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FOR FURTHER INFORMATION CONTACT: Michele Shea, Fish for the Future Foundation, (703) 379-6101, Michele.Shea@fish4thefuturefoundation.org or Laurel Bryant, NMFS, (301) 713-2379 x171, laurel.bryant@noaa.gov

SUPPLEMENTARY INFORMATION: NMFS published a notice in the **Federal Register** on November 8, 2006 (71 FR 65471) that provided background information as it relates to this nomination process. The background information is not repeated in this document. Today's notice extends the nomination deadline from January 8 to January 31, 2007.

Dated: December 12, 2006.

William T. Hogarth,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 083106B]

Small Takes of Marine Mammals Incidental to Specified Activities; Low-Energy Seismic Surveys in the South Pacific Ocean

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

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by harassment, incidental to conducting an oceanographic survey in the South Pacific Ocean (SPO) has been issued to the Scripps Institution of Oceanography (SIO).

DATES: Effective from December 12, 2006, through December 11, 2007.

ADDRESSES: The authorization and application containing a list of the references used in this document may

be obtained by writing to this address or by telephoning the contact listed here. The application is also available at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

FOR FURTHER INFORMATION CONTACT:

Kenneth Hollingshead, Office of Protected Resources, NMFS, (301) 713-2289, ext 128.

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 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 or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization shall 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 subsistence uses, and that 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 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 with respect to certain 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 marine

mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On July 24, 2006, NMFS received an application from SIO for the taking, by harassment, of several species of marine mammals (see Marine Mammals Affected by this Activity later in this document) incidental to conducting a low-energy marine seismic survey program during December 2006 and January 2007 in the SPO. SIO plans to conduct a seismic survey at several sites in the SPO (as illustrated in Figure 1 in SIO's application) as part of the Integrated Ocean Drilling Program (IODP).

The purpose of the research program is to conduct a piston/ gravity coring, magnetic, and seismic survey program at 12 sites in the SPO. The seismic surveys will involve one vessel. The source vessel, the *R/V Roger Revelle*, will deploy a pair of low-energy Generator-Injector (GI) airguns as an energy source (each with a discharge volume of 45 in³), plus a 800-m (1476-ft) long, 48-channel, towed hydrophone streamer. The *Revelle* is scheduled to depart from Apia, Samoa, on or about December 7, 2006, and to arrive at Dunedin, New Zealand, on or about January 17, 2007. The program will consist of approximately 1930 km (1042 nm) of surveys, including turns. The surveys will be conducted entirely in international waters. The GI guns will be operated on a small grid for about 6-10 hours at each of 12 sites during approximately December 10, 2006, to January 13, 2007.

A description of the *Revelle's* oceanographic research program is contained in SIO's application (see **ADDRESSES** for availability) and in NMFS' notice of receipt of SIO's IHA application (see 71 FR 56955 (September 28, 2006)) and is not repeated here. There have been no significant changes in SIO's oceanographic research program between the September 28, 2006 **Federal Register** notice and NMFS' decision to issue the IHA.

Comments and Responses

A notice of receipt and request for 30-day public comment on the application and proposed authorization was published on September 28, 2006 (71 FR 56955). During the 30-day public comment period, NMFS received comments only from the Marine Mammal Commission (Commission).

Comment 1: The Commission recommends that NMFS issue the

requested authorization, provided the applicant is required to conduct all practicable monitoring and mitigation measures that reasonably can be expected to protect the potentially affected marine mammal species from serious injury. In that regard, the Commission notes that it submitted similar comments on this concern in letters dated December 18, 2005 and February 21, 2006 on SIO's activities in the southwestern Pacific Ocean (SWPO) and eastern tropical Pacific (ETP). As in those cases, since several species of beaked whales occur in the proposed survey area, and given the uncertainties concern the effects of sound on these and possibly other species, caution is warranted.

Response: NMFS responded to similar concerns from the Commission on January 30, 2006 (71 FR 3260), for SIO's ETP seismic survey and on February 6, 2006 (71 FR 6041), for SIO's SWPO survey. For this low-energy seismic survey, the radius of the zone of potential serious injury for cetaceans is approximately 40 m (131 ft). For the 2-GI airgun seismic activity, the radius of the zone of potential Level B harassment for cetaceans is approximately 400 m (1312 ft). Considering the small size of the 2 GI-gun array compared to other high-energy sources used by the military and industry; the small size of the potential impact zones; the speed of the vessel when towing the airgun (7 knots); the length of daylight at this time of the year in the South Pacific; and, the marine mammal avoidance measures that are implemented by the vessel for marine mammals on the vessel's track, it is very unlikely that any marine mammals would enter the safety zone undetected. If a marine mammal enters the small safety zone, operational shutdown will be implemented until the animal leaves the safety zone.

Comment 2: The Commission notes that NMFS and SIO believe that the proposed activities will result only in Level B harassment of cetaceans and pinnipeds. However, there is some possibility that the proposed study could result in injuries or deaths to beaked whales or other species of small cetaceans.

Response: NMFS is unaware of any documented injuries or mortalities caused by low-energy, low-frequency sound sources, such as the 2 GI gun array on beaked whales or other marine mammals. If the Commission has any information on this subject, NMFS would appreciate obtaining this additional information for its review of IHA applications for low-energy noise sources.

Comment 3: The Commission states that NMFS and/or the applicant should provide additional information concerning the likely effectiveness of the proposed monitoring program in detecting an injured or dead beaked whale or other small cetacean, should an injury or death occur. For example, would any such animals likely be sighted from a ship running transects through an area or retracing recently run transect lines?

Response: NMFS is unaware of any scientific studies to demonstrate efficacy of conducting marine mammal sightings from a moving vessel for incapacitated or dead marine mammals. However, SIO notes that the *Revelle* will spend approximately 24 hours at each of the 12 seabottom coring sites. As the inset to Figure 1 in SIO's application shows, the *Revelle* will run two parallel and one perpendicular seismic lines at each coring station. In addition, the *Revelle* will remain at the site for several hours while conducting its coring and magnetics work. Using big-eye binoculars, injured or dead mammals that are floating should be readily visible to MMOs during daylight hours.

Comment 4: The Commission believes NMFS should require that operations be suspended immediately if a dead or seriously injured marine mammal is found in the vicinity of the operations and the death or injury could have occurred incidental to the seismic survey. Any such suspension should remain in place until NMFS has reviewed the situation and determined that further deaths or serious injuries are unlikely to occur or has issued regulations authorizing such takes under section 101(a)(5)(A) of the MMPA.

Response: A standard condition in all seismic IHAs is for an emergency shutdown. The IHA states that "If observations are made or credible reports are received that one or more marine mammals or sea turtles are within the area of this activity in an injured or mortal state, or are indicating acute distress, the seismic airguns will be immediately shut down and the Chief of the Permits, Conservation and Education Division, Office of Protected Resources or a staff member contacted. The airgun array will not be restarted until review and approval has been given by the Director, Office of Protected Resources or his designee." However, NMFS needs to make it clear that this requirement pertains only to recently deceased marine mammals (as determined by the lead MMO onboard the vessel) and not for long-dead "floaters.≥

Marine Mammals Affected by the Activity

Forty species of cetacean (including 31 odontocete (dolphins and small- and large-toothed whales) species and nine mysticete (baleen whales) species) and five species of pinnipeds (seals and sea lions) could potentially occur in the proposed seismic survey area are believed by scientists to occur in the SPO in the proposed seismic survey area. Detailed information on these species is contained in the SIO application and the National Science Foundation (NSF) EA which are available at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#iha>.

Table 2 in both the SIO application and NSF EA summarizes the habitat, occurrence, and regional population estimate for these species. Please see these documents and NMFS' September 28, 2006 (71 FR 56957) notice for additional information on potentially affected marine mammal species.

Potential Effects on Marine Mammals

As outlined in previous NMFS documents, the effects of noise on marine mammals are highly variable, and can be categorized as follows (based on Richardson et al., 1995):

(1) The noise may be too weak to be heard at the location of the animal (i.e., lower than the prevailing ambient noise level, the hearing threshold of the animal at relevant frequencies, or both);

(2) The noise may be audible but not strong enough to elicit any overt behavioral response;

(3) The noise may elicit reactions of variable conspicuousness and variable relevance to the well being of the marine mammal; these can range from temporary alert responses to active avoidance reactions such as vacating an area at least until the noise event ceases;

(4) Upon repeated exposure, a marine mammal may exhibit diminishing responsiveness (habituation), or disturbance effects may persist; the latter is most likely with sounds that are highly variable in characteristics, infrequent and unpredictable in occurrence, and associated with situations that a marine mammal perceives as a threat;

(5) Any anthropogenic noise that is strong enough to be heard has the potential to reduce (mask) the ability of a marine mammal to hear natural sounds at similar frequencies, including calls from conspecifics, and underwater environmental sounds such as surf noise;

(6) If mammals remain in an area because it is important for feeding, breeding or some other biologically

important purpose even though there is chronic exposure to noise, it is possible that there could be noise-induced physiological stress; this might in turn have negative effects on the well-being or reproduction of the animals involved; and

(7) Very strong sounds have the potential to cause temporary or permanent reduction in hearing sensitivity. In terrestrial mammals, and presumably marine mammals, received sound levels must far exceed the animal's hearing threshold for there to be any temporary threshold shift (TTS) in its hearing ability. For transient sounds, the sound level necessary to cause TTS is inversely related to the duration of the sound. Received sound levels must be even higher for there to be risk of permanent hearing impairment. In addition, intense acoustic or explosive events may cause trauma to tissues associated with organs vital for hearing, sound production, respiration and other functions. This trauma may include minor to severe hemorrhage.

Effects of Seismic Surveys on Marine Mammals

The SIO application and two previous SIO IHA notices (71 FR 6041, February 6, 2006, and 71 FR 14839, March 24, 2006) provide information on what is known about the effects on marine mammals of the types of seismic operations planned by SIO. The types of effects considered in these documents are (1) tolerance, (2) masking of natural sounds, (3) behavioral disturbance, (4) potential hearing impairment, and (5) other non-auditory physical effects. This information is incorporated herein. Please refer to these documents for information and analyses on potential impacts to marine mammals by seismic activities.

Summarizing from these analyses, given the relatively small size of the airguns planned for the present project, NMFS and SIO believe it is very unlikely that there would be any cases of temporary or permanent hearing impairment, or non-auditory physical effects. Also, behavioral disturbance is expected to be limited to distances less than 400 m (1312 ft) from the seismic source. This is the zone calculated for 160 dB or the onset of Level B (behavioral) harassment. As a result, acoustic effects are anticipated to be considerably less than would be the case with a large array of airguns.

Possible Effects of Mid-frequency Sonar Signals

A multi-beam bathymetric sonar and a sub-bottom profiler will be operated

from the source vessel essentially continuously during much of the planned survey. Details about these sonars and potential effects on marine mammals (masking, behavioral response, hearing impairment and other physical effects) have been provided in the SIO application and by NMFS previously (see 71 FR 6041, February 6, 2006, and 71 FR 14839, March 24, 2006) and are not repeated here. This information is incorporated herein by citation. Please refer to these documents for information and analyses on potential impacts to marine mammals by these mid-frequency sonar activities.

Estimates of Take by Harassment for the SPO Seismic Survey

Although information contained in several documents cited and summarized in SIO's application indicates that injury to marine mammals from seismic sounds potentially occurs at sound pressure levels significantly higher than 180 and 190 dB, NMFS' current criteria for onset of Level A harassment of cetaceans and pinnipeds from impulse sound are, respectively, 180 and 190 re 1 microPa rms. The rms level of a seismic pulse is typically about 10 dB less than its peak level and about 16 dB less than its pk-pk level (Greene, 1997; McCauley *et al.*, 1998; 2000a). Given the small zone of impact due to the low-energy seismic sources and the mitigation and monitoring required under the IHA for this survey (see Mitigation and Monitoring later in this document), all anticipated effects involve, at most, a temporary change in behavior that may constitute Level B (behavioral) harassment, and no injury or mortality is likely. The mitigation measures will essentially eliminate the possibility of Level A harassment or mortality. As described later, SIO has calculated the "best estimates" for the numbers of animals that could be taken by Level B harassment during the proposed SPO seismic survey using data on marine mammal density (numbers per unit area) and estimates of the size of the affected area, as shown in the predicted RMS radii table (see Table 1 in 71 FR 56955 (September 28, 2006)).

The Level B harassment estimates are based on a consideration of the number of marine mammals that might be exposed to sound levels at or higher than 160 dB, the criterion for the onset of Level B harassment, by operations with the 2 GI-gun array planned to be used for this project. The anticipated zones of influence of the multi-beam sonar and sub-bottom profiler are less than that for the airguns, so it is assumed that during simultaneous operations of these instruments that any

marine mammals close enough to be affected by the multi-beam and sub-bottom profiler sonars would already be affected by the airguns. Therefore, no additional incidental takings are included for animals that might be affected by the multi-beam sonar. Also, given their characteristics (described in SIO's application and analyzed by NMFS in previous SIO authorizations), no Level B harassment takings are considered likely when the multibeam and sub-bottom profiler are operating but the airguns are silent.

SIO notes that it is difficult to make accurate, scientifically defensible, and observationally verifiable estimates of the number of individuals likely to be subject to low-level harassment by the noise from SIO's GI guns. There are many uncertainties in marine mammal distribution and seasonally varying abundance, and in local horizontal and vertical distribution; in marine mammal reactions to varying frequencies and levels of acoustic pulses; and in perceived sound levels at different horizontal and oblique ranges from the source.

The best estimate of the potential number of exposures to received levels equal to, or greater than, 160 dB re 1 microPa (rms) was calculated by SIO by multiplying the expected density of the species/stock; times the anticipated total line-kilometers of operations with the 2 GI guns (including turns and additional buffer line km to allow for repeating of lines due to equipment malfunction, bad weather, etc.), times the cross-track distances within which received sound levels are predicted to be 160 dB or greater.

For the 2 GI guns, that cross track distance is 2x the predicted 160-dB radii of 400 m (1312 ft) in water depths greater than 1000 m (3281 ft). Based on that method, SIO obtained the "best" and "maximum" estimates of the number of marine mammal exposures to airgun sounds 160 dB re 1 microPa (rms) and higher for each of the ecological provinces using the reported average and maximum densities from Tables 3 and 4 in SIO's application. The two estimates were then added to give total estimated exposures. The estimates show that very small numbers of the five endangered large whale species may be exposed to such noise levels (see Table 5 in SIO's application). SIO's best estimates for these species are one exposure each for the sperm whale, southern right whale, sei whale, and fin whale. The vast majority of the best estimate for exposures to seismic sounds 160 dB and higher would involve delphinids. Best estimates of the number of exposures of cetaceans, in

descending order, are bottlenose dolphin (292 exposures), rough-toothed and spotted dolphin (80 exposures each), and southern right whale dolphin (73 exposures). SIO believes that based on the empirical calibration data collected in the Gulf of Mexico for 2-GI guns in deep water, actual 160-dB distances in deep water are likely to be less than predicted (Tolstoy et al., 2004) and, therefore, the predicted numbers of marine mammals that might be exposed to sounds 160 dB or greater may be somewhat overestimated.

While data regarding distribution, seasonal abundance, and response of pinnipeds to seismic sonar is sparse, NMFS believes the *Revelle* is unlikely to encounter any of the four pinniped species that live, for at least part of the year, in SIO's proposed survey area because of the decreased likelihood of encountering them in the very deep water, the relatively small area proposed to be ensonified, and the likely effectiveness of the required mitigation measures in such a small area.

Table 2 (see 71 FR 56955 (September 28, 2006)) provides the best estimate of the numbers of each species that could be exposed to seismic sounds equal to, or greater than, 160 dB and the number of marine mammals requested to be taken by Level B harassment. A detailed description on the methodology used by SIO to arrive at the estimates of Level B harassment takes that are provided in Table 2 can be found in SIO's application for the SPO survey.

Conclusions

Effects on Cetaceans

Strong avoidance reactions by several species of mysticetes to seismic vessels have been observed at ranges up to 6–8 km (3.2–4.3 nm) and occasionally as far as 20–30 km (10.8–16.2 nm) from the source vessel. However, reactions at the longer distances appear to be atypical of most species and situations, particularly when feeding whales are involved. Few mysticetes are expected to be encountered during the proposed survey in the SPO (Table 2) and disturbance effects would be confined to shorter distances given the low-energy acoustic source to be used during this project. In addition, the estimated numbers presented in Table 2 are considered overestimates of actual numbers that may be harassed.

Odontocete reactions to seismic pulses, or at least the reactions of dolphins, are expected to extend to lesser distances than are those of mysticetes. Odontocete low-frequency hearing is less sensitive than that of mysticetes, and dolphins are often seen

from seismic vessels. In fact, there are documented instances of dolphins approaching active seismic vessels. However, dolphins as well as some other types of odontocetes sometimes show avoidance responses and/or other changes in behavior when near operating seismic vessels.

Taking into account the small size and the relatively low sound output of the 2 GI-gun array to be used, and the mitigation measures that are planned, effects on cetaceans are generally expected to be limited to avoidance of a small area around the seismic operation and short-term changes in behavior, falling within the MMPA definition of Level B harassment. Furthermore, the estimated numbers of animals potentially exposed to sound levels sufficient to cause appreciable disturbance are very low percentages of the affected populations.

Based on the 160-dB criterion, the best estimates of the numbers of individual cetaceans that may be exposed to sounds of 160 dB re 1 microPa (rms) or greater represent from 0 to approximately 0.07 percent of the regional SPO species populations (see Table 2 in 71 FR 56955 (September 28, 2006)). In the case of endangered balaenopterids, it is likely that no more than 1 humpback, sei, or fin whale will be exposed to seismic sounds 160 dB re 1 microPa (rms) or greater, based on estimated densities of those species in the survey region. Therefore, SIO has requested an authorization to expose up to 1 individuals of each of these species to seismic sounds of 160 dB or greater during the proposed survey given the possibility of encountering one or more groups. Best estimates of blue whales are that no individuals would be potentially exposed to seismic pulses with received levels 160 dB re 1 microPa (rms) or greater.

Higher numbers of delphinids may be affected by the proposed seismic surveys, but the population sizes of species likely to occur in the survey area are large, and the numbers potentially affected are small relative to population sizes. As a result, NMFS believes that the seismic survey proposed by SIO will result in only small numbers of cetaceans being harassed incidental to conducting that activity.

Mitigation measures such as controlled speed, course alteration, observers, ramp ups, and shut downs when marine mammals are seen within defined ranges should further reduce short-term reactions, and minimize any effects on hearing. In all cases, the effects are expected to be short-term, with no lasting adverse biological consequence. In light of the type of

effects expected and the small percentages of affected stocks of cetaceans, the action is expected to have no more than a negligible impact on the affected species or stocks of cetaceans.

Effects on Pinnipeds

Five pinniped species may be encountered at the survey sites, but their distribution and numbers have not been documented in the proposed survey area. In all likelihood, these species will be in southern feeding areas during the period for this survey. However, to ensure that the SIO project remains in compliance with the MMPA in the event that a few pinnipeds are encountered, SIO has requested an authorization to expose up to 3–5 individuals of each of the five pinniped species to seismic sounds with rms levels 160 dB re 1 microPa or greater. Therefore, the proposed survey would have, at most, a short-term effect on their behavior and no long-term impacts on individual pinnipeds or their populations. Responses of pinnipeds to acoustic disturbance are variable, but usually quite limited. Effects are expected to be limited to short-term and localized behavioral changes falling within the MMPA definition of Level B harassment. As is the case for cetaceans, the short-term exposures to sounds from the two GI-guns are not expected to result in any long-term consequences for the individuals or their populations and the activity is expected to have no more than a negligible impact on the affected species or stocks of pinnipeds.

Potential Effects on Habitat

The proposed seismic survey will not result in any permanent impact on habitats used by marine mammals, or to the food sources they utilize. The main impact issue associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals.

One of the reasons for the adoption of airguns as the standard energy source for marine seismic surveys was that they (unlike the explosives used in the distant past) do not result in any appreciable fish kill. Various experimental studies showed that airgun discharges cause little or no fish kill, and that any injurious effects were generally limited to the water within a meter or so of an airgun. However, it has recently been found that injurious effects on captive fish, especially on fish hearing, may occur at somewhat greater distances than previously thought (McCauley et al., 2000a,b, 2002; 2003). Even so, any injurious effects on fish would be limited to short distances from the source. Also, many of the fish that

might otherwise be within the injury-zone are likely to be displaced from this region prior to the approach of the airguns through avoidance reactions to the approaching seismic vessel or to the airgun sounds as received at distances beyond the injury radius.

Fish often react to sounds, especially strong and/or intermittent sounds of low frequency. Sound pulses at received levels of 160 dB re 1 μ Pa (peak) may cause subtle changes in behavior. Pulses at levels of 180 dB (peak) may cause noticeable changes in behavior (Chapman and Hawkins, 1969; Pearson *et al.*, 1992; Skalski *et al.*, 1992). It also appears that fish often habituate to repeated strong sounds rather rapidly, on time scales of minutes to an hour. However, the habituation does not endure, and resumption of the disturbing activity may again elicit disturbance responses from the same fish.

Fish near the airguns are likely to dive or exhibit some other kind of behavioral response. This might have short-term impacts on the ability of cetaceans to feed near the survey area. However, only a small fraction of the available habitat would be ensonified at any given time, and fish species would return to their pre-disturbance behavior once the seismic activity ceased. Thus, the proposed surveys would have little impact on the abilities of marine mammals to feed in the area where seismic work is planned. Fish that do not avoid the approaching airguns (probably a small number) may be subject to auditory or other injuries.

Zooplankton that are very close to the source may react to the airgun's shock wave. These animals have an exoskeleton and no air sacs; therefore, little or no mortality is expected. Many crustaceans can make sounds and some crustacea and other invertebrates have some type of sound receptor. However, the reactions of zooplankton to sound are not known. Some mysticetes feed on concentrations of zooplankton. A reaction by zooplankton to a seismic impulse would only be relevant to whales if it caused a concentration of zooplankton to scatter. Pressure changes of sufficient magnitude to cause this type of reaction would probably occur only very close to the source, so few zooplankton concentrations would be affected. Impacts on zooplankton behavior are predicted to be negligible, and this would translate into negligible impacts on feeding mysticetes.

Potential Effects on Subsistence Use of Marine Mammals

There is no known legal subsistence hunting for marine mammals in the

SPO, so the proposed SIO activities will not have any impact on the availability of these species or stocks for subsistence users.

Required Mitigation

For the proposed seismic survey in the SPO, SIO will deploy 2 GI-airguns as an energy source, each with a discharge volume of 45 in³. The energy from the airguns is directed mostly downward. The directional nature of the airguns to be used in this project is an important mitigating factor. This directionality will result in reduced sound levels at any given horizontal distance as compared with the levels expected at that distance if the source were omnidirectional with the stated nominal source level. Also, the small size of these airguns is an inherent and important mitigation measure that will reduce the potential for effects relative to those that might occur with large airgun arrays. This measure is in conformance with NMFS policy of encouraging seismic operators to use the lowest intensity airguns practicable to accomplish research objectives.

The following mitigation measures, as well as marine mammal visual monitoring (discussed later in this document), will be implemented for the subject seismic surveys: (1) Speed and course alteration (provided that they do not compromise operational safety requirements); (2) shut-down procedures; and (3) ramp-up procedures.

Speed and Course Alteration

If a marine mammal is detected outside its respective safety zone (180 dB for cetaceans, 190 dB for pinnipeds) and, based on its position and the relative motion, is likely to enter the safety zone, the vessel's speed and/or direct course will, when practicable and safe, be revised to avoid the mammal in a manner that also minimizes the effect to the planned science objectives. The marine mammal activities and movements relative to the seismic vessel will be closely monitored to ensure that the marine mammal does not approach the outer perimeter of safety zone.

Shut-down Procedures

Although power-down procedures are often standard operating practice for seismic surveys, power-down will not be used or authorized for this activity because powering down from two guns to one gun would make only a small difference in the 180- or 190-dB radius—probably not enough to allow continued one-gun operations if a marine mammal came within the safety radius for two guns.

If a marine mammal is detected outside the safety radius and is likely to enter the safety radius, and if the vessel's speed and/or course cannot be changed to avoid having the mammal enter the safety radius or an alternative ship speed or trackline is not effective in preventing entry into the safety zone, then the GI airguns must be shut down immediately. Likewise, if a mammal is already within the safety zone when first detected, the airguns must be shut down immediately.

Following a shut-down, airgun activity will not resume until the marine mammal has cleared the safety zone. The animal will be considered to have cleared the safety zone if it: (1) is visually observed to have left the safety zone, or (2) has not been seen within the zone for 15 minutes in the case of small odontocetes and pinnipeds, or (3) has not been seen within the zone for a minimum of 30 minutes in the case of mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, beaked and bottlenose whales.

During airgun operations following a shut-down whose duration has exceeded these specified limits, the airgun array will be ramped-up gradually.

Ramp-up Procedure

A ramp-up procedure will be followed when the airguns begin operating after a period without airgun operations. The two GI guns will be added in sequence 5 minutes apart. During ramp-up procedures, the safety radius for the two GI guns will be maintained.

During the day, ramp-up cannot begin from a shut-down unless the entire 180-dB safety radius has been visible for at least 30 minutes prior to the ramp-up (i.e., no ramp-up can begin in heavy fog or high sea states).

During nighttime operations, if the entire safety radius is visible using vessel lights and night-vision devices (NVDs) (as may be the case in deep and intermediate waters), then start up of the airguns from a shut-down may occur, after completion of the 30-minute observation period.

Comments on past IHAs raised the issue of prohibiting nighttime operations as a practical mitigation measure. However, this is not practicable due to cost considerations and ship time schedules. If the *Revelle* was prohibited from operating during nighttime, each trip could require an additional several days to complete.

If a seismic survey vessel is limited to daylight seismic operations, efficiency would also be much reduced. For seismic operations in general, a

daylight-only requirement would be expected to result in one or more of the following outcomes: cancellation of potentially valuable seismic surveys; reduction in the total number of seismic cruises annually due to longer cruise durations; a need for additional vessels to conduct the seismic operations; or work conducted by non-U.S. operators or non-U.S. vessels when in waters not subject to U.S. law.

Marine Mammal Monitoring

SIO must have at least two experienced marine mammal observer on board the *Revelle*, that NMFS has approved in advance of the start of the SPO cruise. These observers will be on duty in shifts of no longer than 4 hours.

The visual observers will monitor marine mammals and sea turtles near the seismic source vessel during all daytime airgun operations, during any nighttime start-ups of the airguns, and at night whenever daytime monitoring resulted in one or more shut-down situations due to marine mammal presence. During daylight, vessel-based observers will watch for marine mammals and sea turtles near the seismic vessel during periods with shooting (including ramp-ups), and for 30 minutes prior to the planned start of airgun operations after a shut-down.

Use of multiple observers will increase the likelihood that marine mammals near the source vessel are detected. *Revelle* bridge personnel will also assist in detecting marine mammals and implementing mitigation requirements whenever possible (they will be given instruction on how to do so), especially during ongoing operations at night when the designated observers are on stand-by and not required to be on watch at all times.

The observer(s) will watch for marine mammals from the highest practical vantage point on the vessel, which is either the bridge or the flying bridge. The observer(s) will systematically scan the area around the vessel with Big Eyes binoculars, reticulated binoculars (e.g., 7 X 50 Fujinon) and with the naked eye during the daytime. Laser range-finding binoculars (Leica L.F. 1200 laser rangefinder or equivalent) will be available to assist with distance estimation. The observers will be used to determine when a marine mammal or sea turtle is in or near the safety radii so that the required mitigation measures, such as course alteration and shut-down, can be implemented. If the GI-airguns are shut down, observers will maintain watch to determine when the animal is outside the safety radius.

Observers will not be on duty during ongoing seismic operations at night;

bridge personnel will watch for marine mammals during this time and will call for the airguns to be powered-down or shut-down if marine mammals are observed in or about to enter the safety radii. However, a biological observer must be on call at night and available to assist the bridge watch if marine mammals are detected at any distance from the *Revelle*. If the 2 GI-airgun is ramped-up at night (see previous section), two marine mammal observers will monitor for marine mammals for 30 minutes prior to ramp-up and during the ramp-up using either deck lighting or NVDs that will be available (ITT F500 Series Generation 3 binocular image intensifier or equivalent).

Post-Survey Monitoring

The biological observers will be able to conduct monitoring of most recently-run transect lines as the *Revelle* returns along parallel and perpendicular transect tracks (see inset of Figure 1 in the SIO application). This will provide the biological observers with opportunities to look for injured or dead marine mammals (although no injuries or mortalities are expected during this research cruise).

Passive Acoustic Monitoring (PAM)

Because of the very small zone for potential Level A harassment, use the PAM system during this cruise is not warranted and, therefore, is not required.

Summary

Taking into consideration the additional costs of prohibiting nighttime operations and the likely impact of the activity (including all mitigation and monitoring), NMFS has determined that the required mitigation and monitoring ensures that the activity will have the least practicable impact on the affected species or stocks. Due to seismic sound propagation, marine mammals will have sufficient notice of a vessel approaching with operating seismic airguns, thereby giving them an opportunity to avoid the approaching array; if ramp-up is required, two marine mammal observers will be required to monitor the safety radii using shipboard lighting or NVDs for at least 30 minutes before ramp-up begins and verify that no marine mammals are in or approaching the safety radii; ramp-up may not begin unless the entire safety radii are visible. Reporting

SIO will submit a draft report to NMFS within 90 days after the end of the cruise, which is currently predicted to occur during December, 2006 and January, 2007. The report, which will be posted by NMFS on its web-site, will

describe the operations that were conducted and the marine mammals that were detected. The report must provide full documentation of methods, results, and interpretation pertaining to all monitoring tasks. The report will summarize the dates and locations of seismic operations, marine mammal sightings (dates, times, locations, activities, associated seismic survey activities), and estimates of the amount and nature of potential take of marine mammals by harassment or in other ways.

During the recent SIO cruise to the Louisville Ridge (71 FR 6041, February 6, 2006), there were 5 sightings of marine mammals. All observed marine mammals were non-evasive of the research vessel and its activities. Only one sighting occurred while the seismic source was active. The animal's closest approach to the ship was greater than 2 km (1.08 nm), well outside the 40 m (131.2 ft) safety radius for the seismic source used on that cruise. For additional information please see the Louisville Ridge cruise report (<http://www.nmfs.noaa.gov/pr/permits/incidental.htm#iha>).

Endangered Species Act (ESA)

NMFS has issued a biological opinion regarding the effects of this action on ESA-listed species and critical habitat under the jurisdiction of NMFS. That biological opinion concluded that this action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. A copy of the Biological Opinion is available upon request (see ADDRESSES).

National Environmental Policy Act (NEPA)

The NSF made a Finding of No Significant Impact (FONSI) determination on November 3, 2005 (70 FR 68102, November 9, 2005), based on information contained within its EA (see 70 FR 39346, July 7, 2005, for public availability), that implementation of a low-energy seismic survey in the SPO is not a major Federal action having significant effects on the environment within the meaning of NEPA. The NSF determined, therefore, that an environmental impact statement would not be prepared.

NMFS noted that the NSF had prepared an EA for a previous SIO 2-GI airgun survey in the SPO and made this EA available upon request (70 FR 60287, October 17, 2005). In accordance with NOAA Administrative Order 216-6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20,

1999), NMFS reviewed the information contained in NSF's EA and determined that the NSF EA accurately and completely describes the proposed action alternative, and the potential impacts on marine mammals, endangered species, and other marine life that could be impacted by the preferred alternative and the other alternatives. Accordingly, NMFS adopted the NSF EA under 40 CFR 1506.3 and made its own FONSI. The NMFS FONSI also took into consideration additional mitigation measures that are not in NSF's EA. Therefore, because the actions described in that EA are similar in context and intensity to the current seismic activity by SIO, it is not necessary for NMFS to issue a new EA, a supplemental EA or an environmental impact statement for the issuance of an IHA to SIO for this activity. A copy of the EA and previous FONSI for this activity is available upon request. A copy of the NSF EA for this activity is available upon request (see ADDRESSES).

Conclusions

NMFS has determined that the impact of conducting the seismic survey in the SPO may result, at worst, in a temporary modification in behavior of small numbers of certain species of marine mammals. This activity is expected to result in no more than a negligible impact on the affected species or stocks.

For reasons stated previously in this document, this determination is supported by: (1) the likelihood that, given advance notice through relatively slow ship speed and ramp-up, marine mammals are expected to move away from a noise source that is annoying before it becomes potentially injurious; (2) recent research that indicates that TTS is unlikely (at least in delphinids) until levels closer to 200–205 dB re 1 microPa are reached rather than 180 dB re 1 microPa; (3) the fact that 200–205 dB isopleths would be well within 100 m (328 ft) of the vessel even in shallow water; and (4) the likelihood that marine mammal detection in the safety zone by trained observers is close to 100 percent during daytime and remains high at night to the short distance from the seismic vessel. As a result, no take by injury or death is anticipated or authorized, and the potential for temporary or permanent hearing impairment is very low and would be avoided through the incorporation of the required mitigation measures mentioned in this document.

While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals in the vicinity of the

survey activity, the number of potential harassment takings is estimated to be small. In addition, the proposed seismic program will not interfere with any known legal subsistence hunts, since seismic operations will not take place in subsistence whaling and sealing areas and will not affect marine mammals used for subsistence purposes.

Authorization

On this date, NMFS issues an IHA to SIO to take marine mammals, by Level B harassment, incidental to conducting seismic surveys in the SPO for a 1-year period, provided the mitigation, monitoring, and reporting requirements are undertaken.

Dated: December 12, 2006.

Donna Wieting,

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

[FR Doc. E6–21611 Filed 12–18–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

DoD Task Force on Mental Health Meeting

AGENCY: Office of the Assistant Secretary of Defense (Health Affairs); DoD.

ACTION: Notice of meeting change.

SUMMARY: This notice updates the previous notice, "Notice of Open Meeting" published on December 6, 2006 (71 FR 70743). In accordance with section 10(a)(2) of Public Law 92–463, the Federal Advisory Committee Act, announcement is made of the following meeting.

Name of Committee: DoD Task Force on Mental Health, a Subcommittee of the Defense Health Board.

Dates: December 18, 2006 (Afternoon—Open Session), December 19, 2006 (Morning—Open Session), December 20, 2006 (Morning and Afternoon—Open Session).

Times: 1300–1500 hours (18 December), 0800–1100 hours (19 December), 0800–1700 hours (20 December).

Location: Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA.

Agenda: The purpose of the meeting is to obtain, review, and evaluate information related to the Mental Health Task Force's congressionally-directed task of assessing the efficacy of mental health services provided to members of the Armed Forces by the Department of Defense. The Task Force members will

receive briefings on topics related to mental health concerns among military service members and mental health care delivery. The Task Force will hold a "Town Hall Meeting" session to hear concerns from the Washington, DC metro area active Duty Military, National Guard and Reserve, and Veterans communities and conduct executive working sessions.

FOR FURTHER INFORMATION CONTACT:

Colonel Roger Gibson, Executive Secretary, Defense Health Board, Skyline One, 5205 Leesburg Pike, Suite 810, Falls Church, VA 22041, (703) 681–3279, ext. 123.

SUPPLEMENTARY INFORMATION: The afternoon session on December 18, the morning session on December 19, and both morning and afternoon sessions on December 20, 2006 will be open to the public in accordance with Section 552b(b) of Title 5, U.S.C., specifically subparagraph (1) thereof an Title 5, U.S.C., appendix 1, subsection 10(d). Open sessions of the meeting will be limited by space accommodations. Any interested person may attend, appear before or file statements with the Board at the time and in the manner permitted by the Board.

Dated: December 13, 2006.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 06–9762 Filed 12–18–06; 8:45 am]

BILLING CODE 5001–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by January 24, 2007.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of