

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

RIN 0648–XA216

**Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Space Vehicle and Missile Launch Operations at Kodiak Launch Complex, Alaska**

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

**ACTION:** Notice of issuance of a Letter of Authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that a Letter of Authorization (LOA) has been issued to the Alaska Aerospace Corporation (AAC) to take two species of seals and sea lions incidental to space vehicle and missile launch operations at the Kodiak Launch Complex (KLC) in Kodiak, Alaska.

**DATES:** Effective from April 30, 2011, through April 29, 2012.

**ADDRESSES:** The LOA and supporting documentation are available for review 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, by telephoning the contact listed under **FOR FURTHER INFORMATION CONTACT**, or on the Internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>. Documents cited in this notice may also be viewed, by appointment, during regular business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Michelle Magliocca, Office of Protected Resources, NMFS, 301–713–2289, ext 123.

**SUPPLEMENTARY INFORMATION:****Background**

Sections 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 small numbers of marine mammals by U.S. 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. Under the MMPA, the term “take” means to harass, hunt, capture, or

kill, or attempt to harass, hunt, capture, or kill marine mammals.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the identified species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth in the regulations. 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.”

Regulations governing the taking of Steller sea lions (*Eumetopias jubatus*), by harassment, and harbor seals (*Phoca vitulina*), adults by harassment and pups by injury or mortality, incidental to space vehicle and missile launch operations at the KLC, were issued on March 22, 2011 (76 FR 16311, March 23, 2011), and remain in effect until March 21, 2016. For detailed information on this action, please refer to that document. The regulations include mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during space vehicle and missile launch operations at the KLC.

This LOA is effective from April 30, 2011, through April 29, 2012, and authorizes the incidental take of the two marine mammal species listed above that may result from the launching of up to 12 space launch vehicles, long-range ballistic target missiles, and other smaller missile systems at the KLC. Steller sea lion and harbor seal haulouts exist on Ugak Island, which lies approximately 3.4 miles to the southeast of the launch site. The KLC primarily supports launches of small to medium space launch vehicles—which by definition are those used to boost satellites to orbit—ranging in size from the small space-launch Castor 120 motor (used in the Athena, Minotaur IV, Minotaur V, and Taurus I systems) to the under-development medium-lift Taurus II. The KLC is also configured to support launch of the Minuteman I-derived Minotaur I Space Launch System, and to support launch of long-range ballistic systems such as the Polaris derived A–3 STARS, the Minuteman-derived Minotaur II and III, and the C–4.

The activities under these regulations are a major source of noise on Kodiak Island, as the operation of launch

vehicle engines produce substantial sound pressures. Generally, four types of noise occur during a launch: (1) Combustion noise; (2) jet noise from interaction of combustion exhaust gases with the atmosphere; (3) combustion noise proper; and (4) sonic booms. Sonic booms are not a concern for pinnipeds on Ugak Island, as sonic booms created by ascending rockets launched from the KLC reach the Earth’s surface over deep ocean, well past the edge of the outer continental shelf (FAA 1996). The noise generated by operations at the KLC may result in the incidental harassment of pinnipeds, both behaviorally and in terms of physiological (auditory) impacts. The noise and visual disturbances from space vehicle and missile launch operations may cause the animals to move towards or enter the water. If launches occur during the harbor seal pupping season, it is possible that harbor seal pups could be injured or killed as a result of the adults flushing in response to the rocket noise, or the mother/pup bond could be permanently broken.

However, NMFS does not expect harbor seal pup injury and mortality to occur to a great degree due to the pups’ precociousness and the mothers’ overt attention. Furthermore, take of any pinnipeds will be minimized through implementation of the following mitigation measures: (1) Security overflights immediately associated with the 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 ft (305 m) from the haulouts 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; (2) the AAC will avoid launches during the harbor seal pupping season (May 15 to June 30), unless constrained by factors including, but not limited to, human safety and national security; and (3) if launch monitoring detects pinniped injury or death, or if long-term trend counts from 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.

The AAC will also use audio-recording equipment and a remote live-streaming video system to monitor a harbor seal haulouts before, after, and during the first five launches. After the first five launches with harbor seal

presence, the AAC and NMFS will reassess the efficiency of the video system before potentially relocating or re-aiming it to another haulout. Reports will be submitted to NMFS at the time of request for a renewal of the LOA, and a final comprehensive report, which will summarize all previous reports and assess cumulative impacts, will be submitted before the rule expires. This LOA will be renewed annually based on review of the annual monitoring report.

Dated: April 29, 2011.

**James H. Lecky,**

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

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BILLING CODE 3510-22-P

## DEPARTMENT OF EDUCATION

### Committee on Measures of Student Success

**AGENCY:** National Center for Education Statistics, Institute of Education Sciences, Department of Education.

**ACTION:** Notice of an open meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of an upcoming meeting of the Committee on Measures of Student Success (Committee). The notice also describes the functions of the Committee. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act (FACA) and is intended to notify the public of their opportunity to attend.

**DATES:** June 2-3, 2011.

*Time:* June 2, 2011: 1 p.m. to 5 p.m.; June 3, 2011: 9 a.m. to 1 p.m.

**ADDRESSES:** The Committee will meet in Washington, DC at 1990 K Street, NW., Washington, DC 20006, 8th Floor Conference Center.

**FOR FURTHER INFORMATION CONTACT:**

Archie Cubarrubia, Designated Federal Official, Committee on Measures of Student Success, U.S. Department of Education, 1990 K Street, NW., Washington, DC 20006. E-mail: [Archie.Cubarrubia@ed.gov](mailto:Archie.Cubarrubia@ed.gov). Telephone: (202) 502-7601.

**SUPPLEMENTARY INFORMATION:** The Committee is established to advise the Secretary of Education in assisting two-year degree-granting institutions of higher education in meeting the completion or graduation rate disclosure requirements outlined in section 485 of the Higher Education Act of 1965, as amended. Specifically, the Committee shall develop recommendations regarding the accurate calculation and reporting of completion or graduation

rates of entering certificate/degree-seeking, full-time, undergraduate students by two-year degree granting institutions of higher education. The Committee may also recommend additional or alternative measures of student success that are comparable alternatives to the completion or graduation rates of entering degree-seeking full-time undergraduate students and that consider the mission and role of two-year degree granting higher education institutions. These recommendations shall be provided to the Secretary no later than April 2012.

The agenda for the Committee's third meeting will include Committee member discussions of the Committee working groups' preliminary findings and recommendations regarding progression, completion, and alternative measures and other related topics.

Individuals interested in attending the meeting must register in advance because of limited space issues. To register, please send an e-mail request to [studentsuccess@ed.gov](mailto:studentsuccess@ed.gov). Individuals who will need accommodations for a disability in order to attend the meeting (e.g., interpreting services, assistive listening devices, or materials in alternative format) should notify Archie Cubarrubia at (202) 502-7601 no later than May 26, 2011. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

Opportunities for public comment are available through the Committee's Web site at <http://www2.ed.gov/about/bdscomm/list/acmss.html>. Records are kept of all Committee proceedings and are available for public inspection on the Web site and at the National Center for Education Statistics, 1990 K Street, NW., Washington, DC 20006 from the hours of 9 a.m. to 5 p.m. E.S.T.

**Electronic Access to This Document:** You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fed-register/index.html>. To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1-866-512-1830; or in the Washington, DC, area at (202) 512-0000.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO

Access at: <http://www.gpoaccess.gov/nara/index.html>.

**John Q. Easton,**

*Director, Institute of Education Sciences.*

[FR Doc. 2011-11555 Filed 5-10-11; 8:45 am]

BILLING CODE 4000-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 459-303]

#### Union Electric Company, dba AmerenUE; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-project use of project lands and waters.

b. *Project No:* 459-303.

c. *Date Filed:* April 19, 2011.

d. *Applicant:* Union Electric Company, dba AmerenUE.

e. *Name of Project:* Osage Hydroelectric Project.

f. *Location:* The proposed non-project use would be located near mile marker 18.8 + 0.5 of the Grand Glaize Arm of the Lake of the Ozarks, in Camden County, Missouri.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.

h. *Applicant Contact:* Mr. Jeff Green, Shoreline Supervisor, AmerenUE, P.O. Box 993, Lake Ozark, MO 65049, (573) 365-9214.

i. *FERC Contact:* Shana High at (202) 502-8674, or e-mail: [shana.high@ferc.gov](mailto:shana.high@ferc.gov).

j. *Deadline for filing comments, motions to intervene, and protest:* June 6, 2011.

All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at <http://www.ferc.gov/docs-filing/efiling.asp>. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. Please include the