

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

RIN 0648–XF88

**Incidental Take of Marine Mammals; Taking of Marine Mammals Incidental to Conducting Precision Strike Weapons Testing and Training by Eglin Air Force Base in the Gulf of Mexico**

**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 provisions of the Marine Mammal Protection Act (MMPA), as amended, notification is hereby given that a letter of authorization (LOA) to take four species of marine mammals, by harassment, incidental to testing and training during Precision Strike Weapons (PSW) tests in the Gulf of Mexico (GOM), a military readiness activity, has been issued to Eglin Air Force Base (AFB).

**DATES:** This authorization is effective from March 19, 2008, through March 18, 2009.

**ADDRESSES:** The application and LOA are available for review in the Permits, Conservation, and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 or by contacting one of the individuals mentioned below (See **FOR FURTHER INFORMATION CONTACT**).

**FOR FURTHER INFORMATION CONTACT:** Kenneth Hollingshead or Candace Nachman, NMFS, (301) 713–2289.

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

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS 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 by NMFS and regulations are issued. Under the MMPA, the term “taking” means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture or kill marine mammals.

Authorization, in the form of annual LOAs, may be granted for periods up to five years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or

stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. 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 pertaining to the monitoring and reporting of such taking. Regulations governing the taking of marine mammals incidental to PSW testing and training within the Eglin Gulf Test and Training Range in the GOM, were published on November 24, 2006 (71 FR 67810), and remain in effect from December 26, 2006, through December 27, 2011. The four species that Eglin AFB may take in small numbers during PSW testing and training are Atlantic bottlenose dolphins (*Tursiops truncatus*), Atlantic spotted dolphins (*Stenella frontalis*), dwarf sperm whales (*Kogia simus*), and pygmy sperm whales (*Kogia breviceps*).

Issuance of the annual LOA to Eglin AFB is based on findings made in the preamble to the final rule that the total takings by this project would result in no more than a negligible impact on the affected marine mammal stocks or habitats and would not have an unmitigable adverse impact on subsistence uses of marine mammals. NMFS also finds that the applicant will meet the requirements contained in the implementing regulations and LOA, including monitoring and reporting requirements. Without any mitigation measures, a small possibility exists for one bottlenose dolphin and one spotted dolphin to be exposed to blast levels from the PSW testing sufficient to cause mortality. Additionally, less than two cetaceans might be exposed to noise levels sufficient to induce Level A harassment (injury) annually, and as few as 31 or as many as 52 cetaceans (depending on the season and water depth) could potentially be exposed (annually) to noise levels sufficient to induce Level B harassment in the form of temporary (auditory) threshold shift (TTS).

While none of these impact estimates consider the proposed mitigation measures that will be employed by Eglin AFB to minimize potential impacts to protected species, NMFS has authorized Eglin AFB a total of one mortality, two takes by Level A harassment, and 53 takes by Level B harassment (temporary auditory threshold shift) annually.

However, the proposed mitigation measures described in the final rule (71 FR 67810, November 24, 2006) and the LOA are anticipated to reduce potential impacts to marine mammals in both numbers and degree of severity. These measures include a conservative safety range for marine mammal exclusion; incorporation of aerial and shipboard survey monitoring efforts in the program both prior to and after detonation of explosives; and a prohibition on detonations whenever marine mammals are detected within the safety zone, may enter the safety zone at the time of detonation, or if weather and sea conditions preclude adequate aerial surveillance. This LOA may be renewed annually based on a review of the activity, completion of monitoring requirements, and receipt of reports required by the LOA.

**Summary of Request**

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, by harassment, incidental to PSW testing and training in the GOM.

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

In 2007, only one Focused Lethality Munition, a low collateral variant of the Small Diameter Bomb, was released over the GOM on July 11, 2007. It was a single release of a Guided Test Vehicle (GTV) with an inert fuse. The GTV has no explosives. Because it was not a live PSW test and did not have any impacts to protected species, a survey plan was not included in Eglin AFB's report. The Joint Air-to-Surface Stand-off Missile program had no activity in 2007.

**Authorization**

The U.S. Air Force complied with the requirements of the 2007 LOA, and NMFS has determined that there was no take of marine mammals by the U.S. Air Force in 2007. Accordingly, NMFS has issued a LOA to Eglin AFB authorizing the take by harassment of marine mammals incidental to PSW testing and training in the EGTTTR in the GOM. Issuance of this LOA is based on findings described in the preamble to the final rule (71 FR 67810, November 24, 2006) and supported by information contained in Eglin's 2008 request for a new LOA that the activities described under this LOA will not result in more than the incidental harassment of certain marine mammal species and will have a negligible impact on the affected species or stocks. The provision requiring that the activity not have an

unmitigable adverse impact on the availability of the affected species or stock for subsistence uses does not apply for this action.

Dated: March 19, 2008.

**James H. Lecky,**

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

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0113]

#### Federal Acquisition Regulation; Submission for OMB Review; Acquisition of Helium

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for comments regarding an extension to an existing OMB clearance (9000-0113).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning acquisition of helium. A request for public comments was published in the **Federal Register** at 72 FR 67919 on December 3, 2007. No comments were received. This OMB clearance currently expires on May 31, 2008.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

**DATES:** Submit comments on or before April 24, 2008.

**ADDRESSES:** Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (VPR), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000-0113, Acquisition of Helium, in all correspondence.

**FOR FURTHER INFORMATION CONTACT** Mr. William Clark, Contract Policy Division, GSA (202) 219-1813.

#### SUPPLEMENTARY INFORMATION:

##### A. Purpose

The Helium Act (Pub. L. 86-777) (50 U.S.C. 167, *et seq.*) and the Department of the Interior's regulations (43 CFR part 3195) on purchase of helium are implemented in the FAR at Subpart 8.5.

The FAR requires contractors to purchase major helium requirements from Federal helium suppliers, to the extent that supplies are available. In addition, the Contractor is required to provide the Contracting Officer the following data within 10 days after the Contractor or subcontractor receives a delivery of helium from a Federal helium supplier: (1) The name of the supplier; (2) The amount of helium purchased; (3) The delivery date(s); and (4) The location where the helium was used. The information is used in administration of certain Federal contracts to ensure contractor compliance with contract clauses. The contracting officer must forward the information to the Department of Interior's Bureau of Land Management (BLM) within 45 days of the close of each fiscal quarter. The quarterly reports will help BLM verify refined helium sales made to Federal agencies by Federal helium suppliers. Without the information, the required use of Federal helium suppliers cannot be monitored and enforced effectively.

##### B. Annual Reporting Burden

*Respondents:* 26.

*Responses Per Respondent:* 1.

*Total Responses:* 26.

*Hours Per Response:* 1.

*Total Burden Hours:* 26.

**Obtaining Copies of Proposals:** Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (VPR), Room 4035, 1800 F Street, Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control No. 9000-0113, Acquisition of Helium, in all correspondence.

Dated: March 17, 2008.

**Al Matera,**

*Director, Office of Acquisition Policy.*

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## DEPARTMENT OF EDUCATION

### Office of Elementary and Secondary Education; Notice Extending the Deadline Date for Transmittal of Part II Applications and the Deadline Date for Intergovernmental Review for the Indian Education Formula Grants to Local Educational Agencies (LEAs) Program for Fiscal Year (FY) 2008

*Catalog of Federal Domestic Assistance  
(CFDA) Number: 84.060A.*

**SUMMARY:** On December 19, 2007, we published in the **Federal Register** (72 FR 71880) a notice inviting applications for Part I and Part II of the Formula Grant Electronic Application System for Indian Education (EASIE). The December 19, 2007 notice established an April 4, 2008 deadline date for eligible applicants to apply for funding under Part II of the Formula Grants to LEAs program, and provided that applications or data submissions under Part II would be accepted only from those eligible applicants who met the Part I deadline of January 31, 2008. We are extending the Part II application deadline date to April 23, 2008, for those eligible applicants who met the Part I deadline of January 31, 2008. The change in the deadline date for Part II applications is due to the unavailability of the application system for Part II during the dates published in the **Federal Register**. As a result of this extension of the deadline date for Part II applications, we also are extending the intergovernmental review period required under Executive Order 12372 to July 23, 2008. Applicants must refer to the Application Notice for all other requirements concerning this program.

**DATES:** *Part II of Formula Grant EASIE Applications Available:* March 21, 2008.

*Deadline for Transmittal of Part II Applications:* April 23, 2008.

*Deadline for Intergovernmental Review:* July 23, 2008.

**FOR FURTHER INFORMATION CONTACT:** Contact the ED*Facts* Partner Support Center, telephone: 877-457-3336 (877-HLP-EDEN) or by e-mail at: [eden\\_OIE@ed.gov](mailto:eden_OIE@ed.gov).

If you use a telecommunications device for the deaf (TDD), call the ED*Facts* Partner Support Center, toll free, at 1-888-403-3336 (888-403-EDEN).