

appealed Commerce's Final Scope Ruling.

On October 16, 2020, the CIT remanded the Final Scope Ruling to Commerce, holding that Commerce's determination that the sources identified in 19 CFR 351.225(k)(1) were dispositive as to whether Vandewater's outlets were covered by the scope of the order was not supported by substantial evidence.² The CIT instructed Commerce to conduct a full scope inquiry on remand and analyze the criteria set forth in 19 CFR 351.225(k)(2).³

In its remand redetermination proceedings, Commerce initiated a full scope inquiry and reopened the record, prior to issuing the final results of redetermination in July 2021.⁴ Commerce also evaluated the criteria set forth in 19 CFR 351.225(k)(2) and continued to find that Vandewater's steel branch outlets are covered by the order.⁵ As a consequence of initiating a scope inquiry on remand, Commerce clarified that it would no longer instruct U.S. Customs and Border Protection (CBP) to suspend or continue to suspend entries that were suspended pursuant to the instructions issued following the September 10, 2018, Final Scope Ruling. Rather, Commerce indicated that it would instruct CBP (upon a final and conclusive court decision) to suspend or continue to suspend entries of steel branch outlets that entered, or were withdrawn from warehouse, for consumption on or after October 30, 2020 (*i.e.*, the date of initiation of the scope inquiry).⁶ The CIT sustained Commerce's final redetermination.⁷

Timken Notice

In its decision in *Timken*,⁸ as clarified by *Diamond Sawblades*,⁹ the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e)

of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's September 8, 2022, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's Final Scope Ruling. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Scope Ruling

In accordance with the CIT's September 8, 2022, final judgment, Commerce has revised the analysis contained in its Final Scope Ruling and continues to find that the scope of the order covers the products addressed in the Final Scope Ruling. However, as summarized above, Commerce has modified its determination with respect to the suspension of liquidation for entries of Vandewater's steel branch outlets. Specifically, if Commerce's decision on remand is sustained, we no longer intend to instruct CBP to suspend or continue to suspend entries that were suspended pursuant to the instructions issued following the September 10, 2018, Final Scope Ruling. Rather, Commerce intends to instruct CBP (upon a final and conclusive court decision) to suspend or continue to suspend entries of steel branch outlets that entered, or were withdrawn from warehouse, for consumption on or after October 30, 2020.¹⁰

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by the CIT from liquidating Vandewater's entries of steel branch outlets covered by the scope of the order entered, or withdrawn from warehouse for consumption, on or after September 10, 2018. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

With respect to entries predating October 30, 2020, that were suspended pursuant to the instructions issued following the September 10, 2018, Final Scope Ruling, Commerce will instruct CBP that, pending any appeals, the cash deposit rate will be zero percent for steel branch outlets imported by Vandewater. In the event that the CIT's final judgment is not appealed or is upheld on appeal, Commerce intends to instruct CBP to lift suspension of liquidation and liquidate such entries without regard to antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: September 14, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XC386]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) will hold a one-day hybrid (in-person/virtual) meeting of its Joint Council Workgroup for Section 102 of the Modernizing Recreational Fisheries Management Act of 2018.

DATES: The meeting will take place Wednesday, October 12, 2022, from 9:30 a.m. to 4 p.m., EST.

ADDRESSES: The in-person meeting will take place at the Gulf Council office. Registration information will be available on the Council's website by visiting www.gulfcouncil.org and clicking on the Joint Workgroup meeting on the calendar.

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348-1630.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Rindone, Lead Fishery Biologist, Gulf of Mexico Fishery Management Council; ryan.rindone@gulfcouncil.org, telephone: (813) 348-1630.

SUPPLEMENTARY INFORMATION:

Wednesday, October 12, 2022; 9:30 a.m.–4 p.m., EST

The meeting will begin with Introductions, Adoption of Agenda, Approval of Minutes from the September 10, 2020 meeting, and a presentation and discussion on the Future Vision for Federal Managed Recreational Fisheries.

The Joint Workgroup will receive a summary from the South Atlantic Fishery Management Council's

² See *Vandewater International, Inc. v. United States*, 476 F. Supp. 3d 1357, 1359 (CIT October 16, 2020) (*Remand Order*).

³ *Id.*

⁴ See Commerce's Letter, "Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Initiation of Scope Inquiry," dated October 30, 2020.

⁵ See *Final Results of Redetermination Pursuant to Court Remand, Vandewater International, Inc. v. United States*, Court No. 18-00199, Slip Op. 20-146, dated July 22, 2021 (Final Results of Redetermination), available at <https://access.trade.gov/Resources/remands/20-146.pdf>.

⁶ *Id.* at 103.

⁷ See *Vandewater International, Inc. v. United States*, Court No. 18-00199, Slip Op. 22-104 (September 8, 2022).

⁸ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

⁹ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

¹⁰ See Final Results of Redetermination at 103.

Workgroup on Federal Reef Fish Permits, followed by a review of the National Saltwater Recreational Fisheries Policy and the March 2022 Recreational Fisheries Summit Recap and Workgroup Goals. The Joint Workgroup will then receive a presentation titled: How are the Councils Doing, with respect to implementing alternative recreational fisheries management strategies, followed by making recommendations to the Councils for Alternative Recreational Fisheries Management Strategies.

Lastly, the Joint Workgroup will receive Public Comment and discuss any Other Business items.

—Meeting Adjourns

The meeting will also be broadcast via webinar. You may register for the webinar by visiting www.gulfcouncil.org and clicking on the Joint Workgroup meeting on the calendar. The Agenda is subject to change, and the latest version along with other meeting materials will be posted on www.gulfcouncil.org as they become available.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Pereira, (813) 348-1630, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 15, 2022.

Rey Israel Marquez,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XC223]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Office of Naval Research's Arctic Research Activities in the Beaufort and Chukchi Seas (Year 5)

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as

amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the Office of Naval Research (ONR) to incidentally harass, by Level B harassment only, marine mammals during active acoustic testing associated with Arctic Research Activities (ARA) in the Beaufort Sea and eastern Chukchi Sea. The ONR's activities are considered military readiness activities pursuant to the MMPA, as amended by the National Defense Authorization Act for Fiscal Year (FY) 2004 (2004 NDAA).

DATES: This Authorization is effective from September 14, 2022 through September 13, 2023.

FOR FURTHER INFORMATION CONTACT:

Jessica Taylor, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities>. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the "take" of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other "means of effecting the least practicable adverse impact" on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as "mitigation"), and requirements

pertaining to the mitigation, monitoring and reporting of the takings are set forth.

The 2004 NDAA (Pub. L. 108-136) removed the "small numbers" and "specified geographical region" limitations indicated above and amended the definition of "harassment" as applied to a "military readiness activity." The activity for which incidental take of marine mammals is being authorized addressed here qualifies as a military readiness activity. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On March 21, 2022, NMFS received a request from ONR for an IHA to take marine mammals incidental to ARA in the Beaufort and eastern Chukchi Seas. The application was deemed adequate and complete on June 30, 2022. ONR's request is for take of beluga whales (*Delphinapterus leucas*; two stocks) and ringed seals (*Pusa hispida hispida*) by Level B harassment. Neither ONR nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

This IHA covers the fifth year of a larger project for which ONR obtained prior IHAs (83 FR 48799, September 27, 2018; 84 FR 50007, September 24, 2019; 85 FR 53333, August 28, 2020; 86 FR 54931, October 5, 2021) and may request take authorization for subsequent facets of the overall project. This IHA is valid for a period of 1 year from the date of issuance. The larger project supports the development of an under-ice navigation system under the ONR Arctic Mobile Observing System (AMOS) project. ONR has complied with all the requirements (*e.g.*, mitigation, monitoring, and reporting) of the previous IHAs (83 FR 48799, September 27, 2018; 84 FR 50007, September 24, 2019; 85 FR 53333, August 28, 2020; 86 FR 54931, October 5, 2021).

Description of Specified Activity

Overview

ONR's ARA include scientific experiments to be conducted in support of the programs named above. Specifically, the project includes the AMOS experiments in the Beaufort and Chukchi Seas. Project activities involve acoustic testing and a multi-frequency navigation system concept test using left-behind active acoustic sources. More specifically, these experiments involve the deployment of moored, drifting, and ice-tethered active acoustic sources from the Research Vessel (R/V) *Sikuliaq*. Another vessel will be used to