: August 15, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–19496 Filed 8–21–08; 8:45 am]

BILLING CODE 5001–06–P