harassment takings is estimated to be small. In addition, the proposed seismic program is not expected to interfere with any subsistence hunts, since seismic operations will not take place in subsistence whaling and sealing areas and will not affect marine mammals used for subsistence purposes.

Proposed Authorization

NMFS proposes to issue an IHA to L-DEO for conducting a oceanographic seismic surveys on the Blanco Fracture Zone in the NPO, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed activity would result in the harassment of small numbers of marine mammals; would have no more than a negligible impact on the affected marine mammal stocks; and would not have an unmitigable adverse impact on the availability of species or stocks for subsistence uses.

Information Solicited

NMFS requests interested persons to submit comments and information concerning this request (see **ADDRESSES**).

Dated: May 25, 2004.

Laurie K. Allen,

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

[FR Doc. 04–12810 Filed 6–4–04; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.031204E]

Small Takes of Marine Mammals Incidental to Specified Activities; Oceanographic Surveys in the Southern Gulf of California

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

ACTION: Notice of issuance of an incidental take authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to take marine mammals by harassment incidental to conducting oceanographic surveys in the southern Gulf of California to Scripps Institution of Oceanography (Scripps).

DATES: Effective from May 12, 2004, through May 11, 2005.

ADDRESSES: A copy of the IHA and the application are available by writing to Mr. P. Michael Payne, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning the contact listed here. A copy of the application containing a list of the references used in this document may be obtained by writing to this address or by telephoning the contact listed here and is also available at: *http://www.nmfs.noaa.gov/prot__res/PR2/Small__Take/smalltake__info.htm#applications.*

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, Office of Protected Resources, NMFS, (301) 713–2322, ext 128.

SUPPLEMENTARY INFORMATION:

Background

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

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Under section 3(18)(A), the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

The term ''Level A harassment'' means harassment described in subparagraph (A)(i). The term ''Level B harassment'' means harassment described in subparagraph (A)(ii).

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On December 8, 2003, NMFS received an application from Scripps for the taking, by harassment, of several species of marine mammals incidental to conducting a seismic survey program. As presently scheduled, a seismic survey will be conducted in the Gulf of California. The Gulf of California research cruise will be in an area extending between 22o to 26.5o N and 106o to 111o W. The operations will partly take place in the Exclusive Economic Zone (EEZ) of Mexico.

The purpose of the seismic survey is to improve the understanding of the tectonic history of the Gulf of California, and especially of how the transition from continental rifting to seafloor spreading occurred. This includes understanding the relationship between seafloor structures in the deep water of the Gulf and structures that have been mapped on land (mostly in Baja California Sur) and in shallow coastal waters. The data will be used to test alternative tectonic models of how continental rifting and shearing during the initial separation of the Baja California peninsula from the rest of Mexico determined the present pattern of seismically active faults and volcanically-active spreading centers. The Gulf was selected for this work because it is adjacent to the field areas previously studied and because the seafloor sediment is generally thinner than further north, allowing for better resolution of seabed structure.

Description of the Activity

The seismic survey will involve one vessel, the *R/V Roger Revelle* (under a cooperative agreement with the U.S. Navy, owner of the vessel). The *Roger Revelle* will deploy two airguns as an energy source, plus a single (450 m or 1,476.4 ft) towed streamer of hydrophones to receive the returning acoustic signals, that can be retrieved.

The survey will take place in water depths greater than 400 m (1320 ft).

The procedures to be used for the seismic study will be similar to those used during previous seismic surveys by Scripps in the eastern tropical Pacific Ocean (68 FR 60916, October 24, 2003). The proposed seismic surveys will use conventional seismic methodology, with a pair of low-energy Generator-Injector (GI) airguns as the energy source and a towed hydrophone streamer as the receiver system. The energy to the airgun array is compressed air supplied by compressors on board the source vessel. During the airgun operations, the vessel will travel at 11.1 km/hr (6 knots) and seismic pulses will be emitted at intervals of 6 to 10 sec. The 6- to 10–sec spacing corresponds to a shot interval of about 18.5 to 31 m (161 to 102 ft). The GI gun that will be responsible for introducing the sound pulse into the ocean is 45 in3. A larger (105 in3) injector chamber injects air into the previously-generated GI airgun bubble to maintain its shape, and does not introduce more sound into the water. The two guns will be towed 8 m (26.2 ft) apart side by side, 21 m (68.9 ft) behind the *Roger Revelle*, at a depth of 2 m (6.6 ft).

For the 2 GI airguns, the sound pressure field has been modeled in relation to distance and direction from the airguns, and in relation to depth. The predicted radii from the source vessel are 54 m (177 ft) for 180 dB and 17 m (56 ft) for 190 dB.

In addition to the operation of the airgun array, a multi-beam sonar, 3.5 kHz sub-bottom profiler and passive geophysical sensors (gravimeter and magnetometer) will be operated during the seismic profiling, and continuously throughout the seismic survey cruise.

Additional information on the work proposed is contained in the proposed authorization notice (69 FR 12832, March 18, 2004), and in the application and in the Final Environmental Assessment (EA) for oceanographic surveys in the Gulf of California (Scripps, 2003), which are available (see **ADDRESSES**).

Comments and Responses

A notice of receipt of the Scripps Gulf of California application and proposed IHA was published in the **Federal Register** on March 18, 2004 (69 FR 12832). During the comment period, NMFS received comments from The Center for Biological Diversity (CBD), the Animal Welfare Institute (AWI), the Mexican Society for Marine Mammalogy (SOMEMMA), and from several individuals.

Comment 1: The CBD believes NMFS has not demonstrated that the L-DEO project will take only small numbers of marine mammals.

Response: NMFS believes that the small numbers requirement has been satisfied. The U.S. District Court for the Northern District of California held in *NRDC* v. *Evans* (Civil No. C–02–3805–EDL) that NMFS' regulatory definition of ''small numbers'' improperly conflates it with the ''negligible impact'' definition. Even if that is the case, NMFS has made a separate determination that the takes of the affected marine mammal species or stocks will be small. For example, the species or stock most likely to be harassed during the seismic survey is the common dolphin, with a ''best estimate'' of 1212 animals out of an estimated population size of 3,093,000 (Scripps, 2003). Although this absolute number may arguably not be small, it represents an estimated 0.039 percent of the affected population and is, therefore, relatively small. Marine mammals not are expected to be seriously injured or killed, and no effects on reproduction and/or survival are anticipated.

Comment 2: Noting that the surveys will take place only in waters greater than 400 m (1312 ft) deep, the CBD asserts that the **Federal Register** Notice for the proposed IHA does not adequately analyze the difference the depth of water has on the survey impacts to marine mammals or how the safety radii or other mitigation measures will be implemented in such waters.

Response: For the 2 GI airguns, the sound pressure field has been modeled in relation to distance and direction from the airguns, and in relation to depth. Empirical data concerning the 180-, 170- and 160–dB distances have been acquired based on measurements during the acoustic verification study conducted by Lamont-Doherty Earth Observatory (L-DEO) in the northern Gulf of Mexico from 27 May to 3 June 2003 (Tolstoy et al., 2004). Although the results are limited, the data showed that radii around airguns where the received level would be 180 dB re 1 microPa (rms), the safety criterion applicable to cetaceans (NMFS, 2000), varies with water depth. Similar depth-related variation is likely in the 190–dB distances applicable to pinnipeds. For water depths between 100 m (328 ft) and 1000 m (3281 ft), these empirical measurements indicate that the model used by Scripps is conservative for protecting marine mammals at intermediate and deep water sites. Since the water depths in the area of this project are all greater than 400 m (1312 ft), NMFS believes that the safety zones are appropriate for the size of the airguns and the water depth. These safety zones will be monitored by dedicated marine mammal observers, as discussed later in this document.

In addition, the received levels of low-frequency underwater sounds diminish close to the surface (because of pressure-release and interference phenomena that occur at and near the surface (Urick, 1983; Richardson et al., 1995)). Paired measurements of received airgun sounds at depths of 3 m (9.8 ft) vs 9 m (29.5 ft) or 18 m (59 ft) have shown that received levels are typically several decibels lower at 3 m (9.8 ft) (Greene and Richardson, 1988). This characteristic provides additional protection to marine mammals while at the surface in the vicinity of the acoustic source, further indicating that the safety zones are conservative for protecting marine mammals.

Comment 3: The CBD states that there is no mention of the compounded impact of the 20–airgun array's seismic output along with the two other acoustical data acquisition systems, the sonar and sub-bottom profiler. CBD and the AWI state that despite the fact that all of these sources will be operating, the **Federal Register** Notice provides no estimate of take from the sonar and profiler individually or from all three sources collectively and instead, it assumes that any marine mammals close enough to be affected by the multibeam sonar would already be affected by the airguns. Therefore, no additional allowance is included for animals that might be affected by the multibeam sonar. CBD believes that this explanation does not account for times when all three sources may not be operating simultaneously or provide any discussion of the enhanced impact of multiple acoustic sources when operating together.

Response: As NMFS indicated in the **Federal Register** notice of the proposed IHA, as well as in other **Federal Register** notices regarding seismic surveys, the multibeam sonar has an anticipated radius of influence significantly less than that for the airgun array. NMFS further stated that marine mammals close enough to be affected by the multibeam sonar would already be affected by the airguns. Therefore, no additional allowance is included for animals that might be affected by the sonar. There is no enhanced impact of using the multibeam when operating it together with the airgun array. The sub-bottom profiler would not enhance impacts, since the radii of influence are smaller for the profiler than those of the airgun array.

It is true that there are no estimates of take for times when the multibeam sonar and/or sub-bottom profiler are operated without airguns. This is because the 160–dB and 180–dB isopleths of the sub-bottom profiler and multibeam are either small or the beams are very narrow, making the duration of the exposure and the potential for taking very small. As provided in the Scripps application, the 160–dB and 180–dB radii in the horizontal direction for the sub-bottom profiler are estimated to be near 20 m (66 ft) and 8 m (26 ft), respectively. In the vertical direction, the 160–dB and 180–dB radii are 180 m (591 ft) and 18 m (59 ft) directly below the hull-mounted transducer. The multibeam sonar has a beam width of 1 degree, fore-and-aft and images the seafloor over a 120 to 140 degree-wide swath (approximately 1.4 to 2.2 km (2.2 to 3.5 mi) in 1000 m (3281 ft) in depth). It uses very short (15 millisecond) transmit pulses with a 10- to 20–second repetition rate and a 11.25 to 12.60 kHz frequency sweep. The maximum source level is 240 dB rms when the instrument is operating in water depths greater than 10,000 m (32808 ft). However, the actual level is reduced by the instrument based on detecting water depth, and in the relatively shallow Gulf of California, it will always be much lower than at maximum level.

Because NMFS treats harassment or injury from pulsed sound as a function of total energy received, the actual harassment or injury threshold for multibeam sonar signals would be at a much higher dB level than that for longer duration pulses such as seismic or military sonar signals. As a result, NMFS believes that marine mammals are unlikely to be harassed or injured from the multibeam sonar or the sub-bottom profiler.

NMFS believes that other than to voluntarily ride the bow wave of the vessel (an indication that the animal is not annoyed), it is unlikely that a marine mammal would approach a moving vessel that close. If one did, the duration of exposure and of behavioral responses to these downward-directed sources would be very brief, and, NMFS believes, this brief behavioral response would not rise to the level of take.

Comment 4: The CBD states that NMFS' analysis of mitigation measures to ensure least practicable impact is flawed because it lacks an analysis for a larger safety radius. CBD states that larger safety radii have been used in past seismic surveys on the R/V Maurice Ewing and argues that these larger safety radii should be applied to this seismic survey.

Response: See response to comment 2. Scripps will use a pair of low-energy GI airguns for this survey. These airguns have a capacity of 45–cubic inches each. As a safety radius established at 180 dB re 1 microPa (rms) is already conservative for preventing Level A harassment (injury), imposing a much larger safety radius based on the sound intensity from airgun arrays 3050 in3 (20 airguns) is not warranted.

Comment 5: CBD suggests that Scripps incorporates the use of a passive acoustic monitoring (PAM) system as a mitigation measure.

Response: A requirement to use the PAM system is not warranted onboard the *R/V Roger Revelle* because the 180–dB safety radii (and shutdown areas) are simply too small to use it effectively. L-DEO is utilizing and continues to evaluate one of the few production models configured for current seismic operations and models for the same vessel on the *R/V Maurice Ewing*. L-DEO will report the effectiveness of the PAM system and NMFS will then determine if the PAM system can be applied to other seismic surveys.

Comment 6: CBD states that NMFS should require dedicated night observers rather than using bridge personnel to watch for marine mammals during night-time operations.

Response: It should be noted that dedicated marine mammal observers are not required to be on the bridge at all times during the night, but at least one observer must be available on-call during night-time hours. However, unless the safety zone is lighted, trained marine mammal observers using night vision devices (NVDs) must be on watch during periods prior to and during ramp-up from a power-down situation at night. They will also be on watch at other periods during the night, particularly if marine mammals are sighted in the seismic area during the day.

At other times during the night, extra (non-NMFS-approved) observers will be available. The safety radius is small enough to be adequately lighted and monitored at night.

Comment 7: CBD and SOMEMMA both suggest that Scripps incorporate aerial surveys as a monitoring measure to improve the likeliness of finding a stranded animal.

Response: NMFS agrees that aerial surveys may be useful in detecting marine mammals near the safety radii and detecting adverse reactions to the seismic surveys and increasing the likelihood that such adverse reactions could be avoided. However, NMFS believes that the work proposed by Scripps will affect only a very small area of the ocean (510 m (1673 ft)) and the area that might result in marine mammals being exposed to noise levels that might result in injury or mortality would be even smaller (54 m (177 ft)). As a result, requiring aerial surveys of Mexican beaches and offshore waters to look for stranded marine mammals is not warranted for this activity. Moreover, aerial surveys are not practicable because the ships will not be close to shore and because it is difficult to get a flight clearance in a foreign country. NMFS believes that the safety zone can be adequately monitored due to the number of marine mammal observers and because the safety radius is relatively small.

Comment 8: The CBD states that NMFS must initiate a section 7 consultation under the Endangered Species Act (ESA) and expresses particular concern with the project's potential impacts on sea turtles.

Response: NMFS has completed consultation under section 7 of the ESA. NMFS issued a biological opinion regarding the effects of this action on ESA-listed species and critical habitat. That biological opinion concluded that this action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. In addition, NMFS is requiring that all mitigation and monitoring measures for marine mammals be applied to sea turtles.

Comment 9: The CBD believes that in order for NMFS to comply with the National Environmental Policy Act (NEPA), it must demonstrate that it has fully analyzed the impacts of, alternatives to, and mitigation measures for the project prior to issuing an IHA for the L-DEO project. NMFS must assess the cumulative impacts of the project in conjunction with other actions on the environment.

Response: NMFS closely follows NEPA regulations and NOAA Administrative Order 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999) before making a determination on whether it will adopt another Federal agency's NEPA document, or prepare its own. Critical to this determination is the quality of another agency's NEPA document, whether it fully addresses the action proposed by NMFS, and whether NMFS' proposed action is significant as defined in 40 CFR 1508.27 and NAO 216–6, section 6.01. As noted in the proposed authorization notice (68 FR 60086, October 21, 2003), an EA was prepared by the National Science Foundation (NSF) and released to the

public by NMFS. That EA contained a complete description of the proposed action and identified alternatives to that action; a description of the affected environment; an assessment of impacts, including unavoidable impacts, indirect impacts and cumulative impacts; and the measures proposed to reduce impacts to the lowest level practicable. In accordance with NAO 216–6, NMFS has reviewed the information contained in NSF's EA and determined that it accurately and completely describes the proposed action alternative, reasonable additional alternatives, and the potential impacts on marine mammals, endangered species, and other marine life that could be impacted by the preferred alternative and the other alternatives. Additional mitigation measures have been identified and are reflected in the final IHA and the NMFS Finding of No Significant Impact (FONSI). Therefore, preparation of an environmental impact statement on this action is not required. A copy of the NSF EA and FONSI are available upon request (see ADDRESSES).

Comment 10: The AWI objects to the issuance of the Scripps IHA because the research on plate tectonics is not worth the impact on the creatures that live in the ocean.

Response: The MMPA allows for the taking (by harassment, injury and mortality) of marine mammals by otherwise lawful activities provided that the total taking by the activity will not have more than a negligible impact on affected marine mammal stocks, and will not have an unmitigable adverse impact on the availability of those marine mammal stocks for subsistence uses. For the proposed activity, the requisite findings have been made, as explained in this document.

Comment 11: SOMEMMA believes that with current knowledge it is impossible to determine the nature and extent of the damage on individual animals and the number of animals that might be affected by seismic sources. It is possible that the seismic survey could have other unknown effects on marine mammals, such as delayed mortality as a consequence of damage to the hearing system or the number of pregnancies that could be terminated, therefore reducing the year's births. For these reasons, SOMEMMA believes that the surveys should be conducted acknowledging that they may cause some undetermined damage to marine mammal individuals and possibly some populations.

Response: Although marine mammals have only relatively recently been exposed to anthropogenic noise sources, roughly 90 percent of which is from commercial shipping, long-term empirical research on this aspect of taking has not been conducted to date. It should be noted that marine mammals evolved and continue to exist in a noisy environment. However, even in areas with high anthropogenic noise levels, such as southern California and the Mississippi Delta, many marine mammal populations appear healthy and, where assessments have been conducted over time, appear to be increasing in size. As a result, NMFS believes that the short-term activity proposed here, which includes mitigation measures to prevent injury to marine mammals, when combined with general behavior of marine mammals to avoid areas with annoying levels of sound, will result in small numbers of marine mammals being harassed (Level B harassment) and will have a negligible impact on affected marine mammal species.

Comment 12: SOMEMMA states that the extent of damage, the number of individuals that could be affected, and the impact on specific stocks could be severely biased because some of the estimates of stock size do not include the Gulf of California, which could include distinct independent stocks. There is an underestimation of the species that could be affected, in particular those that are very sensitive, the northern right whale and the Guadalupe fur seal.

Response: NMFS believes that its determination on the level of impact on marine mammals, whether listed under the ESA or not, is based on the best scientific information available. That information was provided in the Scripps' application and NSF's EA and also in other documents referenced in the proposed authorization **Federal Register** notice. No additional information regarding marine mammal abundance or stock structure for Gulf of California populations was provided during the public review period and no significant new information has been found since that **Federal Register** publication. However, whenever information is lacking to define a particular population or stock of marine mammals then NMFS assesses impacts with respect to the species as a whole (54 FR 40338, September 29, 1989). As indicated in the L-DEO application, NSF EA and this document, that is what was done here.

Comment 13: SOMEMMA recommends that in the event of mortalities that could potentially be attributed to the survey, a plan must be established to recover carcasses and to transport them to appropriate facilities where experts can determine the cause of death and any other damage attributable to the survey and that knowledge obtained from the necropsies should be shared between the United States and Mexican authorities and scientific communities.

Response: NMFS believes that the work proposed by Scripps will affect only a very small area of the ocean (510 m (1673 ft)) and the area that might result in marine mammals being exposed to noise levels that might result in injury or mortality would be even smaller (54 m (177 ft)). As a result, requiring necropsies to be conducted on all strandings along the Gulf of California coast is not warranted for this activity.

Comment 14: An individual states that in order to mitigate the impact of airgun operations, onboard marine mammal observers should work with land-based observers and monitoring networks.

Response: See response to comment 13. It is extremely unlikely that any marine mammals would be injured, killed, or startled to such a level that strandings would occur as a result of the sound levels from the 2 GI-guns. The airguns being used in this survey are low-intensity and small-capacity airguns and should not be compared with much larger airguns used by the offshore oil and gas industry or by other scientific activities.

Comment 15: An individual recommends that observers be contracted out by an independent contractor rather than hired by Scripps and that all data collection and reporting should be independent from Scripps.

Response: NMFS has not found a problem with an IHA holder either directly hiring approved biological observers for a specific cruise or contracting with an independent firm that specializes in providing observers for shipboard monitoring. NMFS has supplied Scripps with a list of NMFS-approved marine mammal observers who are independent contractors. Scripps has also hired students from the University of California, San Diego, as well as citizens from Mexico to work as marine mammal observers. NMFS requires holders of IHAs to submit a report within 90 days of completion of the survey cruise that describes the operations that were conducted and the marine mammals that were detected. The report must provide full documentation of methods, results, and interpretation pertaining to all monitoring tasks, and summarize the dates and locations of seismic operations, marine mammal sightings (dates, times, locations, activities,

associated seismic survey activities), and estimates of the amount and nature of potential take of marine mammals by harassment or in other ways, all of which is recorded by the marine mammal observers. This information should be provided to Scripps by the marine mammal observers so that Scripps may submit a formal report within the 90 days.

Comment 16: NMFS should require only NMFS-approved marine mammal observers.

Response: NMFS normally requires IHA holders to hire at least one NMFS-approved marine mammal observer whenever operating under an IHA. This observer may in turn train others to implement the required monitoring program. IHA applicants must contact the regional NMFS office to obtain a list of NMFS-approved observers. Scripps has fulfilled this requirement by hiring four NMFS-approved marine mammal observers.

Comment 17: Reporting requirements should be fulfilled by the observer team rather than by Scripps, ensuring that NMFS receives all data recorded by the observers.

Response: Since Scripps is the holder of the IHA, Scripps, rather than the observers, is required to submit a 90–day report. As an entity responsible for completion of the 90–day report, it is the holder's decision whether to contract out the report writing. This 90–day report must describe all operations that were conducted and the marine mammals that were detected.

Comment 18: NMFS should not allow night-time operations due to the sub-standard monitoring conditions.

Response: While NMFS agrees that the effectiveness of night-time visual monitoring is limited, it believes that the safety zones are small enough to be adequately monitored at night. In addition, as mentioned in previous authorization notices, Scripps believes that night-time operations are necessary due to cost considerations. The daily cost to the Federal Government to operate vessels such as Roger Revelle is approximately $33,000 to $35,000/day (Ljunngren, pers. comm. May 28, 2003). If the vessel was prohibited from operating during night-time, it is possible that each trip would require an additional 3 to 5 days to complete the work, or up to $175,000 more per vessel per cruise, depending on average daylight at the time of work.

If a seismic survey vessel is limited to daylight seismic operations (12–13 hours during April/May at this location), efficiency would be much reduced. Without commenting specifically on how that would affect the present project, for seismic operators in general, a daylight-only requirement would be expected to result in one or more of the following outcomes: cancellation of potentially valuable seismic surveys; reduction in the total number of seismic cruises annually due to longer cruise durations; a need for additional vessels to conduct the seismic operations; or work conducted by non-U.S. operators or non-U.S. vessels when in waters not subject to U.S. law. Because of the need to keep a vessel at-speed in order to successfully tow the hydrophone streamers, the vessel would need to be underway throughout the night whether or not the airguns are fired at night. Additional down-time can be anticipated each day as the vessel maneuvers all night to come back to the shut-down location 30 minutes after daylight. This is unlikely to be successful very often and will likely result in additional time needed for surveys to be completed.

For this survey, trained marine mammal observers using night vision devices (NVDs) will be on watch during periods prior to and during ramp-up from a power-down situation at night. They will also be on watch at other periods during the night, particularly if marine mammals are sighted in the seismic area during the day.

At other times during the night, extra [non-NMFS-approved] observers will be available. Also, the safety radius is small enough to be adequately lighted and monitored at night, if Scripps chooses to do so. Finally, for reasons mentioned elsewhere in this document, marine mammals are unlikely to be seriously injured or killed by the noise from approaching GI airguns. Thus, limiting seismic shooting except during daylight hours is unnecessary and unlikely to result in less level B harassment to marine mammals than would conducting 24–hour survey operations.

Recently, L-DEO completed two tests of the effectiveness of using NVDs (Smultea and Holst, 2003, Appendix C; Holst 2004, Appendix B). Results of those tests indicated that the Night Quest NQ220 NVD is effective at least to 150 to 200 m (492 to 656 ft) away under certain conditions. As the predicted radii from the source vessel are 54 m (177 ft) for 180 dB, that is sufficiently within the range of the NVDs to allow some chance of detecting marine mammals visually within the area of potential TTS during ramp-up.

In reviewing L-DEO's report for the Hess Deep (Smultea and Holst, 2003), it is apparent that few marine mammals would have been exposed to sound levels ≥ 180–dB (rms) even if there had been no visual observations or power-downs. In the Hess Deep study for example, only a single whale (probably a beaked whale) was sighted near the outer perimeter of the safety zone. As a result, NMFS believes that a substantial proportion of the marine mammals that might be within that distance would be expected to move away either during ramp-up or, if the airguns were already operating, as the vessel approaches.

As noted in recent **Federal Register** notices, taking into consideration the additional costs of prohibiting night-time operations, the additional observers at night, and the likely low impact of the activity (given the required mitigation and monitoring), NMFS has determined that the IHA's requirements will ensure that the activity will have the least practicable impact on the affected species or stocks for the following reasons. (1) Marine mammals will have sufficient notice of a vessel approaching with operating seismic airguns, thereby giving them an opportunity to avoid the approaching array. (2) If ramp-up is required after a power-down, at least two marine mammal observers will be required to monitor the safety radius using NVDs, when necessary to improve vision, for 30 minutes before ramp-up begins and verify that no marine mammals are in or approaching the safety radius. (3) Ramp-up may not begin unless the entire 180–dB safety radius is visible (i.e., no ramp-up can begin in heavy fog or high sea states) and ramp-up may occur at night only if one airgun with a sound pressure level of at least 160 dB has been maintained during interruption of seismic activity. Therefore, the 2–gun array will not be ramped-up from a shut-down at night.

Comment 19: NMFS must verify the 54–m (177–ft) safety zone used for the shut-down procedures and should require outside expertise in the establishment of what is a safe distance for marine mammals and sea turtles.

Response: The safety radii have been calculated based on depth-specific data for the 2 GI-gun proposed to be used during this research cruise. Scripps contracted LGL Ltd., environmental research associates, to model and calculate the 160-, 170-, 180- and 190–dB isopleths (lines of equal pressure). NMFS has reviewed the proposed mitigation measures and believes that the mitigation measures that will be undertaken by Scripps ensure the least practicable impacts on potentially affected marine mammals.

Comment 20: An individual states that NMFS should establish a protocol for assessing behavioral responses to the operational procedures.

Response: NMFS is currently working to develop noise exposure criteria, which will further define behavioral responses to noise.

Comment 21: An individual states that NMFS should develop mitigation for the use of the multi-beam sonar and the sub-bottom profiler.

Response: Please see the response to comment 3.

Description of Habitat and Marine Mammals Affected by the Activity

A detailed description of the Gulf of California near the and its associated marine mammals can be found in the Scripps application and a number of documents referenced in the Scripps application, and is not repeated here. In the Gulf of California area, 31 marine mammal species are known to occur. The cetacean species are the sperm whale (*Physeter macrocephalus*), pygmy sperm whale (*Kogia breviceps*), dwarf sperm whale (*Kogia sima*), Baird's beaked whale (*Berardius bairdii*), Cuvier's beaked whale (*Ziphius cavirostris*), Pygmy beaked whale (*Mesoplodon peruvianus*), Perrin's beaked whale (*Mesoplodon perrini*), Ginkgo-toothed beaked whale (*Mesoplodon ginkgodens*), rough-toothed dolphin (*Steno bredanensis*), bottlenose dolphin (*Tursiops truncatus*), pantropical spotted dolphin (*Stenella attenuata*), spinner dolphin (*Stenella longirostris*), striped dolphin (*Stenella coeruleoalba*), short-beaked common dolphin (*Delphinus delphis*), long-beaked common dolphin (*Delphinus capensis*), Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), Risso's dolphin (*Grampus griseus*), melon-headed whale (*Peponocephala electra*), pygmy killer whale (*Feresa attenuata*), false killer whale (*Pseudorca crassidens*), killer whale (*Orcinus orca*), short-finned pilot whale (*Globicephala macrorhynchus*), gray whale (*Eschrichtius robustus*), humpback whale (*Megaptera novaeangliae*), minke whale (*Balaenoptera acutorostrata*), Bryde's whale (*Balaenoptera edeni*), fin whale (*Balaenoptera physalus*), and blue whale (*Balaenoptera musculus*). Also, three species of pinnipeds, the California sea lion (*Zalophus californianus*), Guadalupe fur seal (*Arctocephalus townsendi*), and northern elephant seal (*Mirounga angustirostris*) could potentially be encountered during the proposed seismic surveys. Five of these species are listed as endangered under the ESA: sperm, humpback, fin, blue whales, and Guadalupe fur seals. Additional information on most of these species is available at: *http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/sars.html*.

Potential Effects on Marine Mammals

NMFS' August 26, 2003, **Federal Register** notice for a Scripps survey (68 FR 51240) describes the anticipated effects of the *Roger Revelle*'s airguns, multibeam sonar, and the sub-bottom profiler on marine mammals, including masking, behavioral disturbance, and potential hearing impairment and other physical effects. A discussion on potential impacts on marine mammals was provided in the **Federal Register** notice at 69 FR 12832 (March 18, 2004) and in the Scripps application, and is not repeated here.

Mitigation

The following mitigation measures are required for the subject seismic surveys, provided that they do not compromise operational safety requirements: (1) Speed and course alteration; (2) ramp-up and shut-down procedures; (3) no start up at night; (4) avoidance of any state or national parks by at least 10 km (6.2 mi); (5) avoidance of sea lion rookeries by at least 10 km (6.2 mi); and (6) operation of airguns only in water greater than 400 m (1312 ft) deep. Mitigation also includes marine mammal monitoring in the vicinity of the arrays. These measures also apply to sea turtles. These mitigation measures are further described here.

These mitigation measures will incorporate use of established safety radii that are 17 m (56 ft) and 54 m (177 ft) from the arrays, where sound levels ≥190 and 180 dB re 1 μPa rms (the criteria for onset of Level A harassment for pinnipeds and cetaceans respectively) are predicted to be received. The small size of the two GI airguns to be used in this project is also an important mitigating factor. The airguns will each be 45 in^3.

Speed and Course Alteration

If a marine mammal or sea turtle is detected outside the appropriate safety radius and, based on its position and the relative motion, is likely to enter the safety radius, the vessel's speed and/or direct course will be changed in a manner that also minimizes the effect to the planned science objectives. The marine mammal activities and movements relative to the seismic vessel will be closely monitored to ensure that the marine mammal does not approach within the safety radius. If the mammal appears likely to enter the safety radius, further mitigative actions will be taken, i.e., either further course alterations or shutdown of the airguns.

Shut-down Procedures

Airgun operations will be shutdown immediately when cetaceans or pinnipeds are seen within or about to enter the appropriate safety radius. If a marine mammal is detected outside of but is likely to enter the safety radius, and if the vessel's course and/or speed cannot be changed to avoid having the marine mammal enter the safety radius, the airguns will be shutdown before the mammal is within the safety radius. Likewise, if a mammal is already within the safety zone when first detected, the airguns will be shutdown immediately.

The mammal or sea turtle has cleared the safety radius if it is visually observed to have left the safety radius, or if it has not been seen within the zone for 15 minutes (small odontocetes and pinnipeds) or 30 minutes (mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, beaked and bottlenose whales).

Ramp-up Procedure

When airgun operations with the 2–GI airguns first start or commence after a certain period without airgun operations, the number of guns firing will be increased gradually, or ''ramped up'' (also described as a ''soft start''). Guns will be added in sequence such that the source level of the array will increase in steps over a 5–minute period. Throughout the ramp-up procedure, the safety zone will be maintained.

Ramp-up will not occur if the safety radius has not been visible for at least 30 min prior to the start of operations in either daylight or nighttime. If the safety radius has not been visible for that 30 minute period (e.g., during darkness or fog), ramp-up will not commence unless at least one airgun has been firing continuously during the interruption of seismic activity.

Other Mitigation Factors

In order to keep take numbers to the lowest level practicable, the seismic survey vessel will avoid by at least 10 km (6.2 mi) the two protected areas, Loreto Bay National Park and Cabo Pulmo Marine Park, and four California sea lion rookeries that are near the seismic survey area while shooting the GI guns. The GI guns will not be fired in water depths less than 400 m (1312 ft) because noise levels may be higher due to reverberation between the seafloor and the surface. Scripps will also not start-up the GI guns at night and will ramp-up only if one gun has been maintained in operation.

Scripps is confident that they will be able to effectively visually monitor the

180- and 190–dB safety radii at night because it is fairly small in size and, therefore, close to the vessel. Taking into consideration the additional costs associated with prohibiting nighttime operations and the likely impact of the activity (including all mitigation and monitoring), NMFS has determined that the proposed mitigation ensures that the activity will have the least practicable impact on the affected species or stocks. NMFS believes that marine mammals will have sufficient notice of a vessel approaching with operating GI airguns (at least one hour in advance), thereby giving them an opportunity to avoid the approaching array; if ramp-up is required after an extended power-down, two marine mammal observers will be required to monitor the safety radii using night vision devices for 30 minutes before ramp-up begins and verify that no marine mammals are in or approaching the safety radii; ramp-up may not begin unless the entire safety radii are visible; and ramp-up may occur at night only if one airgun with a sound pressure level of at least 180 dB has been maintained during interruption of seismic activity.

Marine Mammal Monitoring

Scripps must have at least four NMFS-approved observers on board the vessel. At least two observers will monitor marine mammals near the seismic source vessel during all daytime airgun operations and during any nighttime ramp-ups of the airguns. During daylight, vessel-based observers will watch for marine mammals near the seismic vessel during periods with shooting (including ramp-ups), and for 30 minutes prior to the planned start of airgun operations after an extended shut-down.

The observers will be on duty in shifts of no longer than 4 hours. Use of two simultaneous observers will increase the likelihood that marine mammals near the source vessel are detected. Scripps bridge personnel and other observers will also assist in detecting marine mammals and implementing mitigation requirements whenever possible (they will be given instruction on how to do so), especially during ongoing operations at night when the designated observers are not on duty.

The observers will watch for marine mammals from the second level on the vessel, which is approximately 10.4 m (34 ft) above the waterline which allows for a 240–degree view. From the bridge of the *Roger Revelle*, the observer's eye level will be approximately 15 m (49 ft). The observer(s) will systematically scan the area around the vessel with reticle binoculars (e.g., 7 X 50 Fujinon) and with the naked eye during the daytime. Laser range-finding binoculars (Leica LRF 1200 laser rangefinder or equivalent) will be available to assist with distance estimation. Big Eye binoculars will also be mounted from the bridge of the *Roger Revelle*. The observers will be used to determine when a marine mammal is in or near the safety radii so that the required mitigation measures, such as course alteration and shut-down, can be implemented. If the airguns are shut down, observers will maintain watch to determine when the animal is outside the appropriate safety radius.

If the airguns are ramped-up at night, two marine mammal observers will monitor for marine mammals for 30 minutes prior to ramp-up and during the ramp-up using night vision equipment that will be available (ITT F500 Series Generation 3 binocular image intensifier or equivalent).

Reporting

Scripps will submit a report to NMFS within 90 days after the end of the cruise. The report will describe the operations that were conducted and the marine mammals that were detected. The report must provide full documentation of methods, results, and interpretation pertaining to all monitoring tasks. The report will summarize the dates and locations of seismic operations, marine mammal sightings (dates, times, locations, activities, associated seismic survey activities), and estimates of the amount and nature of potential take of marine mammals by harassment or in other ways.

Estimates of Take for the Gulf of California

NMFS' current criterion for onset of Level A harassment of cetaceans from impulse sound is 180 re 1 mPa root-mean-squared (rms). The rms pressure is an average over the pulse duration. The rms level of a seismic pulse is typically about 10 dB less than its peak level (Greene, 1997; McCauley et al., 1998, 2000a). The criterion for Level B harassment onset is 160 dB.

Given the proposed mitigation, all anticipated takes are expected to involve a temporary change in behavior that may constitute Level B harassment. The proposed mitigation measures will minimize the possibility of Level A harassment to the lowest level practicable.

Scripps has calculated the ''best estimates'' for the numbers of animals that could be taken by level B harassment during the proposed seismic survey in the Gulf of California using data on marine mammal abundance from a previous survey region. These estimates are based on a consideration of the number of marine mammals that might be exposed to sound levels equal to or greater than 160 dB, the criterion for the onset of Level B harassment, by operations with the 20–gun array planned to be used for this project. The anticipated radius of influence of the multibeam sonar is less than that for the airgun array, so it is assumed that any marine mammals close enough to be affected by the multibeam sonar would already be affected by the airguns. Therefore, no additional incidental takings are included for animals that might be affected by the multibeam sonar.

The following table explains best estimate of the numbers of each species that would be exposed to seismic sounds greater than or equal to 160 dB.

Species	''Best Estimate'' of the Number of Exposures to Sound Levels ≥160 dB	Regional Population Size
Physeteridae		
Sperm whale	6	26053
Dwarf sperm whale	87	11200
Pygmy sperm whale	15	N/A
Ziphiidae		
Cuvier's beaked whale	57	20000
Baird's beaked whale	0	N/A
Pygmy beaked whale	0	N/A
Delphiniade		
Bottlenose dolphin	893	243500
Spinner dolphin	6	1651100

Species	"Best Estimate" of the Number of Exposures to Sound Levels ≥160 dB	Regional Population Size
Spotted dolphin	1022	2059100
Pacific white-sided dolphin	0	931000
Striped dolphin	227	1918000
Common dolphin	1212	3093000
Fraser'e dolphin	0	N/A
Risso's dolphin	902	175800
Melon-headed whale	0	N/A
Pygmy killer whale	0	38900
False killer whale	0	38800
Killer whale	0	8500
Short-finned pilot whale	34	160200
Mysticetes		
Humpback whale	1	1177
Minke whale	0	N/A
Bryde's whale	17	13000
Sei whale	0	N/A
Fin whale	10	1851
Blue whale	0	1400
Pinniped		
Guadalupe fur seal	2	127000
Northern elephant seal	2	13000
California sea lion	50	209000

Conclusions

NMFS has determined that the impact of conducting the seismic survey in the Gulf of California will result, at worst, in a temporary modification in behavior by certain species of marine mammals. This activity is expected to result in no more than a negligible impact on the affected species or stocks.

While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals in the vicinity of the survey activity, the number of potential harassment takings is estimated to be small. In addition, no take by injury and/or death is anticipated, and the potential for temporary or permanent hearing impairment is low and will be avoided through the incorporation of the mitigation measures mentioned in this document. In addition, the proposed seismic program is not expected to interfere with any subsistence hunts, since operations in the whaling and sealing areas will be limited or nonexistent.

Conclusions- Effects on Cetaceans

Strong avoidance reactions by several species of mysticetes to seismic vessels have been observed at ranges up to 8 km (4.3 nm) and occasionally as far as 30 km (16.2 nm) from the source vessel. In Arctic waters, some bowhead whales avoided waters within 30 km (16.2 nm) of the seismic operation. However, reactions at such long distances appear to be atypical of other species of mysticetes and, even for bowheads, may only apply during migration. The small size of the two GI airguns used in this project will restrict the exposure to strong noise to much closer distances relative to the source vessel. The predicted radii from the source vessel are 54 m (177 ft) for 180 dB and 17 m (56 ft) for 190 dB.

Odontocete reactions to seismic pulses, or at least those of dolphins, are expected to extend to lesser distances than are those of mysticetes. Odontocete low-frequency hearing is less sensitive than that of mysticetes, and dolphins are often seen in the vicinity of seismic vessels. There are documented instances of dolphins approaching active seismic vessels. However, dolphins as well as some other types of odontocetes will sometimes show avoidance responses and/or other changes in behavior when near operating seismic vessels.

Taking account of the mitigation measures that are planned, effects on cetaceans are generally expected to be limited to avoidance of the area around the seismic operation and short-term changes in behavior, falling within the MMPA definition of Level B harassment.

The numbers of odontocetes that may be harassed by the proposed activities are small relative to the population sizes of the affected stocks. The best estimates for common, spotted, Risso's, and bottlenose dolphins are 1212, 1022, 902, and 893, respectively, which are the most abundant cetaceans in the proposed survey area. These best estimates represent 0.039, 0.050, 0.513, and 0.367 percent of the regional populations for each of these species. For other odontocetes, numbers exposed to greater than 160 dB will be smaller (all of the affected animals represent less than 1 percent of their regional population).

In light of the type of take expected and the relatively small numbers of affected cetaceans, the action is expected to have no more than a negligible impact on the affected species or stocks of marine mammals. In addition, mitigation measures such as controlled vessel speed, course alteration, look-outs, ramp-ups, and power-downs when marine mammals are seen within defined ranges (see Mitigation) should further reduce short-term reactions to disturbance, and minimize any effects on hearing sensitivity.

Conclusions- Effects on Pinnipeds

California sea lions are the most likely pinniped species to be encountered during the proposed seismic survey in the southern Gulf of California. It is estimated that 50 sea lions (out of a population of 209000) may be exposed to noise levels greater than 160 dB during the proposed survey. It is unlikely that northern elephant seals or Guadalupe fur seals will be encountered. If members of either of those species are encountered, they will be extralimital individuals. A precautionary estimate of 2 northern elephant seals and 2 Guadalupe fur seals may be encountered. The proposed seismic survey would have, at most, a short-term effect on their behavior and no long-term impacts on individual pinnipeds or their populations. Responses of pinnipeds to acoustic disturbances are variable, but usually quite limited. Effects are expected to be limited to short-term and localized

behavioral changes falling within the MMPA definition of Level B harassment.

In light of the type of take expected and the relatively small numbers of affected pinnipeds, the action is expected to have no more than a negligible impact on the affected species or stocks of marine mammals. In addition, mitigation measures such as controlled vessel speed, course alteration, look-outs, ramp-ups, and power-downs when marine mammals are seen within defined ranges (see Mitigation) should further reduce short-term reactions to disturbance, and minimize any effects on hearing sensitivity.

ESA

NMFS issued a biological opinion regarding the effects of this action on ESA-listed species and critical habitat. That biological opinion concluded that this action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. A copy of the Biological Opinion is available upon request (see **ADDRESSES**).

National Environmental Policy Act (NEPA)

The NSF made a Finding of No Significant Impact (FONSI) determination on October 2, 2003, based on information contained within its EA, that implementation of the subject action is not a major Federal action having significant effects on the environment within the meaning of Executive Order 12114. NSF determined therefore, that an environmental impact statement would not be prepared. On March 18, 2004 (69 FR 12832), NMFS noted that the NSF had prepared an EA for the Gulf of California surveys and made this EA available upon request. In accordance with NOAA Administrative Order 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999), NMFS has reviewed the information contained in NSF's EA and determined that the NSF EA accurately and completely describes the proposed action alternative, reasonable additional alternatives, and the potential impacts on marine mammals, endangered species, and other marine life that could be impacted by the preferred alternative and the other alternatives. Therefore, it is not necessary to issue a new EA, supplemental EA or an environmental impact statement for the issuance of an IHA to Scripps for this activity. Based on this review and analysis, NMFS is adopting the NSF EA under 40 CFR 1506.3 and has made its own FONSI. A copy of the NSF EA and the NMFS FONSI for this activity is available upon request (see **ADDRESSES**).

Authorization

NMFS has issued an IHA to take marine mammals, by harassment, incidental to conducting seismic surveys in the Gulf of California to Scripps for a 1–year period, provided the mitigation, monitoring, and reporting requirements are undertaken.

Dated: May 28, 2004.

Laurie K. Allen,

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

[FR Doc. 04–12811 Filed 6–4–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by July 7, 2004.

Title and OMB Number: Post-Election Survey of Overseas Citizens, Post-Election Survey of Local Election Officials; OMB Number 0704–0125.

Type of Request: Extension.

Number of Respondents: 2,343.

Responses per Respondent: 1.

Annual Responses: 2,343.

Average Burden per Response: 10 minutes.

Average Burden Hours: 391 hours.

Needs and Uses: The information collection requirement is necessary to meet a requirement of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986 (42 U.S.C. 19073ff). UOCAVA requires a report to the President and Congress on the effectiveness of assistance under the Act, a statistical analysis of voter participation, and a description of State-Federal cooperation. UOCAVA requires the states to allow Uniformed Services personnel, their family members, and overseas citizens to use absentee registration procedures, and to vote by absentee ballot in general, special, primary, and runoff elections for Federal offices. The Act covers members of the Uniformed Services and the merchant marine to include the commissioned corps of the National Oceanic and Atmospheric Administration and Public Health Service, and their eligible dependents, Federal civilian employees overseas, and overseas U.S. citizens not affiliated with the Federal government. The Federal Voting Assistance Program conducts the post-election survey on a statistically random basis to determine participation rates that are representative of all citizens covered by the Act, measure State-Federal cooperation, and evaluate the effectiveness of the overall absentee voting program. The information collected is used for overall program evaluation, management and improvement, and to compile the congressionally mandated report to the President and Congress.

Affected Public: Individuals or households; state, local or tribal government.

Frequency: Quadrennially.

Respondents Obligation: Voluntary.

OMB Desk Officer: Ms. Jacqueline Zeiher. Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing. Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/ESCD/Information Management Division, 1225 South Clark Street, Suite 504, Arlington, VA 22202–4326.

Dated: May 28, 2004.

L.M. Bynum,

Liaison Officer, Department of Defense.

[FR Doc. 04–12724 Filed 6–4–04; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense; Establishment of U.S. Army Amputee Patient Care Program Board

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The U.S. Army Amputee Patient Care Program Board is being established in the public interest, and in accordance with the provisions of the ''Federal Advisory Committee Act,'' title 5 U.S.C., appendix II.

The Board shall serve in an advisory capacity to broaden the scope of vision for the U.S. Army Amputee Patient Care Program. The Board will make such suggestions for the improvement of the program as it deems necessary. The Board will consist of nine members