(iii) The employee's statement of whether the employee has insurance or any other source of indemnification.

Subpart E—Tort Claims

Authority: 28 U.S.C. 2672; 35 U.S.C. 2(b)(2); 44 U.S.C. 3101; 28 CFR part 14.

§ 104.42 Procedure for filing claims.

Administrative claims against the Office filed pursuant to the administrative claims provision of the Federal Tort Claims Act (28 U.S.C. 2672) and the corresponding Department of Justice regulations (28 CFR part 14) shall be filed with the General Counsel as indicated in § 104.3.

§ 104.44 Finality of settlement or denial of claims.

Only a decision of the Director or the General Counsel regarding settlement or denial of any claim under this subpart may be considered final for the purpose of judicial review.

Dated: December 11, 2000.

Q. Todd Dickinson,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 00–32314 Filed 12–21–00; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0044b; FRL–6875–4]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Colorado Springs Revised Carbon Monoxide Maintenance Plan and Approval of a Related Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of the revised Colorado Springs carbon monoxide (CO) maintenance plan, that is designed to keep the area in attainment for CO through 2010, and revisions to Colorado's Regulation No. 13 ''Oxygenated Fuels Program'' for the removal of the requirement for the implementation of the wintertime oxygenated fuels program in El Paso County and the Colorado Springs area. The revised maintenance plan and revisions to Regulation No. 13 were submitted by the Governor on May 10, 2000. In the Final Rules section of this **Federal Register**, EPA is approving the State's State Implementation Plan (SIP) revisions, involving the revised maintenance plan and the changes to Regulation No. 13, as a direct final rule without prior proposal because the Agency views these SIP revisions as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by January 22, 2001.

ADDRESSES: Written comments may be mailed to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at the following office:

United States Environmental Protection Agency, Region VIII, Air Program, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466; Telephone number (303) 312–6479.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules section of this **Federal Register**.

Dated: September 14, 2000.

Patricia D. Hull,

Acting Regional Administrator, Region VIII.

[FR Doc. 00–32301 Filed 12–21–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No.000801223-0223-01; I.D. 062000A]

RIN 0648-AO24

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Operation of a Low Frequency Sound Source by the North Pacific Acoustic Laboratory

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

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: NMFS has received a request from the University of California San Diego, Scripps Institution of Oceanography (Scripps), for a Letter of Authorization (LOA) to take a small number of marine mammals incidental to the continued operation of a low frequency (LF) sound source previously installed off the north shore of Kauai by the Acoustic Thermometry of Ocean Climate (ATOC) project. By this notice, NMFS is proposing regulations to govern that take. In order to grant the exemption and issue the regulations, NMFS must determine that these takings will have no more than a negligible impact on the affected species and stocks of marine mammals. NMFS invites comment on the application and the proposed regulations.

DATES: Comments and information must be postmarked no later than February 5, 2001. Comments will not be accepted if submitted via e-mail or the Internet.

Comments regarding the burden-hour estimate or any other aspect of the collection of information requirement contained in this rule should be sent to the Chief, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, DC 20503.

ADDRESSES: Comments should be addressed to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3226. A copy of the application, which contains the references used in this document, may be obtained by writing to this address or by telephoning the contacts listed here (see **FOR FURTHER INFORMATION CONTACT**). A copy

of the draft environmental impact statement (DEIS) may be obtained from Marine Acoustics Inc., 809 Aquidneck Ave., Middletown, RI 02842, attn. Kathy Vigness Reposa, 401-847-7508.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead (301) 713-2055, ext. 128, and Margaret Dupree, 808-973-2935, ext. 210.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*) (MMPA) directs the Secretary of Commerce (Secretary) 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 and regulations governing the take are issued.

Permission may be granted for periods of 5 years or less if the Secretary finds that the taking will be small, will have no more than 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 Arctic Ocean subsistence uses, and if regulations are prescribed setting forth the permissible methods of taking and the requirements pertaining to the monitoring and reporting of such taking.

Summary of Request

On May 21, 2000, NMFS received an application for an incidental, small take authorization under section 101(a)(5)(A) of the MMPA from Scripps to take a small number of marine mammals incidental to the continued operation of a LF sound source previously installed off the north shore of Kauai by the ATOC project. An alternative source location under consideration in the DEIS is for Midway Island. A final decision on whether to re-use the acoustic source (or to install a new source and cable at Midway), in order to combine a second phase of research on the feasibility and value of large-scale acoustic thermometry with long range underwater sound transmission studies and marine mammal monitoring and studies will be made based, in part, on findings and determinations made under the National Environmental Policy Act (NEPA). As the principal funding agency for the proposed action, a DEIS has been prepared by the Office of Naval Research (ONR). NMFS is a cooperating agency in the preparation of this DEIS.

Project Description

Acoustic thermometry is a method for obtaining information about the temperature field in the ocean from precise measurements of the travel times of sound pulses transmitted through the ocean. It is also a technique for acoustic remote sensing of the ocean interior, in which the properties of the ocean between the acoustic sources and receivers are determined, rather than the properties of the ocean at the instruments as is the case for conventional thermometers and current meters.

The purposes for conducting the proposed action are: (1) To perform the second phase of research on the feasibility and value of large-scale acoustic thermometry; and (2) to study the behavior of sound transmissions in the ocean over long distances. Large-scale acoustic thermometry is needed: (1) To study seasonal and interannual ocean variability associated with ocean phenomena such as El Nino, La Nina, and the Pacific Decadal Oscillation; (2) to use acoustic thermometry data in combination with a variety of other data types, including satellite altimeter data, surface drifter data, surface mooring data, and others to test and constrain computer models of ocean circulation in order to gain a better understanding of ocean variability and the earth's changing climate; and (3) to make an objective assessment of the value of acoustic methods for remote sensing of the ocean interior as one component of an integrated ocean observing system for ocean weather and climate.

Long-range underwater sound transmission studies are needed: (1) To improve the understanding of the basic principles of LF, long-range underwater sound transmission (i.e., acoustic propagation) in the ocean; (2) to determine the effects of ocean environmental variability on acoustic signal stability and coherence; (3) to study the seasonal and annual variations in acoustic conditions in the North Pacific and the impact of environmental variability on acoustic propagation; and (4) to determine the fundamental limits to acoustic signal processing at long-range imposed by the ocean environment.

This second phase of acoustic research requires longer time series of acoustic measurements in order to determine whether the acoustically-derived time series of large-scale ocean temperature and heat content variability prove to be as valuable as anticipated in studying seasonal and interannual ocean variability. It is anticipated that there will be a growing effort to monitor the variability of the North Pacific using a combination of satellite altimeter data, surface and subsurface drifter data, surface moorings and bathythermograph data, in addition to acoustic thermometry data. Combining all of these different data types in computer models of the ocean circulation will allow testing and refinement of ocean general circulation and climate models in order to gain a better understanding of the earth's changing climate.

Under the proposed action, which is for Scripps to operate the sound source previously installed off the north shore of Kauai by the Acoustic Thermometry of Ocean Climate (ATOC) project, the seabed power cable and sound source from the ATOC project would remain in their present locations on Kauai, and transmissions would continue with approximately the same signal parameters and transmission schedule used in the earlier ATOC project. The typical schedule would consist of six 20-minute (min) transmissions (one every 4 hours), every fourth day, with each transmission preceded by a 5-min ramp-up period during which the signal intensity is gradually increased, representing an average duty cycle of 2 percent. With the possible exception of short duration testing with duty cycles of up to 8 percent, or equipment failure, this schedule would continue for a period of 5 years. The signals transmitted by the source would have a center frequency of 75 Hertz (Hz) and a bandwidth of approximately 35 Hz (i.e., sound transmissions are in the frequency band of 57.5-92.5 Hz). Approximately 260 watts of acoustic power would be radiated during transmission. According to Scripps, the signal parameters and source level in the ATOC project have been found to provide adequate, but not excessive, signal-to-noise ratios in the receiver ranges of interest. At 1 meter (m)(3.3 feet (ft)) from the source (at 807 m (2,648 ft) water depth at the Kauai location), sound intensity (i.e., source level) would be about 195 decibels (dB) referenced to the intensity of a signal with a sound pressure level (SPL) of 1 microPascal (1 ′Pa).

Average ambient noise levels in the 60-90 Hz band offshore central Kauai can be 76-98 dB (with various degrees of shipping traffic) and are expected to be higher (105 dB) when humpback whales are present. The received level from the NPAL source is not expected to exceed 137 dB at the water's surface anywhere in the vicinity of the sound source. The received level in the top 100 m (328.1 ft) has been measured to decrease to about 120 dB at 5 km (2.7 nm) shoreward of the source. The near-

surface received level is predicted to decrease to about 120 dB at 7.5 km (4 nm) seaward of the source. Underwater sound levels in the immediate vicinity of the source are expected to be: 140 dB at 245 m (804 ft) depth (562 m (1844 ft) from the source); 145 dB at 491 m (1611 ft) depth (316 m (1037 ft) from the source; 150 dB at 629 m (2064 ft) depth (178 m (564 ft) range around the source); and 165 dB at 775 m (2543 ft) (32 m (105 ft) range around source (ONR/NMFS, 2000; ARPA/NMFS, 1995).

While Scripps' preferred alternative to use the ATOC source off Kauai, HI involves the continued operation of the source installed at that location, an alternative under consideration in ONR's DEIS would be installing a sound source and cable at a location off the coast of Midway Island.

Comments and Responses

On August 24, 2000 (65 FR 51584), NMFS published a notice of receipt of Scripps' application for a small take exemption and requested comments, information, and suggestions concerning the request and the structure and content of regulations to govern the take. During the 30-day public comment period, NMFS received letters from the Office of Naval Research (ONR), the Marine Mammal Commission (MMC), the Humane Society of the United States (HSUS), Animal Welfare Institute (AWI), the Whale and Dolphin Conservation Society (WDCS), the Hawaiian Islands Humpback Whale National Marine Sanctuary, the State of Hawaii, and a number of U.S. citizens, including several form letters. Comments made regarding ONR's DEIS, that are not germane to the Scripps' application for taking marine mammals incidental to the activity will be addressed in ONR's Final EIS (FEIS). Comments postmarked after the close of the comment period are not addressed in this document.

Activity Concerns

Comment 1: The MMC notes that it is not clear whether the ATOC program will terminate in 5 years, as indicated in both the DEIS and the request for taking authorization, or continue further.

Response: NMFS understands that the authorization requested by Scripps, for the taking of marine mammals incidental to operating the NPAL acoustic source, will be for a single 5-year authorization and will not be renewed thereafter. Scripps notes that, by the time the next 5-year research and marine mammal monitoring program ends, the acoustic source will have been deployed for over 10 years, and therefore questions whether it will continue to be usable after that time. NMFS notes, however, that if the project was continued thereafter, a new small take rulemaking would be required. Moreover, if the project were proposed to continue beyond 5 years at the Hawaii location (Kauai or Midway), NMFS strongly recommends that long-term monitoring studies be designed and carried out so that remaining issues regarding cumulative impacts can be addressed.

Comment 2: Several commenters noted that the application omitted discussion and comparison with the beaked whale stranding in the Bahamas. One commenter noted that, while the sonar applications are different, the application did not mention the beaked whale stranding which, the commenter asserted, was caused by a sonar experiment known as Littoral Warfare Advanced Deployment (LWAD) Sea Test 00-1. An important similarity may be found in the island habitats. Another commenter noted that NPAL was the world-wide deployment of the Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA) sonar system with a different name.

Response: Naval ship sonars have signal and operational characteristics very different from those of the Kauai NPAL source. For example, in response to the stranding of beaked whales in the Bahamas on March 15, 2000, the Navy and NMFS are investigating the transit of several ships (not associated with the LWAD 00-1 Sea Test) using standard, hull-mounted sonar operations within normal frequency ranges, power outputs, and duty cycles, which are, respectively: 3.5 and 7.5 kHz, 235 dB (and lower) and ''pings'' of short duration (about one-tenth of a second or less duration on a standard duty cycle of 24 seconds. Since these sonars do not have signal and operational characteristics similar to the NPAL source, ONR does not believe it is appropriate for either the DEIS or the small take application to analyze those strandings. NMFS concurs.

The Bahamian beaked whale stranding could not have been caused by the LWAD 00-1 Sea Test, because these strandings began prior to the Navy's beginning that test. In addition, LWAD Sea Test 00-1 did not employ sonar around the time of the strandings. The U.S. Navy and NMFS are continuing the investigation into the cause of the beaked whale strandings and will report on their findings next summer at the conclusion of investigations.

In addition, NPAL should not be confused with the Navy's SURTASS LFA sonar system, a ship-mounted LF sonar array for detecting submarines. The two systems have distinctly different operating systems, frequencies, duty cycles, and operating characteristics.

Marine Mammal Concerns

Comment 3: One commenter noted that the Hawaiian monk seal was not listed in the application for Kauai waters because preliminary studies by Scripps were totally outdated and inadequate. The request did not list earlier aerial surveys which reported numerous monk seals around Kauai and Niihau. The WDCS believes that Scripps has not given full consideration to the impacts of its actions on the marine environment, particularly the Hawaiian monk seal, noting that the species lives only in the Hawaiian Islands and is very sensitive to human disturbance.

Response: NMFS has been informed that ONR and Scripps will include information in the FEIS on the abundance of Hawaiian monk seals around Kauai, that was not available at the time the DEIS was written. In addition, ONR and Scripps have added the Hawaiian monk seal to the marine mammals species in the Acoustic Integration Model (AIM) for Kauai (it was previously modeled only for the Midway alternative). NMFS has added this species to the list of marine mammal species potentially affected off Kauai. However, NMFS does not believe that Hawaiian monk seals will be impacted by the NPAL source considering that monk seals are believed to be high-frequency-specialist hearers, the relatively low SPL of the NPAL source at the water surface in the offshore vicinity of the source (less than 136 dB), and the coastal nature of the Hawaiian monk seal where SPLs will be even lower.

Marine Mammal Impact Assessment Concerns

Comment 4: The HSUS finds that, while the AIM model may result academically in the best guesses possible for estimating received levels for free ranging animals, it is inadequate for management purposes. If cetaceans, or monk seals act contrary to the assumptions made in the model, the received levels to which the animals are exposed may in fact be far higher (or far lower) than the model predicts, thus invalidating the mitigation protocols established by Scripps.

Response: The MMPA requires NMFS to use the best scientific information available when making determinations of negligible impact from maritime activities. NMFS believes the AIM

model incorporates the best scientific information available on each species in order to predict the acoustic impact on these species. Independent of the AIM model, however, scientific information is available to NMFS from several other sources to assist NMFS in making its negligible impact determination for this activity. NMFS notes, for example, the limited duty cycle of the sound source (2 percent during humpback whale presence, 8 percent at other seasons), the depth of the sound source (few marine mammals could dive to depths that would put them in proximity to sound fields that could affect them), the amount of attenuation of the SPL by the time the sounds reach the upper water depths, and the LF of the NPAL source that many species of marine mammals are unlikely to hear. In addition, the California and Hawaii ATOC Marine Mammal Research Programs (MMRPs) did not find any overt or obvious short-term changes in the abundance or distribution of marine mammals in response to the transmissions of the ATOC sound sources. Costa et al. (1998) and Mobley et al. (1999) showed no significant changes in the abundance of humpback and sperm whales from the control periods, when the source was not operating, to the experimental periods, when it was on. While intensive statistical analyses of aerial survey data showed some subtle shifts in distribution of humpback (and possibly sperm) whales away from the Pioneer Seamount ATOC source during transmission periods, no statistically significant shifts in distribution were found for any other species of marine mammal. In addition, comparison of the 1993, 1995, and 1998 population estimates for humpback whales in Hawaii show an almost statistically significant increase in population size of approximately 8 percent annually.

Comment 5: The HSUS believes that the ''single ping equivalent'' (SPE) concept is based on assumptions that have not and cannot be verified. The calculation that 10 pings at 120 dB are equivalent to one ping at 130 dB is entirely speculative—no empirical data were used to establish this relationship.

Response: The SPE concept is explained in detail in ONR's DEIS. The purpose of the SPE is to take into account repeated exposure to sound. Richardson *et al*. (1995) discussed the relationship between repeated exposures of the human ear to impulsive sound and the temporary elevation in hearing sensitivity (referred to as temporary threshold shift (TTS)). While recognizing that no empirical data have been collected to establish this relationship, and there is no guarantee that marine mammal behavioral responses exhibit patterns similar to human hearing, the human model is the best objective foundation for an assessment and is consistent with Crocker (1997).

Richardson *et al*. (1995) noted the risk threshold is lowered by 5 dB per tenfold increase in the number of sounds in the exposure. As such, an SPE RL will always be larger than the maximum RL of any single ping in a sequence. In addition, NMFS believes that dividing the single, 20-min NPAL source signal into 20 one-minute ''pings'' accurately represents the impact on the animals during diving and movement. For these two reasons, therefore, NMFS believes that the SPE concept, which is based on the best science currently available, is significantly more conservative than assumptions made for previous marine mammal impact assessments.

Comment 6: The HSUS express concern that the assumption that a RL of 180 dB would result in TTS for 95 percent of exposed baleen whales, far from being conservative, is completely unsubstantiated.

Response: As explained in ONR's DEIS, to date, there are no authoritative studies of TTS in mysticetes. However, as noted in the DEIS, studies of human hearing indicate that the normal process of hearing loss with age (termed presbycusis) can be accelerated by chronic exposure to sounds 80 dB above the absolute threshold of hearing (Richardson et al., 1995). Here chronic is interpreted as about 8 hours per day for about 10 years. While hearing thresholds are not known in mysticetes, the lowest value is speculated to be 80 dB (Ketten, 1998). This suggests that 10 years of exposure to 160 dB RL (i.e., 80 dB threshold plus 80 dB exposure level) for 8 hours per day would cause auditory damage. As a result, because TTS may result from a brief exposure to a loud sound, prolonged exposure to a faint sound, or intermediate exposure to a sound of intermediate loudness, sound duration and intensity can be considered to trade off with each other in causing TTS. Therefore, by estimating that 95 percent of baleen whales would experience TTS (a level which would not result in any hearing damage), after exposure to a 1-minute ping at 180 dB is considered conservative.

Comment 7: ONR believes that certain language found in the ANPR implies that the Navy and Scripps: (1) Categorized harm as the onset of TTS; (2) categorized the onset of TTS as the lower end of Level A harassment; (3) categorized TTS as the onset for a Level A harassment take; and (4) determined that a marine mammal would have to receive one ping greater than or equal to 180 dB re 1 micro Pa in order to be considered to have received a non-serious injury, or many pings at a received level slightly lower than 180 dB re 1 micro Pa in order to potentially incur a significant biological response (Level B harassment). Each of these statements is inaccurate: Neither Navy nor Scripps state in the DEIS or application that TTS is the onset of Level A harassment, or that harm is the onset of TTS, or that TTS is a threshold for Level A harassment, or that marine mammals are considered to receive non-serious injury when exposed to a single ping of LF sound from NPAL at a receive level of 180 dB re 1 micro Pa, or that Level B harassment occurs when exposed to multiple pings at receive levels below 180 dB re 1 micro Pa.

Response: The model used by the Navy for the SURTASS LFA sonar, which is also used by Scripps and ONR for this action, establishes a single-ping RL of 180 dB as a scientifically reasonable estimate for the potential onset of non-serious injury to marine mammals (Navy, 1999). According to the Navy (1999), a marine mammal would have to receive a single ping greater than, or equal to, 180 dB, or many pings at a slightly lower RL to possibly incur non-serious injury. For serious injury, the marine mammal would need to be well within the 180-dB sound field at the onset of the sound transmission. While the ONR DEIS and the Scripps' application for a small take authorization do not go into the depth of analysis found in other documents (see Navy, 1999), their use of the same model requires acceptance of the same assumptions, unless it is made clear that different assumptions apply. At the time of publication of the ANPR for this action, such clarification had not been made by the Navy.

At a workshop on marine mammals and LF sound convened by the Minerals Management Service-sponsored High-Energy Seismic Survey (HESS) Team in 1997, an expert panel concluded that it was apprehensive about levels above 180 dB re 1 ′Parms regarding overt behavioral, physiological, and hearing effects on marine mammals in general (HESS, 1997). These concerns were expressed again at an Acoustic Criteria workshop convened by NMFS in 1998. The latter workshop clarified, that a safety zone for pinnipeds, for impulse sounds only, could be safely set at 190 dB, instead of 180 dB, due to their different ear structure from cetaceans and, secondarily, to their generally lower sensitivity to LF sounds. It must be clarified further however, that the 180/190 dB safety zones were

established for impulse noise, not intermittent noise, such as is under discussion in this document and elsewhere. Adopting the precautionary approach, safety zones need to be established for the marine mammal species most sensitive to the frequency of the sound source that has more than a remote potential to be in the area at the time of the activity. For LF sounds, the species most likely to be affected are the mysticete whales and sperm whales. At this time, there is no evidence that TTS would occur in marine mammals at an SPL of 180 dB, and, in fact, Schlundt *et al.* (2000) indicates that onset TTS, for at least some species, occurs at significantly higher SPLs.

NMFS scientists and other scientists are in general agreement that TTS is not an injury (i.e., does not result in tissue damage) but is an impairment to hearing (resulting in an increased elevation in hearing sensitivity) that may last for a few minutes to a few days, depending upon the level and duration of exposure. In this document, NMFS makes clear that, although TTS is not an injury (i.e., Level A harassment), because a permanent elevation in hearing sensitivity (termed permanent threshold shift (PTS)) is considered an injury (Level A harassment), and because scientists have noted that a range of only 15-20 dB may exist between the onset of TTS and the onset of PTS, TTS is considered by NMFS to be in the upper portion of the Level B harassment zone (near the lower end of the Level A harassment zone). Therefore, onset PTS, not onset TTS, is considered by NMFS to be the lower end of Level A harassment. NMFS believes that establishing TTS at the upper end of the Level B harassment zone is both precautionary and warranted by the science. However, mitigation measures, such as establishing safety zones, should be applied whenever a marine mammal has the potential to incur a TTS in hearing in order to prevent an animal incurring a PTS injury.

Therefore, while the commenter's statement is true, the Navy's precautionary approach for assessing impacts by using TTS as the onset of non-serious injury needs to be amended to better reflect current scientific findings that TTS does not result in injury to a marine mammal. For this action, NMFS understands that this clarification will be made by ONR in its FEIS on this action.

Comment 8: ONR further notes that it is not the view of the Navy that TTS constitutes injury, harm, or level A harassment under the MMPA. TTS is a method of determining when the level of sound input temporarily reduces the ear's ability to respond fully (Schlundt et al., 2000). TTS is defined as a reversible decrease in hearing sensitivity as a result, for example, of exposure to a loud noise (Green, 1976). The leading analysis of TTS in marine mammals was conducted by Schlundt *et al.* (2000), in a series of experiments involving bottlenose dolphins and white whales. That effort included and expanded on pure-tone TTS data collected by Ridgway et al. (1997). The analysis generally within the range of 192 to 201 dB re 1 micro Pa, for exposures to one-second tones at frequencies of 0.4, 3, 10, 20, and 75 kHz. The threshold shift was generally in the nature of a 6- to 17-dB masking in the animal's hearing and was of short duration and completely recoverable.

Response: Please see response to Comment 7.

Comment 9: The HSUS states that the acceptance of TTS as a working definition for Level B harassment, although not expressly stated in the LOA request, is implicit in its risk continuum analysis (where 95 percent of baleen whales are estimated to experience TTS at 180 dB).

Response: Although NMFS considers TTS to be Level B harassment, a sound source would not need to cause TTS in order to result in harassment. For impulse, intermittent, and continuous sounds, NMFS considers both TTS impairment and any significant behavioral response to the signal on the part of the mammal to constitute Level B harassment of marine mammals. (Non-significant behavioral responses include, but are not limited to, a heads up display by pinnipeds, and minor adjustments in course direction or swimming speed by a marine mammal). For impulse, intermittent, and continuous types of noise, maritime activities such as the one in this document need to consider the level of take due to their activities resulting in a significant behavioral response. However, for single explosive events, because of the extremely short duration of the signal, NMFS scientists and other scientists believe that marine mammals cannot have a significant behavioral response because of the transient nature of the signal. For explosives therefore, only TTS needs to be considered for determining the level of Level B impact.

As mentioned previously, the consensus of scientific opinion is that TTS is not an injury. The National Research Council (NRC)(NRC, 2000), supports this statement noting that animals that experience small levels of TTS are not injured, suggesting that TTS is a conservative standard for the prevention of injury. However, the risk continuum estimates that 95 percent of the marine mammals exposed to a single 1-min sound at 180 dB could have the potential for a risk of TTS. If 180 dB is accepted as a precautionary de facto level for onset TTS (even though onset TTS probably occurs at a significantly higher SPL) and TTS itself is not an injury, the Scripps/ONR assumption for estimating risk is very conservative.

Comment 10: The HSUS notes that both the risk analysis and the AIM model require assumptions to be made for several key variables; if these assumptions are violated or are inaccurate or invalid to begin with, then the analysis and model are not valid.

Response: NMFS believes the AIM model has incorporated the best scientific information currently available on the levels of abundance of marine mammals in Hawaiian waters and on acoustic characteristics of both the ATOC source and surrounding waters. NMFS considers this information to be the best information currently available, especially since it allows NMFS to consider impacts in three dimensions as opposed to the usual two dimensions used in previous impact assessments. However, the AIM model is not the only source of information that NMFS intends to use in this action for the necessary determinations under the MMPA for levels of impacts.

Comment 11: The HSUS states that the principal assumption of the risk analysis is the use of the SPL ''harm'' criteria, which is not based on any empirical data. For example, determining these criteria requires gross speculation on baleen whale hearing thresholds, which are unknown.

Response: While NMFS agrees that baleen whale hearing thresholds are unknown empirically, until such time as this information becomes available, the AIM model uses assumptions on pre-industrial era ambient noise levels as a hearing threshold for low frequency sensitive marine mammals. This assumption was explained in ONR's DEIS.

Comment 12: The AWI strongly objects to the issuance of permits that allow the intentional infliction of suffering on marine mammals, especially by the propagation of sound. AWI believes that NMFS cannot issue the permit knowing that the sound intensity will reach 195 dB, a sound intensity 55 dB louder than the sound known to cause neurological damage in human beings, who are not nearly as sensitive to sound as cetaceans.

Response: The NPAL acoustic source operating at full intensity produces

approximately 260 Watts of acoustic power, resulting in a sound level of 195 dB re 1 micro Pa at one meter. NMFS does not believe that any marine mammals will be exposed to the source at this full intensity, since they would need to be immediately adjacent to the source, 807 m (2,648 ft) below the water surface during the 2-8 percent of the time the source was transmitting. This depth is approximately 550 m (1,804 ft) deeper than the deepest recorded humpback whale dive depth, the only deep-diving marine mammal species expected to be commonly found in the offshore NPAL waters.

Chapman and Ellis (1998) note that this comparison with humans is incorrect, for the following reasons: (1) The reference sound pressures used in underwater acoustics and in-air acoustics are not the same; (2) the statement compares a source level with a received level; and (3) there is no obvious connection between an annoying or harmful sound level for humans in air and an annoying or harmful sound level for a marine animal in water. NMFS recommends that reviewers unfamiliar with underwater acoustics read Appendix A of ONR's DEIS, and/or Richardson et al. (1995).

Comment 13: Several comments noted that the DEIS and the Scripps application did not cite several scientific papers relating to whale stranding events. Other commenters expressed concern about sperm whales and beaked whales, two species that, in addition to humpback whales, are deep divers and sensitive to LF sounds.

Response: NMFS and Scripps are unaware of any scientific reports regarding a relationship between transmissions of the ATOC source and marine mammal strandings in either California or Hawaii. Marine mammal stranding events elsewhere in the world that may be linked to acoustic noise, to date, have not been noted to be associated with LF sounds in the range of 60-90 Hz, but instead are more likely related to high intensity mid-frequency sounds. Please refer to the response to Comment 2 for discussion on the Bahamian beaked whale stranding event.

While audiograms are unavailable for beaked whales, they are believed to be mid-frequency hearers, not low-frequency hearers. Discussion on sperm whales, beaked whales, and other species and on the potential impact from the NPAL source on these species is provided in ONR's DEIS.

Comment 14: One commenter states that the risk assumptions in this action rely on the same information provided to NMFS as justification for the planned LWAD Sea Test 00-2 off New Jersey. Those tests involved use of LF sonar devices. NMFS found justification insufficient to warrant NMFS concurrence with those tests and the Navy cancelled the acoustic portion of the tests.

Response: On April 23, 2000, the U.S. Navy submitted to NMFS an Environmental Assessment (EA) for LWAD 00-2 and requested NMFS concur that these tests were unlikely to adversely affect species listed as threatened or endangered under the Endangered Species Act (ESA). NMFS responded on May 19 and May 26, 2000, that, because of the complexity of the project and the fact that the information provided in the EA was incomplete, NMFS could not concur with the Navy that the proposed action was not likely to adversely affect listed species under NMFS' jurisdiction. As a result, NMFS recommended that the Navy initiate formal consultation under section 7 of the ESA. Because there was insufficient time to complete formal consultation before the date the LWAD 00-2 Sea Test was scheduled to begin, the Navy cancelled the acoustic portion of the testing. NMFS finds no basis to conclude that the risk assumptions made for LWAD 00-2 were the same ones used for assessing marine mammal/sea turtle impacts for NPAL. Moreover, for the action under discussion in this document, ONR has requested formal consultation under section 7 of the ESA. That consultation will be completed prior to final determinations being made by ONR and Scripps on whether to proceed with its proposed action.

Mitigation Concerns

Comment 15: The HSUS believes that authorizing the continued use of the sound source for the next 5 years with minimal mitigation is unwarranted and premature, especially with recent strandings and research strongly suggesting that some low to mid-frequency sounds can result in significant negative impacts to cetaceans.

Response: It should be understood that NMFS does not authorize the activity, only the taking of marine mammals incidental to that activity. NMFS believes that the NPAL acoustic source, which at 75 Hz and 195 dB is significantly lower in frequency and intensity than those of many other sound sources in the world's oceans and is anchored in water depths of 807 m (2,648 ft), does not warrant comparison with open-water, mobile sources using loud mid-frequency sonars. The mitigation measures proposed for NPAL are listed in the application, the ONR's DEIS, and in this document. NMFS invites public comment on additional practical mitigation measures for this acoustic source located in deep water. NMFS also solicits comment on any relevant scientific information on impacts of LF sound on marine mammals, other than that cited in these documents. NMFS believes that the information obtained during the ATOC MMRP and the SURTASS LFA sonar Scientific Research Program (SRP) provide the best scientific information to date on this subject.

Comment 16: The WDCS questioned mitigation measure 2 which stated that increases in duty cycle (of the NPAL's acoustic source) would not occur during the peak humpback whale breeding season, but that transmissions will be conducted during this season.

Response: The NPAL acoustic source has been proposed to transmit on a 2-percent duty cycle. The proposed duty cycle would be six 20-minute transmissions (one every 4 hours), every fourth day, with each transmission preceded by a 5-minute ramp-up period. This is the minimum duty cycle necessary to support the large-scale acoustic thermometry and long-range propagation objectives. The 20-minute transmission period is designed to spread the energy over time, at much lower source levels, than if the signals were sent as short, loud pulses of the same total energy. However, the duty cycle may be increased to 8-percent for up to two months out of each year, to support short-term, long-range acoustic propagation studies. The 8 percent duty cycle would not occur during the humpback whale season (January-April). The rationale supporting the conduction of transmission studies during the humpback whale season is explained in detail in Chapter 2.1.3 of ONR's DEIS.

Comment 17: The WDCS notes that, to its knowledge, there is no research that supports the statement that ''the five-minute ramp-up period would give all marine animals the opportunity to depart the immediate area of the source.''

Response: NMFS recognizes that ramp-up may not be effective as a mitigation tool. However, NMFS notes that ramp-up is not the only mitigation measure proposed by the Navy and therefore, until such time as there is evidence that it is not effective, NMFS, Scripps, and ONR prefer to err on the side of caution and incorporate ramp-up into the mitigation program for NPAL's acoustic source.

Monitoring Concerns

Comment 18: The MMC notes that the DEIS and the application indicate only that a total of four aerial surveys would be conducted each year in the period from January through April. There is no indication of how or by whom the aerial surveys would be conducted or what area(s) would be surveyed. The Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS) recommends the four aerial surveys be augmented by at least two additional surveys to assess seasonal trends in abundance and distribution.

Response: After review, Scripps now proposes to conduct eight surveys each year from February through early April, during the peak of the humpback whale season. In order to maintain a basis for comparison with previous aerial surveys conducted in the area off the north shore of Kauai, the proposed survey protocol would follow the protocol used in the earlier 1993-1998 surveys (see Mobley *et al.*, 1999). The surveys would be scheduled eight days apart to match the NPAL transmission schedule. Based on an average of seven humpback sightings per survey observed during the 1998 season and assuming a moderate-sized effect due to NPAL transmissions, eight surveys should produce a minimum of 56 sightings of humpback whales, which would result in an estimated power of 0.80 (i.e., there would be an 80-percent probability of detecting a change in distribution if an effect is present). The estimate of 56 sightings is presumed to be a minimum, given previously reported evidence that Hawaiian wintering population of humpback whales is increasing.

Comment 19: The MMC notes that there is no indication of the baseline information now available or the kinds of changes in distribution or abundance that would trigger a review and suspension or termination of the project.

Response: Protocols similar to those used during the ATOC project would be followed for the review, suspension, and termination of the project. If at any time a monitoring team member identifies the occurrence of an acute or short-term effect on marine mammals, the information would be immediately communicated to the Team's Principal Investigator (PI). If the PI ascertains that an acoustic transmission coincided with the observed acute response, Scripps would suspend the source immediately and contact NMFS.

In addition, NMFS and Scripps propose to coordinate closely with the Hawaiian stranding network and will investigate all strandings. While there is contradictory information in the comments received on this rulemaking regarding the level of competency of the local stranding network, NMFS believes that the location of the NPAL source allows for an acceptable level stranding response. If an investigation by NMFS of a stranding event indicated that the NPAL acoustic source was responsible for causing the event, NMFS would suspend the LOA until such time as the cause was corrected, or Scripps applied, and obtained a new LOA that would authorize the incidental taking of marine mammals by mortality. NMFS however, continues to believe that the NPAL source would result not in any marine mammal strandings.

NMFS does not believe that the level of data from the monitoring program will allow determinations to be made that the NPAL acoustic source was responsible for any decreases in abundance of humpback whales or other marine mammals in the vicinity of the source. At this time, evidence indicates that the numbers of humpback whales and Hawaiian monk seals off Kauai are increasing, however, it is unclear whether this is due to total abundance increases or geographic shifts due to oceanographic changes. Similarly, a cause and effect between operation of the NPAL source and any decrease in abundance of marine mammals in the offshore Hawaiian Islands over the short-term period of 5 years is unlikely.

Comment 20: The HIHWNMS recommends boat-based surveys and, if possible, shore-based theodolite studies should be conducted. One citizen recommended additional aerial surveys year-round to assess impacts on dolphins and smaller whales.

Response: Scripps notes that additional aerial surveys, boat-based surveys, and theodolite studies are not an efficient use of NPAL's resources and believes that this additional monitoring is unlikely to provide NMFS and the public with better data than would be provided by the humpback whale aerial surveys. Under current funding levels for this project, conducting these additional studies would necessitate a reduced aerial survey effort for humpback whales. NMFS notes that boat-based surveys do not provide an encounter rate high enough to give statistically significant results. Theodolite studies, being shore based, are not near the NPAL source site, and therefore animals would show less reaction than animals closer to the source. While the proposed humpback whale aerial surveys will also detect other marine mammal species, because the smaller whales and dolphins are not expected to be sensitive (e.g., react) to the Kauai NPAL acoustic source transmission, NMFS does not believe that conducting additional aerial monitoring for these species is warranted.

Reporting Concerns

Comment 21: The MMC recommends that any proposal to issue the requested authorization include a description of the proposed monitoring program, in sufficient detail, to enable reviewers to judge the likelihood that it will be capable of detecting biologically significant long-term effects in time to stop and reverse them.

Response: A description of the monitoring program has been provided in this document.

MMPA Concerns

Comment 22: The HSUS notes that the criterion of ''prolonged disturbance of biologically important behavior'' is not consistent with either Level A or Level B harassment in the MMPA. ''Prolonged disturbance'' is a criterion apparently invented for the purposes of this LOA request. It is of concern that applicants continue to create ''take'' definitions inconsistent with the MMPA.

Response: The NRC (2000) states that NMFS should promulgate uniform (noise) regulations based on their potential for a biologically significant impact on marine mammals. NMFS concurs. However, the term ''prolonged,'' as used in ONR's DEIS and Scripps' application, implies an increase in time or duration beyond normal limits. This, NMFS believes, exceeds the criterion used by NMFS to note that harassment must refer to a reaction that is behaviorally significant on the part of the animal in the course of that animal's conducting a biologically important activity, such as breeding, feeding, migrating. In this context, it is the impact of the activity on the animal, not the duration of the disturbance, that is critical. NMFS requests additional comment on this criterion.

By further clarifying Level B harassment as being more than a momentary reaction on the part of a marine mammal that has no consequence to the animal's survival or reproduction, NMFS believes that Scripps and ONR are in compliance with both the MMPA definition and NMFS' guidance for calculating takings of small numbers of marine mammals incidental to a maritime activity. NMFS believes that interpretation of the definition of Level B harassment to include trivial reactions like a change in breathing rates is inappropriate and would greatly increase the affected

universe of activities that would need to apply for small take authorizations under the MMPA, including the U.S. shipping, recreational boating, and ecotourism industries.

Comment 23: The HSUS states that the concept that TTS is Level B harassment has seemingly been established de facto for some time now but never subject to public notice or comment. This is simply unacceptable, and in violation of the Administrative Procedure Act. The HSUS is disturbed at its continued appearance in documentation associated with Navy or ONR projects (such as the WINSTON S. CHURCHILL shock trial).

Response: Because part of this rulemaking is the criterion NMFS proposes to use to determine levels of harassment incidental to takings of small number of marine mammals by the continued operation of a LF sound source previously installed off the north shore of Kauai by the ATOC project there is no violation of section 553(b) of the APA. NMFS invites comment on the criterion for assessing impacts from explosives on marine mammals.

Comment 24: The AWI requests NMFS officially state its policy with regard to the requirement for researchers to apply for a small take permit if the levels of sound transmissions are under 180 dB. Do you currently require a permit if researchers subject marine mammals to Level B harassment? Does your agency currently consider sound of under 180 dB insignificant and therefore exempt from an incidental take permit?

Response: First, NMFS must clarify between different types of researchers. Researchers planning to conduct research directed at marine mammals need to apply for a scientific research permit under section 104 of the MMPA. This document does not discuss applications for scientific research under section 104 of the MMPA. Those researchers, and others, whose activity will have an incidental interaction with marine mammals can apply for a small take exemption under section 101(a)(5)(A) or (a)(5)(D) of the MMPA. That is the type of application under discussion in this document.

Secondly, NMFS must clarify that there is a difference between a source level of 180 dB and a sound level of 180 dB received at the marine mammal. While NMFS considers that a received level at the marine mammal of 180 dB or greater has the potential to result in a taking of marine mammals, in most cases, an underwater acoustic device or instrument with a source level of 180 dB or less, is likely to attenuate (e.g., reduce in intensity) within a few meters to insignificant levels. Therefore, unless there is an abundance of marine mammals in close proximity to a source of this intensity, marine mammals are unlikely to be taken.

In that regard, several factors need to be considered by a potential applicant prior to applying for a small take authorization. That person needs to consider: (1) The SPL and the frequency of the acoustic source (the higher the frequency, the greater the loss in intensity relative to distance); (2) whether the source results in an explosive, impulse, or intermittent noise; (3) the location and the duty cycle of the source; (4) the duration of the activity; and (5) the relative abundance of those species of marine mammals in the area of the source whose hearing range coincides with the frequencies of the acoustic source.

However, it is the responsibility of the proponents of an activity to determine whether marine mammals will be harassed, injured, or killed by an activity. NMFS recommends that, if there is a potential for marine mammals to be harassed by an acoustic source and for the response on the part of the mammal(s) to be more than a simple alert, startle, or dive reaction, the responsible party should contact NMFS to ascertain whether a small take authorization should be obtained. NMFS believes that an animal simply hearing a noise and making a minor course correction to avoid the noise is not a behavioral reaction sufficient to warrant a small take application, provided the reaction does not result in a response on the part of the animal that is biologically significant. A biologically significant response is one that has the potential to affect reproduction and survival, including feeding and migration.

Comment 25: One citizen wanted to know why NMFS is considering this (incidental harassment) proposal which potentially threatens to deprive the whale watching business of its vital coastal environment? Why should NMFS favor acoustic polluters over and above environmentally friendly businesses?

Response: Under section 101(a)(5)(A) of the MMPA, NMFS is charged with determining that the total taking by a lawful maritime activity is having no more than a negligible impact on a small number of marine mammals. If that determination can be made, then an authorization can be issued (provided monitoring and reporting are carried out). However, because the Kauai MMRP demonstrated that no overt or obvious short-term change in abundance, distribution, or behavior of humpback whales occurred as a result of the ATOC sound transmissions, no direct effects on the economy through a reduction in whale-watching are expected to occur from operation of this source over the next 5 years.

The intentional taking of marine mammals by whale watching and other recreational boating activities that seek out marine mammals for either business or personal enjoyment are an issue for discussion under NEPA. NMFS understands that the ONR FEIS will be expanded with new economic data on the tourism industry.

Comment 26: The same citizen asks whether NMFS has considered the combined influences that these high intensity acoustic sources will create?

Response: Unless one were also to consider vocalizing whales as being high intensity sources, NMFS does not believe that the NPAL source (at 195 dB) qualifies as a high intensity acoustic source. Under section 101(a)(5)(A) of the MMPA, NMFS is required to determine that the total taking by the specified activity is not having more than a negligible impact on affected marine mammal stocks. In this case, the specified activity under consideration is the operation of the NPAL acoustic source by Scripps. However, the cumulative impact on the marine environment from oceanic anthropogenic noise sources, such as Navy mid-frequency and LF sonars, commercial shipping, and recreational boating noise in the vicinity of Kauai, are subject to consideration by ONR in its EIS.

Other Concerns

Comment 27: The HSUS noted that they and the Natural Resources Defense Council (NRDC) submitted extensive comments in October 1999 on the Navy's DEIS on SURTASS LFA sonar and its use of SURTASS LFA SRP data. The HSUS incorporates herein by reference concerns noted in those comments.

Response: The proposed action in this document is the taking of marine mammals incidental to operation of the NPAL acoustic source that is stationary off Kauai, Hawaii, not the incidental taking of marine mammals by the world-wide deployment of SURTASS LFA sonar. Those comments will be addressed by the Navy in the FEIS for that activity. NMFS has reviewed the comments submitted by HSUS and the NRDC for the SURTASS LFA sonar DEIS and notes that most comments are not germane to this action.

Marine Mammals

A summary of the marine mammal species that may potentially be found in

the vicinity of the NPAL acoustic source at either Kauai or Midway is presented here. For more detail on marine mammal abundance, density, and the methods used to obtain this information, reviewers are requested to refer to ONR's DEIS. For general information on North Pacific Ocean marine mammals, reviewers may refer to Barlow *et al.* (1997).

Six species of baleen whales, humpback (*Megaptera novaengliae*), fin (*Balaenoptera physalus*), blue (*B. musculus*), Bryde's (*B. edeni*), minke (*B. acutorostrata*), and right (*Eubalaena glacialis*) whales, may occur in the Kauai or Midway Atoll areas. Although not reported near Midway Atoll, the humpback whale is the only balaenopterid whale known to be present in reasonably large numbers. Humpback whales are considered abundant in coastal waters of the main Hawaiian Islands from November through April. Fin whales and blue whales have the potential to occur in the area; however, their distribution and abundance in the region is believed to be uncommon (Balcomb, 1987), although only a single fin whale was observed during recent ATOC marine mammal research. Right whales in the North Pacific Ocean are extremely rare and therefore, would also be rare in the Hawaiian Islands. Bryde's whales, and minke whales may be occasionally seen in the area of Midway Atoll (Leatherwood *et al.*, 1988), but are not usually found off Kauai.

Sixteen species of odontocetes (toothed whales, dolphins and porpoises) may be found in the Kauai and Midway areas. These species are sperm whales (*Physeter macrocephalus*), short-finned pilot whales (*Globicephala macrorhynchus*), beaked whales (*Ziphius cavirostris, Berardius bairdi*, and *Mesoplodon spp.*), spinner dolphins (*Stenella longirostris*), spotted dolphins (*Stenella attenuata*), striped dolphins (*Stenella coeruleoalba*), bottlenose dolphins (*Tursiops truncatus*), rough-toothed dolphins (*Steno bredanensis*), pygmy sperm whales (*Kogia breviceps*), dwarf sperm whales (*Kogia simus*), killer whales (*Orcinus orca*), false killer whales (*Pseudorca crassidens*), pygmy killer whales (*Feresa attenuata*), and melon-headed whales (*Peponocephala electra*). It should be noted, however, that the latter 7 species were not sighted in or near the proposed Kauai area during marine mammal surveys conducted between 1993 and 1998.

The Hawaiian monk seal (*Monachus schauinslandi*) occurs in the area of the Leeward Hawaiian Islands and, more recently in the main Hawaiian Islands, including the island of Kauai.

Potential Impacts on Marine Mammals

The effects of underwater noise on marine mammals are highly variable, and can be categorized as follows (based on Richardson *et al.*, 1995): (1) The noise may be too weak to be heard at the location of the animal (i.e. lower than the prevailing ambient noise level, the hearing threshold of the animal at relevant frequencies, or both); (2) the noise may be audible but not strong enough to elicit any overt behavioral response; (3) the noise may elicit behavioral reactions of variable conspicuousness and variable relevance to the well being of the animal; these can range from subtle effects on respiration or other behaviors (detectable only by statistical analysis) to active avoidance reactions; (4) upon repeated exposure, animals may exhibit diminishing responsiveness (habituation), or disturbance effects may persist (the latter is most likely with sounds that are highly variable in characteristics, unpredictable in occurrence, and associated with situations that the animal perceives as a threat); (5) any man-made noise that is strong enough to be heard has the potential to reduce (mask) the ability of marine mammals to hear natural sounds at similar frequencies, including calls from conspecifics and/or echolocation sounds, and environmental sounds such as ice or surf noise; and (6) very strong sounds have the potential to cause either a temporary or a permanent reduction in hearing sensitivity (i.e., TTS or PTS, respectively). Few data on the effects of non-explosive sounds on hearing thresholds of marine mammals have been obtained; however, in terrestrial mammals, and presumably in marine mammals, received sound levels must far exceed the animal's hearing threshold for there to be any TTS. Received levels must be even higher for there to be risk of PTS. In this proposed action, a marine mammal would have to receive one ping greater than, or equal to 180 dB in order to be considered receiving a non-serious injury, or many pings at an RL slightly lower than 180 dB in order to potentially incur a significant biological response (Level B harassment).

In order to understand the biological significance of the risk of Level A or Level B harassment, it is necessary to determine how this risk might affect a population of marine mammals, starting with acoustic criteria. First, the marine mammal must be able to hear LF sound. Second, the animal must incur a reaction to the LF sound that is more than momentary. Third, any effect from LF sound must involve a significant behavioral change in a biologically important activity, such as feeding, breeding, or migration, all of which are potentially important for reproductive success of the population.

Based on California and Hawaii ATOC MMRPs, Scripps found no overt or obvious short-term changes: (1) In the abundance and distribution of marine mammals in response to the ATOC transmissions (intensive statistical analyses of aerial survey data showed some subtle shifts in distribution of humpback (and possibly sperm) whales away from the California site (Calambokidis *et al.*, 1998) and humpback whales away from the Kauai site); (2) in the behavior of humpback whales in response to the playback of ATOC-like sounds (intensive statistical analyses revealed some subtle changes in the behavior of humpback whales (Frankel and Clark, 1998; 1999b); or (3) in the singing behavior of humpback whales in the vicinity of the Kauai ATOC sound source. Bioacoustic experts concluded that these subtle effects would not adversely affect the survival of an individual whale or the status of the North Pacific humpback whale population (Frankel and Clark, 1999a).

To assess the potential environmental impact of the NPAL sound source on marine mammals, it was necessary for Scripps to predict the sound field that a given marine mammal species could be exposed to over time. This is a multi-part process involving (1) the ability to measure or estimate an animal's location in space and time, (2) the ability to measure or estimate the three-dimensional sound field at these times and locations, (3) the integration of these two data sets to estimate the potential impact of the sound field on a specific animal in the modeled population, and (4) the conversion of the resultant cumulative exposures for a modeled population into an estimate of the risk from a disruption of a biologically important behavior.

Next, a relationship for converting the resultant cumulative exposures for a modeled population into an estimate of the risk to the entire population of a significant disruption of a biologically important behavior and of injury was developed. This process assessed risk in relation to RL and repeated exposure. The resultant ''risk continuum'' is based on the assumption that the threshold of risk is variable and occurs over a range of conditions rather than at a single threshold.

Taken together, the recent results on marine mammals from LF sounds, the

acoustical modeling, and the risk assessment, provide an estimate of potential environmental impacts to marine mammals.

The acoustical modeling process was accomplished by Scripps using the U.S. Navy's standard acoustical performance prediction transmission loss model-Parabolic Equation (PE) version 3.4. The results of this model are the primary input to the AIM model. AIM was used in this analysis to estimate mammal sound exposures and integrate simulated characteristics of marine mammals (e.g., species distribution, density, dive profiles, and general movement, NPAL sound transmissions (e.g., duty cycle, transmission length), and the predicted sound field for each transmission to estimate acoustic exposure during a typical NPAL source transmission. A description of the PE and AIM models (including AIM input parameters for animal movement, diving behavior, and marine mammal distribution, abundance, and density) and the risk continuum analysis are described in detail in the Scripps application and ONR's DEIS and are not discussed further in this document. At this time, NMFS recommends reviewers read these documents if additional information is desired.

Scripps has drawn some general conclusions from the relative abundance of various marine mammal species in relationship to the NPAL sound field. Under the proposed alternative (utilizing the ATOC sound source at Kauai), the only mysticete (baleen) whale species expected in the area in substantial numbers is the humpback whale, and Scripps believes that because they usually prefer nearshore locations (inside the 100-fathom (188 m) depth contour), few are expected to be exposed to received levels greater than 120 dB (i.e, the SPL level presumed by Scripps to be zero for marine mammals having the potential to incur significant disturbance of biologically important behavior). Similarly, sperm whales are the most common deep-diving odontocete (toothed) whale in the area, but because they usually prefer offshore waters (i.e., water depths greater than 4,000 m (12,700 ft)), few are expected to be exposed to received levels greater than 120 dB. According to Scripps, these distributional preferences are supported by the Kauai ATOC MMRP (Mobley, 1999a).

Using the risk continuum and acoustic modeling, Scripps estimated the potential for biologically significant reactions by marine mammals under the proposed action. Scripps determined that only humpback whales that remain in the vicinity of the sound source for a full day of transmissions may potentially experience any effect from the source transmissions. However, humpback whales typically travel parallel to the coast of Kauai, and, therefore, Scripps believes, would probably not receive sound from more than a single transmission.

At the Midway site, the mysticete whale expected in greatest abundance is the Bryde's whale. Because they usually prefer nearshore locations, Scripps expects few animals would be exposed to RLs greater than 120 dB. Similarly, sperm whales are the most common deep-diving odontocetes in the area, but because they usually prefer offshore waters (i.e., water depths greater than 4,000 m (12,700 ft)), few are expected to be exposed to received levels greater than 120 dB.

A much higher abundance of Hawaiian monk seals is expected near Midway Island than Kauai since this species prefers the small, mostly uninhabited chain of islands and atolls northwest of the main Hawaiian Islands.

Using the risk continuum and acoustic modeling Scripps determined that there would be no potential for biologically significant effects on marine mammals from source transmissions at Midway Island, although some subtle effects may occur.

Mitigation

Scripps' proposed action includes mitigation that would minimize the potential effects of the NPAL sound source to marine mammals. First, the sound source would operate at the minimum duty cycle necessary to support the large-scale acoustic thermometry and long-range propagation objectives. Transmissions would continue with approximately the same transmission schedule as that used during the first feasibility phase of the ATOC study. Second, any increases in the duty cycle beyond the nominal 2 percent (with a maximum of 8 percent) would not occur during the humpback whale season (January-April). The proposed action includes the possibility of an 8-percent duty cycle for up to 2 months out of each year; this action, however, would not occur during the period of time humpback whales inhabit Hawaiian waters. Third, the sound source would operate at the minimum power level necessary to support large-scale acoustic thermometry and long-range sound transmission objectives. The fourth mitigation measure proposed is to ramp-up the NPAL sound source transmissions over a 5-min period. This is believed to reduce the potential for startling marine mammals in the vicinity of the NPAL sound source and provides them an opportunity to move away from the sound source before transmitting at the maximum power levels.

Monitoring and Reporting

In an effort to understand the potential for long-term effects of man-made sound on marine mammals, Scripps proposes to monitor the distribution and abundance of marine mammals in the vicinity of the sound source by conducting eight surveys each year from February through early April. In order to maintain a basis for comparison with previous aerial surveys conducted in the area off the north shore of Kauai, the proposed survey protocol would follow the protocol used in the earlier 1993-1998 surveys (see Mobley *et al.*, 1999). The surveys would be scheduled eight days apart to match the NPAL transmission schedule. Based on an average of seven humpback sightings per survey observed during the 1998 season, and assuming a moderate sized effect due to NPAL transmissions, eight surveys should produce a minimum of 56 sightings of humpback whales, which would result in an estimated power of 0.80 (i.e., there would be an 80- percent probability of detecting a change in distribution if an effect is present). The estimate of 56 sightings is presumed to be a minimum, given previously reported evidence that Hawaiian wintering population of humpback whales is increasing. Reports on the aerial survey results will be available to the public in reports. A report on activities will be provided to NMFS annually upon the conclusion of that year's aerial surveys.

Preliminary Determinations

Based on the scientific analyses detailed in Scripps' application and further supported by information and data contained in ONR's DEIS, NMFS concurs with Scripps and ONR that the incidental harassment of marine mammals incidental to the continued operation of an LF acoustic source previously installed off the north shore of Kauai by the ATOC project would result in only small numbers (as the term is defined in § 216.103) of marine mammals being taken, have no more than a negligible impact on the affected marine mammal stocks or habitats and not have an unmitigable adverse impact on Arctic subsistence uses of marine mammals.

In addition to the mitigation measures described previously, the following factors need to be considered when determining whether the taking by the NPAL acoustic source would be negligible: (1) The limited duty cycle of

the source (2-8 percent); (2) the information that most species of marine mammals are relatively insensitive to acoustic sounds as low as the NPAL source; (3) the fact that relatively few marine mammals that inhabit the acoustic source area that are known to dive to depths that would put them in the proximity to sound fields that could disrupt biologically significant behavior; and (4) the low potential for a marine mammal actually being within the acoustic sound field during sonar transmissions. In consideration of these factors, NMFS preliminarily concludes that the operation of the acoustic source at Kauai (or Midway) would result in no more than small numbers of marine mammals being affected, and that the proposed action would have a negligible impact on affected marine mammal species and stocks.

NEPA

The ONR has released a DEIS under NEPA (see **ADDRESSES**). The comment period for that document ended on July 24, 2000. NMFS is a cooperating agency, as defined by the Council on Environmental Quality (40 CFR 1501.6), in the preparation of this DEIS and the Final EIS, currently under preparation.

Endangered Species Act (ESA)

NMFS is in consultation with the ONR under section 7 of the ESA on this action. In that regard, the ONR has submitted to NMFS a Biological Assessment under the ESA. This consultation will be concluded prior to a determination on the issuance of a final rule and LOA.

Costs and Benefits

In addition to allowing Scripps to take a small number of marine mammals incidental to conducting scientific research using the NPAL acoustic source off Hawaii, this rule would require Scripps to provide NMFS and the public with information on the NPAL source's effect on certain species of marine mammals. Without an authorization under the MMPA, NMFS and the public may not receive this information. NMFS believes that obtaining this information is important because scientific findings resulting from the monitoring program is likely to be directly applicable to other oceanographic research activities that employ LF acoustic sources. The cost to ONR and Scripps cannot be fully determined at this time but these costs would be incurred through implementation of the aerial monitoring program that will be required under this proposed rule. Preliminarily, NMFS believes that this cost would be approximately $ 300,000 during the 5-year program.

Information Solicited

NMFS requests interested persons and organizations to submit comments, information, and suggestions concerning the content of the proposed regulations to authorize the taking. All commenters are requested to review the application prior to submitting comments and not submit comments solely on this Federal Register document. Because the comment period on the draft EIS has ended, comments on issues not relevant to either the potential impact of the NPAL acoustic source on marine mammals or NMFS' responsibilities under the MMPA will not be considered.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities since it would apply only to Scripps and would have no effect, directly or indirectly, on small businesses. It will also affect a small number of contractors providing services related to reporting the impact of the NPAL source on marine mammals. Some of the affected contractors may be small businesses, but the number involved would not be substantial. Further, since the monitoring and reporting requirements are what would lead to the need for their services, the economic impact on them would be beneficial. Because of this certification, a regulatory flexibility analysis is not required.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number. This proposed rule contains collection-of-information requirements subject to the provisions of the PRA. This collection has been approved previously by OMB under section 3504(b) of the PRA issued under OMB control number 0648-0151. These requirements include an application for an LOA and an annual report on monitoring. Other information requirements in the rule are not subject to the PRA since they apply only to a single entity and, therefore, are not contained in a rule of general applicability.

The reporting burden for this collection is estimated to be approximately 80 hours, including the time for gathering and maintaining the data needed, and completing and reviewing the collection of information. It does not include time for monitoring the activity.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: December 15, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 216 is proposed to be amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. Subpart P is added to read as follows:

Subpart P—Taking of Marine Mammals Incidental to Operating A Low Frequency Acoustic Source by the North Pacific Acoustic Laboratory

Sec.
216.170 Specified activity and specified geographical region.
216.171 Effective dates.
216.172 Permissible methods of taking.
216.173 Prohibitions.
216.174 Mitigation.
216.175 Requirements for monitoring and reporting.
216.176 Letter of Authorization.
216.177 Renewal of a Letter of Authorization.
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Subpart P—Taking of Marine Mammals Incidental to Operating A Low Frequency Acoustic Source by the North Pacific Acoustic Laboratory

§ 216.170 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the incidental taking of small numbers of marine mammals specified in paragraph (b) of this section by U.S. citizens engaged in conducting acoustic research using a moored, low-frequency acoustic source by the North Pacific

Acoustic Laboratory off either Kauai or Midway Islands, Hawaii.

(b) The incidental harassment of marine mammals under the activity identified in paragraph (a) of this section is limited to small numbers of the following species: humpback whales (*Megaptera novaengliae*), fin whales (*Balaenoptera physalus*), blue whales (*B. musculus*), Bryde's whales (*B. edeni*), minke whales (*B. acutorostrata*), North Pacific right whales (*Eubalaena glacialis*), sperm whales (*Physeter macrocephalus*), short-finned pilot whales (*Globicephala macrorhynchus*), beaked whales (*Ziphius cavirostris, Berardius bairdi*, and *Mesoplodon spp.*), spinner dolphins (*Stenella longirostris*), spotted dolphins (*Stenella attenuata*), striped dolphins (*Stenella coeruleoalba*), bottlenose dolphins (*Tursiops truncatus*), rough-toothed dolphins (*Steno bredanensis*), pygmy sperm whales (*Kogia breviceps*), dwarf sperm whales (*Kogia simus*), killer whales (*Orcinus orca*), false killer whales (*Pseudorca crassidens*), pygmy killer whales (*Feresa attenuata*), and melon-headed whales (*Peponocephala electra*). and Hawaiian monk seals (*Monachus schauinslandi*).

§ 216.171 Effective dates.

Regulations in this subpart are effective from April 1, 2001, through March 31, 2006.

§ 216.172 Permissible methods of taking.

(a) Under a Letter of Authorization issued pursuant to §§ 216.106 and 216.176, the Holder of this Letter of Authorization may incidentally, but not intentionally, take marine mammals by harassment within the area described in § 216.170(a), provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the Letter of Authorization.

(b) The activities identified in § 216.170(a) must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

§ 216.173 Prohibitions.

Notwithstanding takings authorized by § 216.170(b) and by a Letter of Authorization issued under §§ 216.106 and 216.176, no person in connection with the activities described in § 216.170(a) shall:

(a) Take any marine mammal not specified in § 216.170(b);

(b) Take any marine mammal specified in § 216.170(b) other than by incidental, unintentional harassment;

(c) Take a marine mammal specified in § 216.170(b) if such take results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or a Letter of Authorization issued under §§ 216.106 and 216.176.

§ 216.174 Mitigation.

As described in the Letter of Authorization issued under §§ 216.106 and 216.176, the North Pacific Acoustic Laboratory acoustic source must:

(a) Operate at the minimum duty cycle necessary for conducting large-scale acoustic thermometry and long-range propagation objectives.

(b) Not increase its duty cycle for long-range propagation studies during the months of January through April.

(c) Operate at the minimum power level necessary for conducting large-scale acoustic thermometry and long-range propagation objectives.

(d) Precede all transmissions from the acoustic source by a 5-minute ramp-up of the acoustic source's power.

§ 216.175 Requirements for monitoring and reporting.

(a) The holder of the Letter of Authorization is required to cooperate with the National Marine Fisheries Service and any other Federal, state or local agency monitoring the impacts of the activity on marine mammals. The holder must notify the Southwest Regional Administrator at least 2 weeks prior to commencing monitoring activities.

(b) The Holder of this Authorization must conduct a minimum of eight surveys each year from February through early April in the area off the north shore of Kauai, Hawaii.

(c) The Holder of this Authorization must, through coordination with marine mammal stranding networks in Hawaii, monitor strandings of marine mammals to detect long-term trends in stranding and the potential relationship to the North Pacific Acoustic Laboratory acoustic source.

(d) Activities related to the monitoring described in paragraphs (b) and (c) of this section, or in the Letter of Authorization issued under §§ 216.106 and 216.176 may be conducted without the need for a separate scientific research permit.

(e) In coordination and compliance with marine mammal researchers operating under this subpart, at its discretion, the National Marine Fisheries Service may place an observer on any aircraft involved in marine mammal surveys in order to monitor the impact on marine mammals.

(f) The holder of a Letter of Authorization must annually submit a report to the Director, Office of Protected Resources, National Marine Fisheries Service, no later than 120 days after the conclusion of humpback whale aerial survey monitoring program. This report must contain all the information required by the Letter of Authorization, including the results, if any, of coordination with coastal marine mammal stranding networks.

(g) A final comprehensive report must be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service no later than 240 days after completion of the final year of humpback whale aerial survey monitoring conducted under § 216.175. This report must contain all the information required by the Letter of Authorization.

§ 216.176 Letter of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time specified in the Letter of Authorization but may not exceed the period of validity of this subpart.

(b) A Letter of Authorization with a period of validity less than the period of validity of this subpart may be renewed subject to renewal conditions in § 216.177.

(c) A Letter of Authorization will set forth:

(1) Permissible methods of incidental taking;

(2) Authorized geographic area for taking;

(3) Means of effecting the least practicable adverse impact on the species of marine mammals authorized for taking and its habitat; and

(4) Requirements for monitoring and reporting incidental takes.

(d) Issuance of a Letter of Authorization will be based on a determination that the number of marine mammals taken by the activity will be small, and that the number of marine mammals taken by the activity, specified in § 216.170(b), as a whole will have no more than a negligible impact on the species or stocks of affected marine mammal(s).

(e) Notice of issuance or denial of a Letter of Authorization will be published in the **Federal Register** within 30 days of a determination.

§ 216.177 Renewal of a Letter of Authorization.

(a) A Letter of Authorization issued under § 216.106 and § 216.176 for the activity identified in § 216.170(a) will be renewed upon:

(1) Notification to the National Marine Fisheries Service that the activity described in the application for a Letter of Authorization submitted under

§ 216.176 will be undertaken and that there will not be a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming season;

(2) Timely receipt of the monitoring reports required under § 216.175, which have been reviewed by the National Marine Fisheries Service and determined to be acceptable;

(3) A determination by the National Marine Fisheries Service that the mitigation, monitoring and reporting measures required under §§ 216.174 and 216.175 and the Letter of Authorization were undertaken and will be undertaken during the upcoming period of validity of a renewed Letter of Authorization; and

(4) Renewal of a Letter of Authorization will be based on a determination that the number of marine mammals taken by the activity continues to be small, and that the number of marine mammals taken by the activity, specified in § 216.170(b) will have no more than a negligible impact on the species or stock of affected marine mammal(s).

(b) A notice of issuance or denial of a renewal of a Letter of Authorization will be published in the **Federal Register** within 30 days of a determination.

§ 216.178 Modifications to a Letter of Authorization.

(a) In addition to complying with the provisions of §§ 216.106 and 216.176, except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the Letter of Authorization issued pursuant to §§ 216.106 and 216.176 and subject to the provisions of this subpart shall be made by the National Marine Fisheries Service until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under § 216.177, without modification, except for the period of validity is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 216.170(b), a Letter of Authorization issued pursuant to §§ 216.106 and 216.176 may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the **Federal Register** within 30 days subsequent to the action.

[FR Doc. 00–32725 Filed 12–21–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 121200K]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Public Hearings

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

ACTION: Notice of public hearings; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene additional public hearings to receive comments on Draft Amendment 11 to the Fishery Management Plan for the Gulf of Mexico Shrimp Fishery (Draft Amendment 11). Public hearings were previously held from Port Isabel, TX to Key West, FL.

DATES: Written comments will be accepted until 5 p.m., January 3, 2001. Public hearings will be held in January: for specific dates and times see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Written comments should be sent to, and copies of Draft Amendment 11 are available from, the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, FL 33619; telephone: (813)228-2815. Public hearings will be held in Texas, Mississippi, Alabama, Louisiana, and Florida. For specific locations see **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: (813) 228-2815.

SUPPLEMENTARY INFORMATION: The Council held public hearings on Draft Amendment 11 throughout the Gulf of Mexico region from October 2, 2000, through October 26, 2000 (65 FR 57159). The Council will convene additional public hearings to review Draft Amendment 11. Draft Amendment 11 contains alternative measures for requiring shrimp vessel and boat permits, shrimp vessel and boat registration, and operator permits and for prohibiting trap gear in the royal red shrimp fishery in the Gulf exclusive economic zone (EEZ). Shrimp ''vessels'' refer to fishing craft usually over 5 net tons that carry a certificate-of-documentation issued by the U.S. Coast Guard (USCG); shrimp ''boats'' refer to fishing craft under 5 net tons that do not carry a USCG certificate-of-documentation but that are issued a number by the appropriate state.

For its initial round of public hearings, it was the Council's belief that a major difference between vessel/boat permits and registrations, as noted in the earlier hearings, was that permits are subject to law enforcement sanctions, while vessel registrations are not. In a recent review of Draft Amendment 11, NOAA General Counsel determined that if a vessel/boat registration was required as a condition for participating in the shrimp fishery, then such vessel/boat registration is a permit, and would therefore be subject to law enforcement sanctions. This clarification is important because some persons may have previously supported vessel/boat registrations over permits in the belief that the former would not be subject to law enforcement sanctions. Further public hearings have been scheduled to give those persons a chance to change or retract their previous comments and to receive additional comments on a revised Draft Amendment 11.

Dates, Times, and Locations for Public Hearings

Public hearings for Draft Amendment 11 are scheduled as follows:

1. Wednesday, January 3, 2001, 7 p.m.—Laguna Madre Learning Center, Port Isabel High School, Highway 100, Port Isabel, TX 78578; telephone: 956-943-0052;
2. Thursday, January 4, 2001, 7 p.m.—Palacios Recreation Center, 2401 Perryman, Palacios, TX 77465; telephone: 361-972-3821;
3. Monday, January 8, 2001, 6 p.m.—MS Department of Marine Resources, 1141 Bayview Drive, Biloxi, MS 39530; telephone: 228-374-5000;
4. Tuesday, January 9, 2001, 7 p.m.—Bayou LaBatre Community Center, Padgett Switch Road, Bayou La Batre, AL 36509; telephone: 334-824-7918;
5. Wednesday, January 10, 2001, 7 p.m.—New Orleans Airport Hilton, 901 Airline Drive, Kenner, LA 70062; telephone: 504-469-5000; and
6. Wednesday, January 10, 2001, 7 p.m.—Madeira Beach City Hall, 300 Municipal Drive, Madeira Beach, FL 33708; telephone: 727-391-9951.

The Council will also hear public testimony at the January Council Meeting on January 17, 2001, before taking final action on Draft Amendment 11.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language