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**FOR FURTHER INFORMATION CONTACT:** Malcolm Mohead or Kate Swails, (301) 713-2289.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

Dr. Douglas Peterson is seeking a five-year scientific research permit to conduct a study in the Altamaha River, Georgia, assessing the distribution, abundance and movements of adult and sub-adult of shortnose sturgeon. The permit would authorize non-lethal sampling methods on up to 500 shortnose sturgeon annually, but not to exceed 1,500 over the life of the permit. Research activities would include gill netting, measuring (length, weight, photos), genetic/fin-ray tissue sampling, PIT and sonic tagging, anesthesia, laparoscopy, and gastric lavage. To document spawning in the river, up to 20 eggs or larvae would be lethally collected with artificial substrates annually. Additionally, one incidence of unintentional mortality or serious injury is proposed over the life of the permit.

Dated: June 18, 2009

**P. Michael Payne,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XP64

#### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Coastal Commercial Fireworks Displays at Monterey Bay National Marine Sanctuary, CA

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

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**ACTION:** Notice of issuance of a letter of authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that a one-year Letter of Authorization (LOA) has been issued to the Monterey Bay National Marine Sanctuary (MBNMS) to incidentally take, by Level B harassment only, California sea lions (*Zalophus californianus*) and Pacific harbor seals (*Phoca vitulina*) incidental to professional fireworks displays within the MBNMS.

**DATES:** This authorization is effective from July 4, 2009, through July 3, 2010.

**ADDRESSES:** The LOA and supporting documentation are available for review in the Permits, Conservation, and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, by contacting one of the individuals listed here (**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 and at the Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

**FOR FURTHER INFORMATION CONTACT:** Jeannine Cody, Office of Protected Resources, NMFS, (301) 713-2289, or Monica DeAngelis, Southwest Regional Office, NMFS, (562) 980-4023.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (Secretary) upon request, to allow, during periods of not more than five consecutive years each, the incidental, but not intentional, taking 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 regulations are issued.

The Secretary shall grant the authorization for incidental taking if NMFS finds, after notice and opportunity for public comment, that the total of such taking during each five-year (or less) period concerned, 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 subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined "negligible impact" in 50 Code of Federal

Regulations 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."

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 must include requirements for monitoring and reporting of such taking.

Regulations governing the taking of California sea lions and Pacific harbor seals, by Level B harassment, incidental to commercial fireworks displays within the Monterey Bay National Marine Sanctuary (MBNMS) became effective on July 4, 2006, and remain in effect until July 3, 2011. For detailed information on this action, please refer to the original **Federal Register** notice (71 FR 40928, July 19, 2006). These regulations include mitigation, monitoring, and reporting requirements for the incidental taking of marine mammals during the fireworks displays within the Sanctuary boundaries. This will be the third LOA issued pursuant to these regulations.

#### Summary of Request

On February 11, 2008, NMFS received a request for a LOA pursuant to the aforementioned regulations that would authorize, for a period not to exceed 1 year, take of marine mammals incidental to fireworks displays at the MBNMS. Justification for conducting fireworks displays within the MBNMS can be found in the proposed rule (71 FR 25544, May 1, 2006) and the in final rule (71 FR 40928, July 19, 2006).

#### Summary of Activity and Monitoring Under the Current LOA

In compliance with the 2008 LOA, the MBNMS submitted an annual report on the fireworks displays at MBNMS. A summary of that report follows.

For each display, observers conducted pre-event surveys to document abundance and distribution of local marine mammal populations within the fireworks areas. Following the fireworks display, observers conducted post-event monitoring to record the presence of injured or dead marine mammals, and other wildlife.

Pre-event monitoring of the Cambria Independence Day Fireworks on July 3 found no marine mammals present at the site and a post-event census on July