

**ADDRESSES:** The permit and related documents are available for review upon written request or by appointment in the following office(s): Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)427-2521; Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; phone (562)980-4001; fax (562)980-4018; and Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298; phone (978)281-9300; fax (978)281-9394.

**FOR FURTHER INFORMATION CONTACT:** Amy Hapeman or Jaclyn Daly, (301)713-2289.

**SUPPLEMENTARY INFORMATION:** On April 7, 2004, notice was published in the *Federal Register* (69 FR 18357) that requests for scientific research permits to take the species identified above had been submitted by the above-named individuals. The requested permits have been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), 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).

Permit No. 808-1735, issued to Dr. Andrew Read, allows for the take of humpback, blue, fin, sei, and Antarctic minke whales in the Southern Ocean to examine their foraging behavior relative to krill patches. The permit authorizes the close approach of up to 295 humpback whales and 65 of each species of blue, fin, sei, and Antarctic minke whales annually during vessel surveys for photo-identification, behavioral observation, tracking, and incidental harassment. Of these animals, up to 45 humpbacks and 15 of each species of blue, fin, sei, and Antarctic minke whales may be suction-cup tagged annually during surveys. The permit is issued for five years.

Permit No. 1058-1733, issued to Dr. Baumgartner, allows for the take of baleen whale to examine aspects of foraging and diving behaviors in the Southern Ocean as well as to determine the overlap of diving behaviors with the vertical structure of fixed fishing gear in the North Atlantic Ocean. In the Southern Ocean, researchers may closely approach up to 324 of each species of humpback, blue, fin, sei, and Antarctic minke whales annually during

vessel surveys for photo-identification, behavioral observation, tracking, and incidental harassment. Of these animals, up to 108 of each species may be suction-cup tagged annually during surveys. In the North Atlantic, researchers may closely approach up to 324 of each species of humpback, fin, and sei whales annually during vessel surveys for photo-identification, behavioral observation, tracking, and incidental harassment. Of these animals, up to 108 of each species may be suction-cup tagged annually during surveys. The permit is issued for five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an environmental assessment was prepared analyzing the effects of the permitted activities. After a Finding of No Significant Impact, the determination was made that it was not necessary to prepare an environmental impact statement.

Issuance of the permits, as required by the ESA, was based on a finding that such permits: (1) Were applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: June 27, 2007.

**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

[I.D. 050107L]

#### Incidental Takes of Marine Mammals Incidental to Specified Activities; Low-Energy Marine Seismic Survey in the Northeastern Indian Ocean

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

**ACTION:** Notice; issuance of incidental harassment authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to Scripps Institute of Oceanography (SIO) for the take of marine mammals, by Level B harassment only, incidental to

conducting a low-energy marine seismic survey in the northeastern Indian Ocean during summer 2007.

**DATES:** Effective from June 20, 2007, through August 31, 2007.

**ADDRESSES:** A copy of the IHA and the application are available by writing to 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, or by telephoning the contact listed here. A copy of the application containing a list of references used in this document may be obtained by writing to this address, by telephoning the contact listed here (*FOR FURTHER INFORMATION CONTACT*) or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Jolie Harrison, Office of Protected Resources, NMFS, (301) 713-2289, ext 166.

#### 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.

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 (where relevant), 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 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 approve or deny the authorization.

### Summary of Request

On January 5, 2007, NMFS received an application from SIO for the taking, by Level B harassment only, of 32 species of marine mammals incidental to conducting, with research funding from the National Science Foundation (NSF), a low-energy marine seismic survey in the northeastern Indian Ocean from May-August 2007. The purpose of the research program was outlined in the NMFS notice of the proposed IHA (72 FR 17849, April 10, 2007).

### Description of the Activity

The seismic surveys will involve one vessel, the R/V *Roger Revelle* (*Roger Revelle*), which was originally scheduled to depart from Fremantle, Australia, between May 22 and June 19, 2007. A change of schedule resulted in the *Roger Revelle* leaving Australia in March, instead, however, the seismic survey will still occur in the window indicated in the notice for the proposed IHA (72 FR 17849, April 10, 2007). No other changes have been made either in the applicants activity or the proposed IHA since the notice of the proposed IHA was published. The *Roger Revelle* will conduct the cruise in the Indian Ocean, beginning in late June, and arrive at Colombo, Sri Lanka, between July 16 and August 13, 2007. The overall area within which the seismic surveys will occur is located between approximately 5° N. and 25° S., along approximately 90° E. (Figure 1 in the application), in the Indian Ocean. The surveys will be conducted entirely in International Waters.

The *Roger Revelle* will deploy a pair of low-energy Generator-Injector (GI) airguns as an energy source (each with a discharge volume of 45 in<sup>3</sup>), plus a

800 m-long (2625-ft long), 48-channel, towed hydrophone. The program will consist of approximately 2700 km (1678 mi) of surveys, including turns. Water depths within the seismic survey areas are 1600–5100 m (1750–5577 yd). The GI guns will be operated on a small grid for approximately 49 hours at each of 5 sites. In addition to the operations of the GI guns, a 3.5-kHz sub-bottom profiler, a Kongsberg-Simrad EM-120 multi-beam sonar, and a gravimeter will be used continuously throughout the cruise, and passive geophysical sensors will be deployed to conduct magnetic surveys at all times except during dredging.

A more detailed description of the authorized action, including vessel specifications and acoustic source specifications, was included in the notice of the proposed IHA (72 FR 17849, April 10, 2007).

### Safety Radii

Received sound levels have been modeled by Lamont-Doherty Earth Observatory (L-DEO) for a number of airgun configurations, including two 45-in<sup>3</sup> Nucleus G-guns, in relation to distance and direction from the airguns. The model does not allow for bottom interactions, and is most directly applicable to deep water. Based on the modeling, estimates of the maximum distances from the GI guns where sound levels of 190, 180, and 160 dB re 1  $\mu$ Pa (rms) are predicted to be received in deep (>1000-m (3280-ft)) water are 10, 40, and 400 m (33, 131, and 1312 ft), respectively. Because the model results are for G guns, which have more energy than GI guns of the same size, those distances are overestimates of the distances for the 45-in<sup>3</sup> GI guns.

A general discussion of acoustic thresholds and safety radii, as well as further discussion of the modeling conducted by L-DEO, was included in the notice of the proposed IHA (72 FR 17849, April 10, 2007).

### Comments and Responses

A notice of receipt of the SIO application and proposed IHA was published in the **Federal Register** on April 10, 2007 (72 FR 17849). During the comment period, NMFS received comments from the Marine Mammal Commission (MMC) and one individual. One individual expressed the opinion that the authorization should be denied because this type of profiteering activity is murderous and destructive and results in permanent hearing loss of marine mammals. No supporting information was provided for these assertions and NMFS believes that the

contrary analyses presented in the EA and our **Federal Register** Notice remain correct. MMC's comments are as follows:

*Comment 1:* The MMC states that because the applicant is requesting authority to take marine mammals by harassment only, NMFS should require that operations be suspended immediately if a dead or seriously injured marine mammals is found in the vicinity of the operations and the death or injury could have occurred incidental to conducting the seismic survey. The MMC further recommends that any such suspension should remain in place until NMFS has (1) reviewed the situation and determined that further mortalities or serious injuries are unlikely to occur, or (2) issued regulations authorizing such takes under section 101(a)(5)(A) of the MMPA.

*Response:* NMFS concurs with MMC's recommendations and has included a requirement to this effect in the IHA.

*Comment 2:* The MMC also questioned the likely ability of the proposed monitoring program to detect an injured or dead beaked whale or other small cetacean.

*Response:* Because of the cryptic nature of beaked whale behavior and the movement of the *Roger Revelle* during the seismic survey, it is unlikely that a distressed beaked whale or small cetacean would be sighted from a ship running transects through an area. However, NMFS believes that it is highly unlikely that a marine mammals will be exposed to levels of sound likely to result in Level A Harassment or mortality given the very small radii (40 m for 180 dB) around the *Roger Revelle*'s small airguns and the likely effectiveness of the mitigation measures.

### Description of Marine Mammals in the Activity Area

Thirty-two species of cetacean, including 25 odontocete (dolphins and small and large toothed whales) species and seven mysticete (baleen whales) species, are thought to occur in the seismic survey areas along the Ninety East Ridge in the northeastern Indian Ocean (Table 1). Several are listed under the U.S. Endangered Species Act (ESA) as Endangered: the sperm whale, humpback whale, blue whale, fin whale, and sei whale.

Additional information regarding the status and distribution of the marine mammals in the area and how the densities were calculated was included in the notice of the proposed IHA (72 FR 17849, April 10, 2007) and may be found in SIO's application.

| Species                                                        | Habitat                                | Occurrence  | Auth Take |
|----------------------------------------------------------------|----------------------------------------|-------------|-----------|
| <b>Mysticetes</b>                                              |                                        |             |           |
| Humpback whale ( <i>Megaptera novaeangliae</i> )*              | Mainly nearshore waters and banks      | Common      | 0         |
| Minke whale ( <i>Balaenoptera acutorostrata</i> )              | Pelagic and coastal                    | Uncommon    | 5         |
| Antarctic minke whale ( <i>Balaenoptera bonaerensis</i> )      | Coastal and oceanic                    | Uncommon    | 5         |
| Bryde's whale ( <i>Balaenoptera edeni</i> )                    | Pelagic and coastal                    | Very common | 5         |
| Sei whale ( <i>Balaenoptera borealis</i> ) *                   | Primarily offshore, pelagic            | Uncommon    | 0         |
| Fin whale ( <i>Balaenoptera physalus</i> )*                    | Continental slope, mostly pelagic      | Common      | 0         |
| Blue whale ( <i>Balaenoptera musculus</i> )*                   | Pelagic and coastal                    | Very common | 1         |
| <b>Odontocetes</b>                                             |                                        |             |           |
| Sperm whale ( <i>Physeter macrocephalus</i> )*                 | Usually pelagic and deep seas          | Common      | 1         |
| Pygmy sperm whale ( <i>Kogia breviceps</i> )                   | Deep waters off the shelf              | Common      | 5         |
| Dwarf sperm whale ( <i>Kogia sima</i> )                        | Deep waters off the shelf              | Common      | 5         |
| Cuvier's beaked whale ( <i>Ziphius cavirostris</i> )           | Pelagic                                | Common      | 5         |
| Shepherd's beaked whale ( <i>Tasmacetus shepherdi</i> )        | Pelagic                                | Rare        | 5         |
| Longman's beaked whale ( <i>Indopacetus pacificus</i> )        | Pelagic                                | Common?     | 1         |
| Southern bottlenose whale ( <i>Hyperoodon planifrons</i> )     | Pelagic                                | Uncommon    | 5         |
| True's beaked whale ( <i>Mesoplodon mirus</i> )                | Pelagic                                | Rare        | 5         |
| Gray's beaked whale ( <i>Mesoplodon grayi</i> )                | Pelagic                                | Uncommon    | 5         |
| Ginkgo-toothed whale ( <i>Mesoplodon ginkgodens</i> )          | Pelagic                                | Common      | 5         |
| Blainville's beaked whale ( <i>Mesoplodon densirostris</i> )   | Pelagic                                | Very common | 5         |
| Rough-toothed dolphin ( <i>Steno bredanensis</i> )             | Deep water                             | Uncommon    | 69        |
| Bottlenose dolphin ( <i>Tursiops truncatus</i> )               | Coastal and oceanic, shelf break       | Common      | 129       |
| Pantropical spotted dolphin ( <i>Stenella attenuata</i> )      | Coastal and pelagic                    | Uncommon    | 65        |
| Spinner dolphin ( <i>Stenella longirostris</i> )               | Coastal and pelagic                    | Abundant    | 215       |
| Striped dolphin ( <i>Stenella coeruleoalba</i> )               | Off continental shelf                  | Common      | 86        |
| Fraser's dolphin ( <i>Lagenodelphis hosei</i> )                | Waters >1000 m                         | Rare        | 22        |
| Common dolphin ( <i>Delphinus delphis</i> )                    | Shelf and pelagic, seamounts           | Very common | 151       |
| Risso's dolphin ( <i>Grampus griseus</i> )                     | Waters >1000 m, seamounts              | Very common | 151       |
| Melon-headed whale ( <i>Peponocephala electra</i> )            | Oceanic                                | Very common | 50        |
| Pygmy killer whale ( <i>Feresa attenuata</i> )                 | Deep, pantropical waters               | Common      | 25        |
| False killer whale ( <i>Pseudorca crassidens</i> )             | Pelagic                                | Common      | 15        |
| Killer whale ( <i>Orcinus orca</i> )                           | Widely distributed                     | Common      | 5         |
| Long-finned pilot whale ( <i>Globicephala melas</i> )          | Mostly pelagic                         | Rare        | 30        |
| Short-finned pilot whale ( <i>Globicephala macrorhynchus</i> ) | Mostly pelagic, high-relief topography | Very common | 15        |

Table 1. Species expected to be encountered (and potentially harassed) during SIO's Indian Ocean cruise. The far right column indicates the number of takes authorized by the IHA.

\*Species are listed as endangered under the Endangered Species Act

### Potential Effects on Marine Mammals

The effects of sounds from airguns might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance, temporary or permanent hearing impairment (Richardson *et al.*, 1995), or other non-auditory physiological effects such as stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage. To avoid injury, NMFS has determined that cetaceans and pinnipeds should not be exposed to pulsed underwater noise at received levels exceeding, respectively, 180 and 190 dB re 1  $\mu$ Pa (rms). The predicted 180- and 190-dB distances for the GI guns operated by SIO are 40 m (131 ft) and 10 m (33 ft). Given the small size of the GI guns (two 45-in<sup>3</sup> GI guns) planned for the present project and the required mitigation and monitoring measures, effects are anticipated to be considerably less than would be the case with a large array of airguns. It is very unlikely that there would be any cases of temporary or, especially, permanent hearing impairment or other serious non-auditory physiological effects. Also, behavioral disturbance is expected to be limited to relatively short distances.

The notice of the proposed IHA (72 FR 17849, April 10, 2007) included a discussion of the effects of sounds from airguns on mysticetes, odontocetes, and pinnipeds, including tolerance, masking, behavioral disturbance, hearing impairment and other non-auditory physical effects. Additional details on the behavioral reactions (or the lack thereof) by all types of marine mammals to seismic vessels can be found in Appendix A (e) of SIO's application.

The notice of the proposed IHA also included a discussion of the potential effects of the bathymetric sonar and the sub-bottom profiler. Because of the shape of the beams of these sources and their power, NMFS believes it unlikely that marine mammals will be exposed to either the bathymetric sonar or the sub-bottom profiler at levels at or above those likely to cause harassment. Further, NMFS believes that the brief exposure of cetaceans or pinnipeds to small numbers of signals from the multi-beam bathymetric sonar system are not likely to result in the harassment of marine mammals.

### Estimated Take by Incidental Harassment

The notice of the proposed IHA (72 FR 17849, April 10, 2007) included an in-depth discussion of the methods used to calculate the densities of marine

mammals in the area of the seismic survey and the take estimates. Additional information was included in SIO's application. A summary of the total take authorized is included here.

All anticipated takes authorized by this IHA are Level B Harassment, involving temporary changes in behavior. The far right column in Table 1, "Auth Take", shows the numbers for which take is authorized. Take calculations were based on maximum exposure estimates (based on maximum density estimates), vs. best estimates, and are based on the 160-dB isopleth of a larger set of airguns. Given these considerations, the predicted numbers of marine mammals that might be exposed to sounds 160 dB may be somewhat overestimated.

The stock structures of the marine mammals present in the Indian Ocean have not been identified by NMFS; therefore, NMFS must make the necessary findings based on the species as a whole. The species anticipated to be affected during the authorized activities are wide-ranging species. Though worldwide abundance (or abundance outside of that estimated for the U.S. stocks) has not been estimated, localized surveys in the west tropical Indian Ocean and elsewhere have been conducted. Since the take estimates authorized in this IHA fall largely within 6 percent (all but common dolphin (21 percent) and rough-toothed dolphin (14 percent)) of the numbers estimated to be present during a localized survey of the west tropical Indian Ocean, and the species range far beyond the Indian Ocean (i.e., the abundance of the species is notably larger), NMFS believes that the estimated take numbers for these are small relative both to the worldwide abundance of these species and to numbers taken in other activities that have been authorized for incidental take of these species.

### Potential Effects on Habitat

A detailed discussion of the potential effects of this action on marine mammal habitat, including physiological and behavioral effects on marine fish and invertebrates, was included in the notice of the proposed IHA (72 FR 17849, April 10, 2007).

Based on the discussion in the proposed IHA and the nature of the activities (small airguns and limited duration), the authorized operations are not expected to have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations or stocks.

### Monitoring

Either dedicated marine mammal observers (MMOs) or other vessel-based personnel will watch for marine mammals near the seismic source vessel during all daytime and nighttime airgun operations. GI airgun operations will be suspended when marine mammals are observed within, or about to enter, designated safety radii where there is a possibility of significant effects on hearing or other physical effects. At least one dedicated vessel-based MMO will watch for marine mammals near the seismic vessel during daylight periods when shooting is being conducted, and two MMOs will watch for marine mammals for at least 30 min prior to start-up of airgun operations. Observations of marine mammals will also be made and recorded during any daytime periods without airgun operations. At night, the forward-looking bridge watch of the ship's crew will look for marine mammals that the vessel is approaching, and execute avoidance maneuvers; the 180dB/190dB safety radii around the airguns will be continuously monitored by an aft-looking member of the scientific party, who will call for shutdown of the guns if mammals are observed within the safety radii. Nighttime observers will be aided by (aft-directed) ship's lights and night vision devices (NVDs).

Observers will be appointed by SIO with NMFS concurrence. Two observers will be on the vessel, and both will have gone through NOAA/NMFS training for marine mammal observations. Observers will be on duty in shifts usually of duration no longer than two hours. Use of two simultaneous observers prior to start up will increase the detectability of marine mammals present near the source vessel, and will allow simultaneous forward and rearward observations. Bridge personnel additional to the dedicated marine mammal observers will also assist in detecting marine mammals and implementing mitigation requirements, and before the start of the seismic survey will be given instruction in how to do so.

The *Roger Revelle* is a suitable platform for marine mammal observations, and has been used for that purpose during the routine CalCOFI (California Cooperative Oceanic Fisheries Investigations). Observing stations will be at the 02 level, with observers' eyes approximately 10.4 m (34 ft) above the waterline: one forward on the 02 deck commanding a forward-centered, approximately 240° view, and one atop the aft hangar, with an aft-centered view that includes the 60-m

radius area around the airguns. The eyes of the bridge watch will be at a height of approximately 15 m (49 ft); marine mammal observers will repair to the enclosed bridge and adjoining aft steering station during any inclement weather (unlikely at this place and season), and as necessary to use the 50 X “big-eye” binoculars that are mounted there.

Standard equipment for marine mammal observers will be 7 X 50 reticle binoculars and optical range finders. At night, night vision equipment will be available. The observers will be in wireless communication with ship’s officers on the bridge and scientists in the vessel’s operations laboratory, so they can advise promptly of the need for avoidance maneuvers or airgun power-down or shut-down.

The vessel-based monitoring will provide data required to estimate the numbers of marine mammals exposed to various received sound levels, to document any apparent disturbance reactions, and thus to estimate the numbers of mammals potentially “taken” by harassment. It will also provide the information needed in order to shut down the GI airguns at times when mammals are present in or near the safety zone. When a mammal sighting is made, the following information about the sighting will be recorded:

(1) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to seismic vessel (e.g., none, avoidance, approach, paralleling, etc.), and behavioral pace.

(2) Time, location, heading, speed, activity of the vessel (shooting or not), sea state, visibility, cloud cover, and sun glare.

The data listed under (2) will also be recorded at the start and end of each observation watch and during a watch, whenever there is a change in one or more of the variables.

All mammal observations and airgun shutdowns will be recorded in a standardized format. Data will be entered into a custom database using a notebook computer when observers are off duty. The accuracy of the data entry will be verified by computerized data validity checks as the data are entered, and by subsequent manual checking of the database. Those procedures will allow initial summaries of data to be prepared during and shortly after the field program, and will facilitate transfer of the data to statistical, graphical, or

other programs for further processing and archiving.

Results from the vessel-based observations will provide:

- The basis for real-time mitigation (airgun shut down).
- Information needed to estimate the number of marine mammals potentially taken by harassment, which must be reported to NMFS.
- Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted.
- Information to compare the distance and distribution of marine mammals relative to the source vessel at times with and without seismic activity.
- Data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

### Mitigation

For the seismic surveys in the Northeastern Indian Ocean during June-August 2007, SIO will deploy two GI airguns as an energy source, with a total discharge volume of 90 in<sup>3</sup>. The energy from the airguns will be directed mostly downward. The small size of the airguns to be used during SIO’s study will reduce the potential for effects relative to those that might occur with a large airgun arrays.

In addition to marine mammal monitoring, the following mitigation measures are required during the seismic program. Although power-down procedures are often standard operating practice for seismic surveys, it will not be used here 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 mammal came within the safety radius for two guns. Mitigation measures that will be adopted are:

- (1) Speed or course alteration;
- (2) Ramp-up and shut-down procedures; and
- (3) Night operations;

**Speed or Course Alteration** – If a marine mammal is detected outside the safety radius and, based on its position and the relative motion, is likely to enter the safety radius, the vessel’s speed and/or direct course may, when practical and safe, be changed 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 animal does not approach within the safety radius. If the animal appears likely to enter the safety radius, further mitigative actions will be taken, i.e.

either further course alterations or shut down of the airguns.

**Shut-down Procedures** – If a marine mammal is detected outside the safety radius but is likely to enter the safety radius, and if the vessel’s course and/or speed cannot be changed to avoid having the animal enter the safety radius, the airguns will be shut down before the animal is within the safety radius (10 m (33 ft) for pinnipeds (190-dB isopleth) or 40 m (131 ft) for cetaceans (180-dB isopleth)). Likewise, if a marine mammal is already within the safety radius when first detected, the airguns will be shut down immediately.

Airgun activity will not resume until the animal has cleared the safety radius. The animal will be considered to have cleared the safety radius if it is visually observed to have left the safety radius, or if it has not been seen within the radius for 15 min (small odontocetes and pinnipeds) or 30 min (mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, beaked, and bottlenose whales).

**Ramp-up Procedures** – 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.

**Night Operations** – At night, vessel lights and/or night vision devices (NVDs) could be useful in sighting some marine mammals at the surface within a short distance from the ship (within the safety radii for the two GI guns in deep water). Start up of the airguns will only occur in situations when the entire safety radius is visible with vessel lights and NVDs.

### Reporting

A report will be submitted to NMFS within 90 days after the end of the cruise. The end of the northeastern Indian Ocean cruise is predicted to occur between July 16 and August 13, 2007. The report will describe the operations that were conducted and the marine mammals that were detected near the operations. The report will be submitted to NMFS, providing full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day 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.

## Endangered Species Act

Pursuant to section 7 of the ESA, the National Science Foundation (NSF) has consulted with NMFS on this seismic survey. NMFS has also consulted internally pursuant to Section 7 of the ESA on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. In a Biological Opinion (BO), NMFS concluded that the 2007 SIO seismic survey in the northeastern Indian Ocean and the issuance of the associated IHA are not likely to jeopardize the continued existence of threatened or endangered species or destroy or adversely modify any designated critical habitat. NMFS has issued an incidental take statement (ITS) for 1 blue whale and 1 sperm whale (as well as a number of individuals of olive-Ridley sea turtles, green sea turtles, leatherback turtles, and hawksbill sea turtles) that contains reasonable and prudent measures with implementing terms and conditions to minimize the effects of this take. The terms and conditions of the BO have been incorporated into the SIO.

## National Environmental Policy Act (NEPA)

NSF prepared an Environmental Assessment of a Planned Low-Energy Marine Seismic Survey by the Scripps Institution of Oceanography in the Northeast Indian Ocean, May July 2007. NMFS has adopted NSF's EA and issued a Finding of No Significant Impact for the issuance of the IHA.

## Determinations

NMFS has determined that the impact of conducting the seismic survey in the northeast Indian Ocean may result, at worst, in a temporary modification in behavior (Level B Harassment) of small numbers of 29 species of cetaceans. Further, this activity is expected to result in 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.

This determination is supported by: (1) the likelihood that, given sufficient notice through relatively slow ship speed and ramp-up, marine mammals are expected to move away from a noise source that is annoying prior to its becoming potentially injurious; (2) the fact that marine mammals would have to be closer than 40 m from the vessel to be exposed to levels of sound (180 dB) believed to have even a minimal chance of causing TTS; and (3) the likelihood that marine mammal

detection ability by trained observers is high at that short distance from the vessel. As a result, no take by injury or death is anticipated and the potential for temporary or permanent hearing impairment is very low and will be avoided through the incorporation of the required mitigation measures.

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, less than a few percent of any of the estimated population sizes, and has been mitigated to the lowest level practicable through incorporation of the measures mentioned previously in this document.

## Authorization

As a result of these determinations, NMFS has issued an IHA to SIO for conducting a low-energy seismic survey in the Indian Ocean from June - August, 2007, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: June 20, 2007.

**James H. Lecky,**

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

[FR Doc. E7-12870 Filed 7-2-07; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**XRIN 0648-XB20**

### Gulf of Mexico Fishery Management Council; Public Meeting

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The Gulf of Mexico Fishery Management Council will convene a public meeting of the Ad Hoc Review Panel for Red Drum.

**DATES:** The Ad Hoc Review Panel for Red Drum meeting will convene at 1 p.m. on Monday, July 23, 2007 and conclude no later than 3 p.m. on Tuesday, July 24, 2007.

**ADDRESSES:** The meeting will be held at the W New Orleans, 333 Poydras St., New Orleans, LA 70130; telephone: (504) 525-9444.

*Council address:* Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

## FOR FURTHER INFORMATION CONTACT:

Wayne Swingle, Fishery Executive Director, telephone: (813) 348-1630.

**SUPPLEMENTARY INFORMATION:** The Panel will be convened to consider the Council's change to assess the availability of the information needed to conduct a SEDAR stock assessment for red drum and to propose data collection activities for that information that should be carried out in 2008. Representatives of the five gulf states will summarize fisheries dependent and independent data available from their state. The federal representatives will summarize the data available through their agency. The Panel will discuss other issues related to the stock assessment and SEDAR process.

Although other non-emergency issues not on the agenda may come before the Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions of the Ad Hoc Review Panel for Red Drum will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Copies of the agenda can be obtained by calling (813) 348-1630.

## Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina Trezza at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: June 28, 2007.

**Tracey L. Thompson,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E7-12867 Filed 7-2-07; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

**AGENCY:** Department of Education.

**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.