

support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is July 7, 2003); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: May 23, 2003.

**Caratina L. Alston,**

*United States Secretary, NAFTA Secretariat.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 031703A]

#### Small Takes of Marine Mammals Incidental to Specified Activities; Marine Seismic Testing in the Northern Gulf of Mexico

**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 calibration measurements of its seismic array in the northern Gulf of Mexico (GOM) has been issued to Lamont-Doherty Earth Observatory (LDEO).

**DATES:** Effective from May 27, 2003 through May 26, 2004.

**ADDRESSES:** The application and/or authorization are available by writing to the Chief, Marine Mammal Conservation 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.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713-2055, 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.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and 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 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."

Subsection 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. Under section 18(A), 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].

Subsection 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 small numbers 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 February 24, 2003, NMFS received an application from LDEO for the taking, by harassment, of several species of marine mammals incidental to conducting calibration measurements of its seismic array in the northern GOM.

The LDEO plans to measure sound levels from each of the airgun arrays that will be used during their seismic survey programs during future studies. These measurements will be made in shallow, shelf slope, and deep waters in the GOM during late May and/or June 2003, but may also be held at some other time during the next 12 months. The purpose of these measurements is to verify estimates of sound fields around the airgun arrays that have been made using LDEO acoustical models. Verification of the output from these models is needed to confirm the distances from the airguns (safety radii) within which mitigation may be necessary to avoid exposing marine mammals to airgun sounds at received levels exceeding established limits for preventing injury to marine mammals, e.g. the 180 and 190 dB re 1  $\mu$ Pa (rms) limits set for cetaceans and pinnipeds, respectively. The measurements will also verify the distances at which the sounds diminish below other lower levels that may be assumed to characterize the zone where disturbance is possible or likely.

The data to be collected during this project can be used to develop a better understanding of the impact of man-made acoustic sources on marine mammals. The planned project will obtain the first calibrated measurements of the *R/V Maurice Ewing's* (Ewing) acoustic sources across a broad range of frequencies from 1 Hz to 25 kHz, and for various configurations of the Ewing's airgun array. Calibration experiments will be conducted in the shallow, shelf slope, and deep water of the GOM to quantify the differences in sound attenuation in relation to water depth. Once calibration measurements have been made, they will be used to model the full propagation field of the Ewing in varying geographical settings. This modeling will provide data needed to help minimize any potential risk to marine mammals during future seismic surveys.

A notice of receipt of the LDEO application and proposed IHA was published in the **Federal Register** on April 11, 2003 (68 FR 17773). That notice described, in detail, the proposed activity and the characteristic of the Ewing's acoustic sources, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. That information is not repeated here.

## Comments and Responses

A notice of receipt and request for 30-day public comment on the application and proposed authorization was published on April 11, 2003 (68 FR

17773). During the 30-day public comment period, comments were received from the Marine Mammal Commission (the Commission), the Florida Department of Environmental Protection (DEP), and a member of the public who opposed the issuance of the IHA but did not provide additional information. The Commission and DEP comments are addressed in this document.

*Comment:* The Commission believes that NMFS' preliminary determinations, made in the previously cited notice, are reasonable provided the proposed mitigation and monitoring activities are conducted as described. Accordingly, the Commission recommended that NMFS grant the authorization.

*Response:* NMFS reviewed the mitigation and monitoring measures that were proposed by LDEO and has found that they will provide the best means to ensure that the findings made herein, (that the taking, by harassment, will result in only small numbers of marine mammals and have no more than a negligible impact on affected species and stocks) are valid. A discussion of the mitigation and monitoring measures that are contained in the IHA follows.

### Mitigation

The directional nature of the alternative airgun arrays to be used in this project (especially the larger arrays) is an important mitigating factor. This directionality will result in reduced sound levels at any given horizontal distance than would be expected at that distance if the source were omnidirectional with the stated nominal source level.

For the proposed airgun calibration work in the GOM in 2003, LDEO at times will use 2 GI-guns with total volume 210 in<sup>3</sup>, and at other times will use a 20-gun array with 6–20 active guns and total volume 1350–8600 in<sup>3</sup>. Individual airguns will range in size from 80 to 850 in<sup>3</sup>. The airguns comprising these arrays will be spread out horizontally, so that the energy from the array will be directed mostly downward.

The sound pressure fields have been modeled in relation to distance and direction from each of the five array configurations and are shown in Figs. 7–11 in LDEO's application. The radii around the arrays where the received level would be 180 dB re 1  $\mu$ Pa (rms), the shutdown criterion applicable to cetaceans, were estimated as 50 m (164 ft), 220 m (722 ft), 830 m (2,723 ft), 880 m (2,887 ft) and 950 m (3,117 ft) for the 2-, 6-, 10-, 12-, and 20-gun arrays, respectively.

Until such time as the sound pressure fields estimated by the model have been confirmed by measurements of actual sound pressure levels, LDEO will use 1.5 times the estimated 180-dB isopleth. One of the main purposes of the measurements that will be made during the GOM project is to verify or refine these safety radii. The current plan is to measure sounds produced by the 6-, 10-, 12- and 20-gun arrays during the same transit past the spar buoy, operating these four combinations of airguns in a repeating sequence. The safety radius for the 20-gun array ( $\times 1.5$ ) will be used whenever the sequence including (at times) 20 active guns is in progress. Sounds from the 2 GI guns will be measured during separate transits past the spar buoy. During the GOM cruise, the safety radii for cetaceans are 75 m (246 ft) and 1,425 m (4,675 ft), respectively, for the 2 GI-guns and 20-gun array. LDEO will shut down the airguns if marine mammals are detected within the safety radii.

Also, LDEO will use a ramp-up (soft-start) procedure when commencing operations. Ramp-up will begin with the smallest gun in the array that is being used (80 in<sup>3</sup> for all subsets of the 20-gun array). Guns will be added in a sequence such that the source level of the array will increase at a rate no greater than 6 dB per 5-minutes. Additional mitigation measures will occur through the LDEO monitoring program.

### Marine Mammal Mitigation Monitoring

Two observers will monitor marine mammals from the Ewing starting 30 minutes before all Ewing airgun operations. Airguns will be operated only during daylight; they will not be operated or started up during darkness or periods whenever the safety zone is not visible to the observer. Airgun operations will be suspended when marine mammals are observed within, or about to enter, designated safety zones where there is a possibility of significant effects on hearing or other physical effects.

The *Ewing* is a suitable platform for marine mammal observations. The observer's eye level will be approximately 11 m (36 ft) above sea level when stationed on the bridge, allowing for good visibility within a 210° arc for each observer. In addition to visual observations, a towed hydrophone array will be used to detect and locate marine mammals. This will increase the likelihood of detecting and identifying any marine mammals that are present during airgun operations. The proposed monitoring plan is summarized later in this document.

### Safety Radii

Received sound levels have been modeled for the 2-, 6-, 10-, 12-, and 20-airgun arrays and are depicted in Figures 7–11 of the LDEO application. Based on the modeling, estimates of the 190-, 180-, 170-, and 160-dB re 1  $\mu$ Pa (rms) distances (safety radii) for these arrays are shown in Table 1 in the application and previously (see 68 FR 17773, April 11, 2003). Acoustic measurements in shallow (>100 m/328 ft), mid-depths (100–2000 m/328–6,562 ft), but probably about 1000 m (3,281 ft)), and deep (>2000 m) water will be taken during the proposed cruise, in order to check the modeled received sound levels during operation of these airgun arrays in a wide variety of water depths. Because the safety radii will not be confirmed before the cruise, conservative safety radii will be used during the GOM surveys. Conservative radii will be established at 1.5 times the distances calculated for the 2 GI-guns and the 20 airgun array. Thus, during the GOM cruise the conservative safety radii for cetaceans are 75 m (246 ft) and 1,425 m (4,675 ft) for the 2 GI guns and 20-gun arrays, respectively.

Airgun operations will be suspended immediately when cetaceans are detected within or about to enter the appropriate 180-dB (rms) radius. This 180 dB criterion is consistent with guidelines listed for cetaceans by NMFS (2000) and other guidance by NMFS.

### Mitigation During Operations

The following mitigation measures, as well as marine mammal monitoring, will be adopted during the GOM acoustic verification program, provided that doing so will not compromise operational safety requirements:

#### 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, alternative ship tracks will be plotted against anticipated mammal locations. If practical, the vessel's course and/or speed will be changed in a manner that avoids approaching within the safety radius while also minimizing the effect to the planned science objectives. The marine mammal's activities and movements relative to the seismic vessel will be closely monitored to ensure that the marine mammal does not approach within the safety radius. If the mammal appears likely to enter the safety radius, further mitigative actions will be taken (i.e., either further course alterations or shutdown of the airguns).

### Shutdown Procedures

Vessel-based observers using visual aids and acoustical arrays will monitor marine mammals near the seismic vessel for 30 minutes prior to start up and during all airgun operations. No airguns will be operated during periods of darkness. Airgun operations will be suspended immediately when marine mammals are observed or otherwise detected within, or about to enter, designated safety zones where there is a possibility of physical effects, including effects on hearing (based on the 180 dB criterion specified by NMFS). The shutdown procedure should be accomplished within several seconds (or a "one shot" period) of the determination that a marine mammal is within or about to enter the safety zone. Airgun operations will not resume until the marine mammal is outside the safety radius. Once the safety zone is clear of marine mammals, the observers will advise that seismic surveys can recommence. The "ramp-up" procedure will then be followed.

### Ramp-up Procedure

A "ramp-up" procedure will be followed when the airgun arrays begin operating after a specified-duration period without airgun operations. Under normal operational conditions (vessel speed 4–5 knots), a ramp-up would be required after a "no shooting" period lasting 2 minutes or longer. At 4 knots, the source vessel would travel 247 m (810 ft) during a 2-minute period. If the towing speed is reduced to 3 knots or less, as sometimes required when maneuvering in shallow water, it is proposed that a ramp-up would be required after a "no shooting" period lasting 3 minutes or longer. At towing speeds not exceeding 3 knots, the source vessel would travel no more than 277 m (909 ft) in 3 minutes. These guidelines would require modification if the normal shot interval were more than 2 or 3 min, respectively, but that is not expected to occur during the GOM project.

Ramp-up will begin with the smallest gun in the array that is being used (80 in<sup>3</sup>). Guns will be added in a sequence such that the source level of the array will increase in steps not exceeding 6 dB per 5-minute period over a total duration of approximately 18–20 min (10–12 gun arrays).

### Monitoring and Reporting

#### *Vessel-based Visual Monitoring*

As mentioned under Mitigation, two observers dedicated to marine mammal observations will be stationed aboard LDEO's seismic survey vessel during the

acoustical measurement program in the GOM. They will search for and observe marine mammals whenever airgun operations are in progress. Airgun operations will be restricted to periods with good visibility during daylight hours. Two observers will be on duty for at least 30 minutes prior to the start of airgun operations and during ramp-up procedures. The observers will watch for marine mammals from the highest practical vantage point on the vessel, which is the bridge. The observer(s) will systematically scan the area around the vessel with 7X50 Fujinon reticle binoculars or with the naked eye. "Bigeye" (25X150) binoculars will be available during this cruise to assist with species identification of marine mammals that are sighted. Laser rangefinding binoculars (Bushnell Litespeed 800 laser rangefinder with 4X optics or equivalent) will be available to assist with distance estimation. If a marine mammal is detected well outside the safety radius, the vessel may be maneuvered to avoid having the mammal come within the safety radius. When mammals are detected within or about to enter the designated safety radii, the airguns will be shut down immediately. The observer(s) will continue to maintain watch to determine when the animal is outside the safety radius. Airgun operations will not resume until the animal is outside the safety radius.

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 to shut down the 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.

At least two experienced marine mammal observers (with at least one previous year of marine mammal observation experience) will be on duty aboard the seismic vessel.

Prior to the start of the project, the primary observers will participate in a 1-day meeting and training or refresher course on the specific marine mammal monitoring procedures required for this project.

Two observers will be on duty in shifts of duration no longer than 4 hours. Use of two simultaneous observers will increase the proportion of the marine mammals present near the source vessel that are detected. 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 results from the vessel-based observations will provide (1) the basis for real-time mitigation (airgun shutdown); (2) information needed to estimate the number of marine mammals potentially taken by harassment, which must be reported to NMFS; (3) data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted; (4) information to compare the distance and distribution of marine mammals relative to the source vessel at times with and without seismic activity; and (5) data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

#### *Vessel-based Passive Acoustic Monitoring*

A towed hydrophone array will be deployed during the airgun measurements in the GOM. The acoustical array will be monitored during airgun operations to detect, locate and identify marine mammals near the *Ewing*, insofar as this is possible via passive acoustic methods. The acoustical array will provide additional ability to detect, locate and identify marine mammals over and above that provided by visual observations. The acoustical data will be integrated, in real time, with the visual observations to ensure that marine mammals do not enter the 180-dB safety radius. LDEO will use the standard methods that have been used and reported during other recent studies of seismic and marine mammals (Greene *et al.*, 1997; McCauley *et al.*, 1998, 2000a,b).

## Reporting

A report will be submitted to NMFS within 90 days after the end of the acoustic measurement program in the GOM. The report will describe the operations that were conducted, the marine mammals that were detected near the operations, and at least some of the results of the acoustical measurements to verify the safety radii. (Data from the LDEO spar buoy are expected to be available quickly, but it is uncertain how quickly the EARS data will be available given the nature of the EARS buoys.) The report will be submitted to NMFS, providing full documentation of methods, results, and interpretation pertaining to all monitoring tasks with the possible exception of the backup EARS data. The 90-day report will summarize the dates and locations of seismic operations, sound measurement data, 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.

### *Estimates of Take by Harassment*

As described in proposed authorization notice (April 11, 2003; 68 FR 17773) and in the LDEO application, animals subjected to sound levels greater than 160 dB may alter their behavior or distribution, and, therefore, might be considered to be taken by harassment. However, the 160-dB criterion, used by NMFS as an indicator of where Level B harassment may result from impulse sounds, is based on studies of baleen whales. Odontocete hearing at low frequencies is relatively insensitive, and the dolphins generally appear to be more tolerant of strong sounds than are most baleen whales. For that reason, it has been suggested that for purposes of estimating incidental harassment of odontocetes, a 170-dB criterion might be appropriate.

All anticipated takes would be Level B harassment takes involving temporary changes in behavior. The mitigation measures to be applied by LDEO will minimize the possibility of injurious takes during the planned acoustic calibration project in the northern GOM. The estimate of the number of marine mammals that might be taken by harassment is based on a consideration of the number of marine mammals that might be disturbed by operations with the specific airgun arrays planned for each of the calibration runs past the spar buoy. LDEO's initial estimates of the numbers that might be disturbed assume

that, on average, cetaceans exposed to airgun sounds with received levels  $\geq 160$  dB re 1  $\mu$ Pa (rms) might be sufficiently disturbed to be "taken by harassment." The best estimate also includes an allowance for four extra source-vessel transits past the spar buoy in order to obtain the required calibration data and, therefore, is an overestimate if the calibrations measurements require only six transits. The best estimates take account of data on marine mammal abundance from previous surveys in that area.

The anticipated radii of influence of the multi-beam sonar and the sub-bottom profiler are much less than that for the airgun array (see previous discussion). It is assumed that any marine mammal close enough to be affected by the multi-beam sonar or the sub-bottom profiler would already be affected by the airguns. Therefore, no additional takings by harassment would occur for animals that might be affected by the multi-beam sonar or the sub-bottom profiler.

### *Estimates of Take by Harassment for the GOM*

Extensive aircraft- and ship-based surveys have been conducted for marine mammals in the GOM, including the area where the calibration study will be conducted (Davis *et al.*, 2000, 2002; Wursig *et al.*, 2000; Baumgartner *et al.*, 2001). However, oceanographic and other conditions strongly influence the distribution and numbers of marine mammals present in an area (Davis *et al.*, 2002). Thus, for some species the densities derived from recent surveys may not be representative of the densities that will be encountered during the proposed acoustical calibration study. Table 3 in the LDEO application gives the densities for each species or species group of marine mammals in LDEO's proposed study area based on the 1996/97 GulfCet II surveys (Davis *et al.*, 2000). The densities from the GulfCet studies had been corrected by the original authors for detectability bias but not for availability bias. Therefore, in Table 3, LDEO has adjusted the originally reported densities and population estimates to account for availability bias. Based on those densities, the numbers of each species that might be taken by harassment and the requested level of take by harassment are shown in Table 3. The LDEO application is available upon request (see ADDRESSES).

Dolphins account for 94 percent of the best estimate of takes (i.e., 486 of 520 animals). There is no general agreement regarding any alternative "take" criterion for dolphins exposed to airgun

pulses. However, if only those dolphins exposed to  $\geq 170$  dB re 1  $\mu$ Pa (rms) were affected sufficiently to be considered "taken by harassment", then the best estimate for dolphins would be 183 rather than 486. This is based on the predicted 170 dB radii around the 2 GI gun and 20-airgun arrays (155 m (508 ft) and 3,420 m (11, 220 ft), respectively). This number of 183 animals is considered by LDEO to be a more realistic "best estimate" of the number of dolphins that may be disturbed (i.e., Level B harassment). This number is about 0.1 percent of the estimated GOM population of dolphins (approx. 165,715). Therefore, the total number of dolphins likely to react behaviorally is considerably lower than the estimated 486 animals.

Of the 520 marine mammals that might be exposed to airgun sounds with received levels  $\geq 160$  dB re 1  $\mu$ Pa (rms), an estimated two would be sperm whales. Two sperm whales represent 0.4 percent of the estimated GOM population of about 530 sperm whales.

### **Coastal Zone Management Act Consistency**

On May 7, 2003, the Florida DEP noted that, based on the information contained in the NMFS notice (April 11, 2003, 68 FR 17773) and the comments provided by State reviewing agencies, the State determined that the proposed action by LDEO and NMFS is consistent with the Florida Coastal Management Program.

### **Endangered Species Act (ESA)**

NMFS has concluded consultation under section 7 of the ESA on NMFS' issuance of an IHA to take small numbers of marine mammals, by harassment, incidental to conducting calibration measurements of its seismic array in the GOM by LDEO. The finding of that consultation was that this study is not likely to jeopardize the continued existence of marine species listed as threatened or endangered under the ESA. No critical habitat has been designated for these species in the GOM; therefore, none will be affected. A conservation recommendation was made to ensure that the safety zone is clear of sea turtles prior to ramp up. This recommendation has been implemented through the IHA to LDEO. A copy of the Biological Opinion is available upon request (see ADDRESSES).

### **National Environmental Policy Act (NEPA)**

On March 10, 2003, the National Science Foundation (NSF) made a determination, based on information contained within its Environmental

Assessment (EA) that implementation of the subject action is not a major Federal action having significant effects on the environment within the meaning of Executive Order 12114. NSF determined therefore, that an environmental impact statement would not be prepared. On April 11, 2003 (68 FR 17773), NMFS noted that the NSF had prepared an EA for the GOM calibration study. In accordance with section 6.01 of the National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216-6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999), NMFS has reviewed the information contained in NSF's EA and determined that the NSF EA accurately and completely describes the proposed action alternative, reasonable additional alternatives, 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. As a result, NMFS has determined that it is not necessary to issue either a new EA or a Supplemental EA for the issuance of an IHA to LDEO for this activity. Therefore, based on this review and analysis, NMFS is adopting the NSF EA under NEPA. A copy of the NSF EA for this activity is available upon request (see **ADDRESSES**).

#### Determinations

Based on the information contained in the LDEO application, the NSF EA, the April 11, 2003 notice (68 FR 17773) and this document, NMFS has determined that conducting a 3- to 4-day calibration study of the seismic airgun array onboard the *Ewing* in the northern GOM in 2003 by LDEO would result in the harassment of small numbers of marine mammals; would have no more than a negligible impact on the affected marine mammal species or stocks; and would not have an unmitigable adverse impact on the availability of stocks for subsistence uses. This activity will result, at worst, in a temporary modification in behavior by certain species of marine mammals. 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, no take by injury and/or death is anticipated, and the potential for temporary or permanent hearing impairment is low and will be avoided through the incorporation of the mitigation measures mentioned in this document and required under the IHA. For these reasons therefore, NMFS

has determined that the requirements of section 101(a)(5)(D) of the MMPA have been met and the authorization can be issued.

#### Authorization

NMFS has issued an IHA to take small numbers of marine mammals, by harassment, incidental to conducting calibration measurements of the seismic array onboard the *Ewing* in the northern GOM to LDEO for a 1-year period, provided the mitigation, monitoring, and reporting requirements described in this document and the IHA are undertaken.

Dated: May 23, 2003.

**Donna Wieting,**

*Acting Chief, Office of Protected Resources,  
National Marine Fisheries Service.*

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**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 052703A]

#### New England Fishery Management Council; Public Meetings

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Oversight Committee in June, 2003. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** The meeting will be held on Friday, June 13, 2003 at 9:30 a.m.

**ADDRESSES:** The meeting will be held at the Four Points By Sheraton, 407 Squire Road, Revere, MA 02151; telephone: (781) 284-7200.

*Council address:* New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950; telephone: (978) 465-0492.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465-0492.

**SUPPLEMENTARY INFORMATION:** The committee will review the public hearings and early written comments on Amendment 10 and hear preliminary advice from NMFS. They will also receive a progress report on Framework Adjustment 39 to the Multispecies

Fishery Management Plan, which will set the finfish measures associated with Amendment 10 access to Georges Bank closed areas.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice 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 final action to address the emergency.

#### Special Accommodations

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

Dated: May 27, 2003.

**Richard W. Surdi,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 052703B]

#### Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

**DATES:** The Council and its advisory entities will meet June 15-20, 2003. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

**ADDRESSES:** The meetings and hearing will be held at the Crowne Plaza Hotel, 1221 Chess Drive, Foster City, CA 94404; telephone: 650-570-5700.

*Council address:* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220.

**FOR FURTHER INFORMATION CONTACT:** Dr. Donald O. McIsaac, Executive Director; telephone: (503) 820-2280.