

and distance from seismic vessel, and apparent reaction to the acoustic sources or vessel.

(2) Time, location relative to the acoustic sources, heading, speed, activity of the vessel (including whether and the level at which acoustic sources are operating), sea state, visibility, and sun glare.

The data listed under (2) would 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.

A final report will be submitted to NMFS within 90 days after the end of the shallow hazard and site clearance surveys. The report will describe the operations that were conducted and sightings of marine mammals near the operations. The report also will provide full documentation of methods, results, and interpretation pertaining to all monitoring. The report will summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities), and the amount and nature of potential take of marine mammals by harassment or in other ways.

#### Endangered Species Act

Under section 7 of the ESA, NMFS has completed consultation with the MMS on the issuance of seismic permits for offshore oil and gas activities in the Beaufort and Chukchi seas. In a Biological Opinion issued on July 17, 2008, NMFS concluded that the issuance of seismic survey permits by MMS and the issuance of the associated IHAs for seismic surveys are not likely to jeopardize the continued existence of threatened or endangered species (specifically the bowhead, humpback, and fin whales) under the jurisdiction of NMFS or destroy or adversely modify any designated critical habitat. The 2008 Biological Opinion takes into consideration all oil and gas related activities that are reasonably likely to occur, including exploratory (but not production) oil drilling activities. In addition, NMFS has issued an Incidental Take Statement under this Biological Opinion which contains reasonable and prudent measures with implementing terms and conditions to minimize the effects of take of bowhead whales.

#### NEPA

In 2006, the MMS prepared Draft and Final PEAs for seismic surveys in the Beaufort and Chukchi Seas. NMFS was a cooperating agency in the preparation of the MMS PEA. On November 17, 2006 (71 FR 66912), NMFS and MMS

announced that they were preparing a DPEIS in order to assess the impacts of MMS' annual authorizations under the Outer Continental Shelf Lands Act to the U.S. oil and gas industry to conduct offshore geophysical seismic surveys in the Chukchi and Beaufort Seas off Alaska and NMFS' authorizations under the MMPA to incidentally harass marine mammals while conducting those surveys.

On March 30, 2007 (72 FR 15135), the Environmental Protection Agency (EPA) noted the availability for comment of the NMFS/MMS DPEIS. Based upon several verbal and written requests to NMFS for additional time to review the DPEIS, EPA has twice announced an extension of the comment period until July 30, 2007 (72 FR 28044, May 18, 2007; 72 FR 38576, July 13, 2007). Because NMFS has been unable to complete the PEIS, it was determined that the 2006 PEA would need to be updated in order to meet NMFS' NEPA requirement. This approach was warranted as it was reviewing five proposed Arctic seismic survey IHAs for 2008, well within the scope of the PEA's eight consecutive seismic surveys. To update the 2006 Final PEA, NMFS prepared a SEA which incorporates by reference the 2006 Final PEA and other related documents.

#### Determination

Based on the preceding information, and provided that the mitigation and monitoring are incorporated, NMFS has determined that the impact of conducting the shallow hazard and site clearance surveys in Chukchi Sea may result, at worst, in a temporary modification in behavior of small numbers of certain species of marine mammals. While behavioral and avoidance reactions may be made by these species in response to the resultant noise from the airguns, side-scan sonars, seismic profilers, and other acoustic equipment, these behavioral changes are expected to have a negligible impact on the affected species and stocks of marine mammals. In addition, NMFS has determined that the CPAI's shallow hazard and site clearance survey would not have an unmitigable adverse impact on the availability of marine mammal species and/or stocks for taking for subsistence uses.

While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals in the area of site clearance operations, the number of potential harassment takings is estimated to be small relative to the species' population or stock size. NMFS

anticipates the actual take of individuals would be lower than the numbers presented in the analysis because those numbers do not reflect either the implementation of the mitigation measures or the fact that some animals will avoid the sound at levels lower than those expected to result in harassment.

In addition, no take by death and/or injury is anticipated, and the potential for temporary or permanent hearing impairment will be avoided through the incorporation of the required mitigation measures described in this document. This determination is supported by (1) the likelihood that, given sufficient notice through slow ship speed and ramp-up of the acoustic equipment, marine mammals are expected to move away from a noise source that it is annoying prior to its becoming potentially injurious; (2) TTS is unlikely to occur, especially in odontocetes, until levels much above 180 dB re 1 microPa (rms) are reached; and (3) the fact that injurious levels of sound are only likely if an animal is very close to the vessel.

#### Authorization

As a result of these determinations, NMFS has issued an IHA to CPAI for conducting a shallow hazard and site clearance survey in the Chukchi Sea in 2008, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: August 15, 2008.

**James H. Lecky,**

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

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

RIN 0648-XJ18

##### **Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Navy Operations of Surveillance Towed Array Sensor System Low Frequency Active Sonar**

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

**ACTION:** Notice; issuance of two Letters of Authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that NMFS has issued

two 1-year Letters of Authorization (LOAs) to take marine mammals by harassment incidental to the U.S. Navy's operation of Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA) sonar operations to the Chief of Naval Operations, Department of the Navy, 2000 Navy Pentagon, Washington, DC, and persons operating under his authority.

**DATES:** Effective from August 16, 2008, through August 15, 2009.

**ADDRESSES:** Copies of the Navy's April 9, 2008, LOA application letter, the LOAs, the Navy's 2007 annual report and the Navy's 2007 5-Year Comprehensive Report 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, by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>.

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Hollingshead, Office of Protected Resources, NMFS (301-713-2289, ext 128).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a military readiness activity if certain findings are made and regulations are issued.

Authorization may be granted for periods of 5 years or less 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 certain 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 also must include requirements pertaining to the monitoring and reporting of such taking.

Regulations governing the taking of marine mammals incidental to the U.S. Navy's operation of SURTASS LFA

sonar were published on August 21, 2007 (72 FR 46846), and remain in effect through August 15, 2012. They are codified at 50 CFR part 216 subpart Q. These regulations include mitigation, monitoring, and reporting requirements for the incidental taking of marine mammals by the SURTASS LFA sonar system. For detailed information on this action, please refer to the August 21, 2007 **Federal Register** Notice and 50 CFR part 216 subpart Q.

#### **Summary of LOA Request**

NMFS received an application from the U.S. Navy for two LOAs, one covering the USNS ABLE (T-AGOS 20) and one covering the USNS IMPECCABLE (T-AGOS 23), under the regulations issued on August 21, 2007 (72 FR 46846). (The *R/V Cory Chouest* has been retired and has been replaced by the USNS ABLE.) The Navy requested that these LOAs become effective on August 16, 2008. The application requested authorization, for a period not to exceed 1 year, to take, by harassment, marine mammals incidental to employment of the SURTASS LFA sonar system for training, testing and routine military operations on the aforementioned ships in areas of the North Pacific Ocean.

#### **Monitoring and Reporting**

In compliance with NMFS' SURTASS LFA sonar regulations for the 2002-2007 period, the Navy submitted an annual report for SURTASS LFA sonar operations during 2006-2007. The Navy also submitted a comprehensive report on SURTASS LFA sonar operations and the mitigation and monitoring activities conducted under the LOAs issued under its previous rule. A copy of these reports can be viewed and/or downloaded at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>. In accordance with the current SURTASS LFA sonar regulations (50 CFR 216.186), the Navy's has submitted classified quarterly mission reports, and its annual report for the 2007-2008 LOA is due on September 30, 2008. Upon receipt, NMFS will post this annual report on the same Internet address.

#### **Authorization**

NMFS has issued two LOAs to the U.S. Navy, authorizing the incidental harassment of marine mammals incidental to operating the two SURTASS LFA sonar systems for training, testing and routine military operations. Issuance of these two LOAs is based on findings, described in the preamble to the final rule (August 21, 2007, 72 FR 46846)) and supported by information contained in the Navy's

required reports on SURTASS LFA sonar, that the activities described under these two LOAs will have no more than a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stocks for subsistence uses.

These LOAs remain valid through August 15, 2009, provided the Navy remains in conformance with the conditions of the regulations and the LOAs, and the mitigation, monitoring, and reporting requirements described in 50 CFR 216.184-216.186 (August 21, 2007, 72 FR 46846) and in the LOAs are undertaken.

Dated: August 15, 2008.

**James H. Lecky,**

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

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## **DEPARTMENT OF COMMERCE**

### **Patent and Trademark Office**

#### **Patent and Trademark Financial Transactions**

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before October 20, 2008.

**ADDRESSES:** You may submit comments by any of the following methods:

- *E-mail:* [Susan.Fawcett@uspto.gov](mailto:Susan.Fawcett@uspto.gov). Include "0651-0043 comment" in the subject line of the message.

- *Fax:* 571-273-0112, marked to the attention of Susan Fawcett.

- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, Customer Information Services Group, Public Information Services Division, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

- *Federal Rulemaking Portal:* <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tamara McClure, Office of Finance, United States Patent