



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

JUL 21 2014

Craig E. Campbell
President and CEO
Alaska Aerospace Corporation
4300 B Street, Suite 101
Anchorage, AK 99503

Dear Mr. Campbell:

On July 1, 2014, the National Marine Fisheries Service (NMFS) received a letter from the Alaska Aerospace Corporation (AAC) requesting renewal of a Letter of Authorization (LOA), under regulations issued on March 23, 2011 (76 FR 16300). Enclosed is an LOA issued to the AAC for the take of marine mammals incidental to rocket launches at the Kodiak Launch Complex. This LOA is valid from August 1, 2014 through July 31, 2015.

This authorization is effective for 1 year, and covers the taking of Steller sea lions (*Eumetopias jubatus*) and Pacific harbor seals (*Phoca vitulina richardii*) incidental to a maximum of twelve rocket launches, provided the mitigation, monitoring, and reporting requirements are undertaken as required by the regulations and the LOA. Please note that according to 50 CFR 217.74(a), the AAC must avoid launches during the harbor seal pupping season (May 15-June 30). In addition, the AAC must cooperate with any federal, state, or local agency monitoring the impacts of your activities, and submit a draft report to the NMFS Office of Protected Resources and the NMFS Alaska Regional Office no later than 90 days prior to expiration of this authorization.

If you have any questions concerning the LOA or its requirements, please contact Shane Guan, Office of Protected Resources, National Marine Fisheries Service at (301) 427-8401.

Sincerely,

Donna S. Wieting, Director
Office of Protected Resources

Enclosures



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DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NATIONAL MARINE FISHERIES SERVICE

Letter of Authorization

The Alaska Aerospace Corporation (AAC), 4300 B Street, Suite 101, Anchorage, Alaska, 99503, is hereby authorized under section 101(a)(5)(A) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*; MMPA) to take small numbers of marine mammals incidental to space vehicle and missile launch operations from the Kodiak Launch Complex (KLC) on Kodiak Island, Alaska subject to the provisions of the MMPA, the Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities (50 CFR Part 217, Subpart H) (the Regulations), and the following conditions:

1. This Authorization is valid from August 1, 2014 through July 31, 2015.
2. This Authorization is valid only for the unintentional taking of the species of marine mammals identified in 50 CFR 217.70(b) and Condition 3 of this Authorization incidental to activities associated with a maximum of twelve rocket launches from the KLC on the eastern side of Kodiak Island, Alaska.
3. This Authorization is valid for the taking, by harassment only, of Steller sea lions (*Eumetopias jubatus*), and for the taking, by harassment (adults or pups) or mortality (pups only) of Pacific harbor seals (*Phoca vitulina richardsi*). The taking by serious injury or death of Steller sea lions or adult harbor seals, or the taking by harassment, injury or death of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this Authorization.
4. The taking of any marine mammal in a manner prohibited under this Authorization must be reported within 48 hours of the taking to the National Marine Fisheries Service (NMFS) Alaska Assistant Regional Administrator for Protected Resources and to the NMFS Division of Permits and Conservation, Office of Protected Resources. If injurious or lethal take is discovered during monitoring, launch procedure, mitigation measures, and monitoring methods must be reviewed in coordination with NMFS, and appropriate changes made prior to the next launch.
5. Notification:



The holder must notify the NMFS Alaska Assistant Regional Administrator for Protected Resources and the NMFS Division of Permits and Conservation, Office of Protected Resources, at least 2 weeks prior to launches (unless constrained by the date of issuance of this Authorization).

6. Mitigation Requirements:

The Holder of this Authorization, and any individuals operating under his authority, must conduct the activity identified in 50 CFR 217.70 and Condition 2 of this Authorization in a manner that minimizes, to the greatest extent practicable, adverse impacts on marine mammals and their habitats. When conducting operations identified in 50 CFR 217.70, the following mitigation measures must be implemented:

- (a) Security overflights associated with a launch will not approach occupied pinniped haulouts on Ugak Island by closer than 0.25 mile (0.4 km), and will maintain a vertical distance of 1,000 feet (305 m) from the haul outs when within 0.5 miles (0.8 km), unless indications of human presence or activity warrant closer inspection of the area to assure that national security interests are protected in accordance with law.
- (b) Missile and rocket launches must be avoided during the harbor seal pupping season of May 15 through June 30, except when launches are necessary for the following purposes: human safety, national security, space vehicle launch trajectory necessary to meet mission objectives, or other purposes related to missile or rocket launches.
- (c) All flights by fixed-wing aircraft associated with the marine mammal abundance quarterly surveys must maintain a minimum altitude of 500 feet (152 m) and remain 0.25 miles from recognized seal haul outs.
- (d) If launch monitoring or quarterly aerial surveys indicate that the distribution, size, or productivity of the potentially affected pinniped populations has been affected due to the specified activity, the launch procedures and the monitoring methods will be reviewed, in cooperation with NMFS, and, if necessary, appropriate changes may be made through modifications to this Authorization, prior to conducting the next launch of the same vehicle.

7. Monitoring

When conducting operations identified in 50 CFR 217.70, the Holder of this Authorization, and any individuals operating under his authority, must implement the following monitoring measures:

- (a) Designate qualified protected species observers to:

- (1) Deploy for the Holder a remote camera system designed to detect pinniped responses to rocket launches for at least the first five launches conducted under these regulations. The AAC will conduct visual monitoring for at least 2 hours before, during, and 2 hours after launch;
 - (2) Ensure a remote camera system is in place and operating in a location which allows visual monitoring of a harbor seal rookery during the launch, if a launch during the harbor seal pupping season cannot be avoided;
 - (3) Relocate the camera system to, or re-aim the camera system on, another haulout to be chosen in cooperation with NMFS after the first five launches with harbor seals present;
 - (4) Review and log pinniped presence, behavior, and re-occupation time data from the visual footage obtained from the remote camera system;
 - (5) Obtain, whenever a new class of rocket is flown from the Kodiak Launch Complex, a real-time sound pressure and sound exposure record for documentation purposes and to correlate with the behavioral response record. Two monitors shall be used: one shall be placed at the established recording location known as Narrow Cape, and the other as close as practical to the remote video system; and
 - (6) Conduct quarterly aerial surveys, ideally during midday coinciding with low tide, to obtain data on pinniped presence, abundance, and behavior within the action area to determine long-term trends in pinniped haul-out use.
- (b) The holder of the Letter of Authorization must comply with any other applicable state or federal permits, regulations, and environmental monitoring agreements set up with other agencies and cooperate with NMFS and any other federal, state, or local agency with authority to monitor the impacts of the activity on marine mammals.
- (c) AAC must inform NMFS immediately of any proposed changes or deletions to any portions of the monitoring requirements.

8. Reporting:

The Holder of the Letter of Authorization must implement the following reporting requirements:

- (a) Notify the Administrator, Alaska Region, NMFS, by letter, email, or telephone, prior to each launch.

- (b) Report results from the remote camera system footage and any other data from monitoring activities to NMFS within 90 days following cessation of field activities for each launch. A summary of the effectiveness of the videotaping will be included in the associated launch report.
- (c) Holder must submit a report to the Alaska Region Administrator, NMFS, and to the NMFS Division of Permits and Conservation, Office of Protected Resources within 90 days after each launch. This report must contain the following information:
 - (1) Date(s) and time(s) of the launch;
 - (2) Location of camera system and acoustic recorders (if used);
 - (3) Design of the monitoring program and a description of how data is stored and analyzed; and
 - (4) Results of the monitoring program, including, by not necessarily limited to:
 - (i) Numbers of pinnipeds, by species and age class (if possible) present on the haul out prior to commencement of the launch;
 - (ii) Numbers of pinnipeds, by species and age class (if possible) that may have been harassed, including the number that entered the water as a result of launch noise;
 - (iii) The length of time pinnipeds remained off the haul out during post-launch monitoring;
 - (iv) Number of harbor seal pups that may have been injured or killed as a result of the launch; and
 - (v) Other behavioral modifications by pinnipeds that were likely the result of launch noise.
 - (5) Results of sound pressure and sound exposure level monitoring will be reported in flat weighted, A-weighted, and peak measurements.
- (d) An annual report must be submitted at the time of request for a renewal of this Authorization; it will include results of the aerial quarterly trend counts of pinnipeds at Ugak Island.

- (e) A final report must be submitted at least 90 days prior to expiration of the governing regulations if new regulations are sought or 180 days after expiration of the governing regulations otherwise. This report will:
- (1) Summarize the activities undertaken and the results reported in all previous reports;
 - (2) Assess the impacts of launch activities on pinnipeds within the action area, including potential for pup injury and mortality; and
 - (3) Assess the cumulative impacts on pinnipeds and other marine mammals from multiple rocket launches.
- (f) Reports required in Conditions 8(b), (c), (d), (e) above will be subject to review and comment by NMFS. Any recommendations made as a result of such review must be addressed prior to acceptance by NMFS.
- (g) In the unanticipated event that launch activities clearly cause the take of a marine mammal in a manner prohibited by this Authorization, such as an injury (Level A harassment), serious injury, or mortality to a Steller sea lion, the AAC shall immediately cease launch activities and report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301-427-8401 and/or by email to Jolie.Harrison@noaa.gov and Shane.Guan@noaa.gov and the Alaska Regional Stranding Coordinator (Aleria.Jensen@noaa.gov). The report must include the following information:
- (1) time, date, and location (latitude/longitude) of the incident;
 - (2) the type of rocket involved;
 - (3) description of the incident;
 - (4) description of marine mammal observations in the 24 hours preceding the incident;
 - (5) species identification or description of the animal(s) involved;
 - (6) the fate of the animal(s); and
 - (7) and photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with the AAC to determine what is necessary to

minimize the likelihood of further prohibited take and ensure MMPA compliance. The AAC may not resume their activities until notified by NMFS via letter, email, or telephone.

- (h) In the event that the AAC discovers an unauthorized injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), the AAC will immediately report the incident to the Acting Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301-427-8401, and/or by email to Jolie.Harrison@noaa.gov and Shane.Guan@noaa.gov and the Alaska Regional Stranding Coordinator (Aleria.Jensen@noaa.gov). The report must include the same information identified in Condition 8(g) above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with the AAC to determine whether modifications in the activities are appropriate.
 - (i) In the event that the AAC discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in Condition 3 of this Authorization (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the AAC shall report the incident to the Acting Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301-427-8401, and/or by email to Jolie.Harrison@noaa.gov and Shane.Guan@noaa.gov and the Alaska Regional Stranding Coordinator (Aleria.Jensen@noaa.gov), within 24 hours of the discovery. The AAC shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.
9. Activities related to the monitoring described in this Authorization and as described in the holders application, do not require a separate scientific research permit issued under section 104 of the MMPA.
 10. Failure to comply with the terms and conditions contained in Subpart H – Taking of Marine Mammals Incidental to Space Vehicle and Missile Launch Operations at Kodiak Launch Complex, Alaska (50 CFR 217.70-217.78) may result in the modification, suspension or revocation of this Authorization.
 11. A copy of this Authorization and the attached Subpart H of the regulations must be in the possession of each observer or group operating under the authority of this Letter of Authorization.

12. The Holder of this Authorization is required to comply with the Terms and Conditions of the Incidental Take Statement corresponding to NMFS' Biological Opinion as they pertain to listed marine mammals.



Donna S. Wieting
Director
Office of Protected Resources
National Marine Fisheries Service

JUL 21 2014
Date