



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

DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
NATIONAL MARINE FISHERIES SERVICE

Letter of Authorization

The Superintendent of the Monterey Bay National Marine Sanctuary (MBNMS), 299 Foam Street, Monterey, California 93940 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, by Level B harassment, small numbers of marine mammals incidental to authorizing coastal commercial fireworks displays in the MBNMS, California subject to the provisions of the MMPA, the Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities (50 CFR Part 216, Subpart J)(Regulations) and the following conditions:

1. This Authorization is valid from July 4, 2009 through July 3, 2010.
2. This Authorization is valid only for the unintentional taking of the species of marine mammals identified in 50 CFR § 216.110(b) and Condition 3 of this Authorization incidental to the authorization of fireworks displays in the MBNMS, as described in the preamble to the final rule.
3. This Authorization is valid for the taking, by Level B harassment only, of California sea lions (*Zalophus californianus*) and Pacific harbor seals (*Phoca vitulina*). The taking by serious injury or death of these species, 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 Southwest Regional Administrator, National Marine Fisheries Service (NMFS), at (562) 980-3232 and to the NMFS Division of Permits, Conservation, and Education, Office of Protected Resources (301) 713-2289.

5. Cooperation:

The holder of this Authorization (i.e. the Superintendent of MBNMS or designees of the Superintendent) is required to cooperate with NMFS and any other Federal, state or local agency monitoring the impacts of the activity on marine mammals. The holder or designees must notify the Regional Administrator, Southwest Region, at least 24 hours prior to each permitted fireworks activity.



## 6. Mitigation Requirements:

The Holder of this Authorization, and any individuals operating under his authority, must conduct the activity identified in 50 CFR § 216.110 and Condition 2 of this Authorization in a manner that minimizes, to the greatest extent practicable, adverse impacts on marine mammals, their habitats, and the availability of marine mammals for subsistence. When conducting operations identified in 50 CFR § 216.110, the following mitigation measures must be implemented:

(a) Limit the location of the authorized fireworks displays to the four specifically prescribed areas at Half Moon Bay, the Santa Cruz/Soquel area, the northeastern Monterey Peninsula, and Cambria (Santa Rosa Creek).

(b) Limit the frequency of authorized fireworks displays to no more than a total of 20 displays per year and at an average of no more than one fireworks display every two months in each of the four conditional display areas.

(c) Limit the duration of permitted individual fireworks displays to no longer than 30 minutes each, with the exception of two longer shows per year not to exceed 1 hour in length.

(d) Prohibit fireworks displays within the MBNMS between March 1 and June 30 of any year.

(e) Continue to implement MBNMS special conditions for fireworks when authorizing fireworks displays at the MBNMS, which shall include the following restrictions and terms:

(i) Delay of aerial "salute" effects until five minutes after the commencement of any fireworks display.

(ii) Removal of all plastic labels and wrappings from pyrotechnic devices prior to use.

(iii) Prohibited use of any aerial mortar containing non-biodegradable components (e.g. plastics) exceeding five percent of the mortar's mass.

(iv) Required recovery of all fireworks-related debris from the launch site and affected beaches.

## 7. Monitoring

The holder of this authorization is required to:

(a) For all fireworks displays, require the entities authorized to conduct fireworks to conduct a pre-event census of local marine mammal populations within the fireworks impact area.

(b) For all fireworks displays, require the entities authorized to conduct fireworks to also conduct post-event monitoring in the fireworks impact area to record injured or dead marine mammals and other wildlife.

8. Reporting:

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

(a) Submit a draft annual monitoring report to the Division of Permits, Conservation, and Education, Office of Protected Resources, NMFS and the Regional Administrator, Southwest Region, NMFS no later than 60 days after the conclusion of each calendar year. This report must contain:

(i) Dates, locations, and authorized entity conducting fireworks; and

(ii) An estimate of the number of marine mammals disturbed by the authorized activities, based on the pre-fireworks census and other available information.

(b) Submit a draft comprehensive monitoring report on all marine mammal monitoring and research conducted during the period of the Regulations (including a summary) to the Division of Permits, Conservation, and Education, Office of Protected Resources, NMFS and the Regional Administrator, Southwest Region, NMFS at least 120 days prior to expiration of these regulations or 120 days after the expiration of these regulations if renewal of the regulations will not be requested.

(c) Both the draft annual and comprehensive reports will be subject to review and comment by NMFS. Any recommendations made by NMFS must be addressed in the final comprehensive report prior to acceptance by NMFS.

9. Failure to comply with the terms and conditions contained in Subpart J—Taking of Marine Mammals Incidental to Coastal Commercial Fireworks Displays at Monterey Bay National Marine Sanctuary, California (50 CFR 216.110-216.17) may result in the modification, suspension or revocation of this Authorization.

10. A copy of this Authorization and the attached Subpart J of the regulations must be in the possession of each observer or group operating under the authority of this Letter of Authorization.

  
James H. Lecky  
Director, Office of Protected Resources,  
National Marine Fisheries Service

JUN 19 2009

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Date