

Marine Mammal Protection Act (MMPA), as amended by the National Defense Authorization Act of 2004 (NDAA).

**DATES:** Effective January 22, 2009, through January 21, 2010.

**ADDRESSES:** The LOA and supporting documentation are available by writing to Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, by telephoning one of the contacts listed here (**FOR FURTHER INFORMATION CONTACT**), or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

**FOR FURTHER INFORMATION CONTACT:** Jolie Harrison, Office of Protected Resources, NMFS.

**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 (Secretary) 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) during periods of not more than five consecutive years each if certain findings are made and regulations are issued or, if the taking is limited to harassment and of no more than 1 year, the Secretary shall issue a notice of proposed authorization for public review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking 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.

The NDAA (Public Law 108-136) removed the "small numbers" and "specified geographical region" limitations and amended the definition of "harassment" as it applies to a "military readiness activity" to read as follows (Section 3(18)(B) of the MMPA):

(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing

disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

**Summary of Request**

On April 1, 2008, NMFS received an application from the Navy requesting authorization for the take of 37 species of marine mammals incidental to upcoming Navy training activities to be conducted within the SOCAL Range complex, which extends southwest approximately 600 nm in the general shape of a 200-nm wide rectangle (see the Navy's application), over the course of 5 years. These training activities are classified as military readiness activities. These training activities may incidentally take marine mammals present within the SOCAL Range Complex by exposing them to sound from mid-frequency or high frequency active sonar (MFAS/HFAS) or to underwater detonations at levels that NMFS associates with the take of marine mammals. The Navy requested authorization to take individuals of 37 species of marine mammals by Level B Harassment. Further, though they do not anticipate it to occur, the Navy requested authorization to take, by injury or mortality, up to 10 individual beaked whales over the course of the 5-year regulations.

**Authorization**

On January 14, 2009, NMFS' final rule governing the take of marine mammals incidental to U.S. Navy Training in the SOCAL Range Complex became effective. In accordance with the final rule, NMFS issued an LOA to the Navy on January 22, 2009, authorizing Level B harassment of 37 species of marine mammals and mortality of 10 individual beaked whales incidental to U.S. Navy training, maintenance, and RDT&E activities in the SOCAL Range Complex. Issuance of this LOA is based on findings, described in the preamble to the final rule (74 FR 3882, January 21, 2009), that the taking resulting from the activities described in this LOA will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stock for subsistence uses. The LOA describes the permissible methods of taking and includes requirements pertaining to the mitigation, monitoring and reporting of such taking.

Dated: February 11, 2009.

**P. Michael Payne,**

*Chief, Permits, Conservation, and Recreation, Office of Protected Resources, National Marine Fisheries Service.*

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**BILLING CODE 8011-01-P**

**DEPARTMENT OF EDUCATION**

**Office of Innovation and Improvement; Overview Information: Charter School Programs; Notice reopening fiscal year (FY) 2009 competition for Charter School Programs**

*Catalog of Federal Domestic Assistance (CFDA) Number: 84.282A.*

**SUMMARY:** On December 15, 2008, we published in the **Federal Register** (73 FR 76014) a notice inviting applications for new awards for FY 2009 for the Charter School Programs (CSP). The original notice for the FY 2009 CSP competition established a January 29, 2009, deadline date for eligible applicants to apply for funding under this program. For this competition, applicants are required to submit their applications electronically through the Governmentwide Grants.gov site ([www.Grants.gov](http://www.Grants.gov)). Grants.gov experienced a substantial increase in application submissions that resulted in system slowness on the deadline date. For this reason we are reopening and establishing new deadline dates for the FY 2009 competition for CSP.

Applicants must refer to the notice inviting applications for new awards that was published in the **Federal Register** on December 15, 2009 (73 FR 76014) for all other requirements concerning this reopened competition. The new deadline dates are:

*Deadline for Transmittal of Applications:* February 25, 2009.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, please refer to section IV. 6. *Other Submission Requirements* in the December 15, 2008, notice (73 FR 76016).

**Note:** For all applicants submitting a new application in accordance with this notice, please note that you must use the current application package posted on Grants.gov. That is, Grants.gov will reject any submission from the earlier application package, which was available on Grants.gov through the original application deadline of January 29, 2009.

*Deadline for Intergovernmental Review:* April 27, 2009.

**FOR FURTHER INFORMATION CONTACT:**

Leslie Hankerson or Jeanne Siegel, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W249, Washington, DC 20202-5970. Telephone: (202) 205-8524 or (202) 205-5482, or by e-mail: [Leslie.Hankerson@ed.gov](mailto:Leslie.Hankerson@ed.gov) or [Jeanne.Siegel@ed.gov](mailto:Jeanne.Siegel@ed.gov).

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or computer diskette) by contacting either program contact person listed in this section.

**SUPPLEMENTARY INFORMATION:** Any eligible applicant may apply for funding under this program by the deadline date established in this notice. Eligible applicants that submitted their applications for the CSP FY 2009 competition to the Department before the competition's original deadline date of January 29, 2009, 4:30:00 p.m., Washington, DC time, are not required to resubmit their applications or re-apply in order to be considered for FY 2009 awards under this program. We encourage eligible applicants to submit their applications as soon as possible to avoid any problems with submitting electronic applications on the deadline date. The deadline for submission of applications will not be extended any further.

*Electronic Access to This Document:* You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: [www.ed.gov/news/fedregister](http://www.ed.gov/news/fedregister).

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: [www.gpoaccess.gov/nara/index.html](http://www.gpoaccess.gov/nara/index.html).

*Delegation of Authority:* The Secretary of Education has delegated authority to Margo Anderson, Associate Assistant Deputy Secretary for Innovation and Improvement to perform the functions of the Assistant Deputy Secretary for Innovation and Improvement.

Dated: February 12, 2009.

**Margo Anderson,**

*Associate Assistant Deputy Secretary for Innovation and Improvement.*

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**DEPARTMENT OF EDUCATION**

**Office of Elementary and Secondary Education Overview Information; Impact Aid Discretionary Construction Grant Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2009**

*Catalog of Federal Domestic Assistance (CFDA) Number: 84.041C.*

**DATES:** *Applications Available:* February 18, 2009.

*Deadline for Transmittal of Applications:* March 20, 2009.

*Deadline for Intergovernmental Review:* May 19, 2009.

**Full Text of Announcement****I. Funding Opportunity Description**

*Purpose of Program:* The Impact Aid Discretionary Construction Grant Program provides grants for emergency repairs and modernization of school facilities to certain eligible local educational agencies (LEAs) that receive formula Impact Aid funds.

*Priority:* In this notice, the Secretary is soliciting applications only for Priority 1 emergency repair grants. We will not accept applications for Priority 2 emergency repair or modernization grants at this time. In accordance with 34 CFR 75.105(b)(2)(ii) and (iv), this priority is from section 8007(b)(2)(A) of the Elementary and Secondary Education Act of 1965, as amended (Act) (20 U.S.C. 7707(b)), and the regulations for this program in 34 CFR 222.177.

*Absolute Priority:* For FY 2009, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is: Priority 1 emergency repair grants. An LEA is eligible to apply for an emergency grant under the first priority of section 8007(b) of the Act if it—

(a) Is eligible to receive formula construction funds for the fiscal year under section 8007(a) of the Act (20 U.S.C. 7707(a));

(b)(1) Has no practical capacity to issue bonds;

(2) Has minimal capacity to issue bonds and has used at least 75 percent of its bond limit; or

(3) Is eligible to receive funds for the fiscal year for heavily impacted districts

under section 8003(b)(2) of the Act (20 U.S.C. 7707(b)(2)); and

(c) Has a school facility emergency that the Secretary has determined poses a health or safety hazard to students and school personnel.

**Note:** For each of the FYs 2002, 2003, 2004, and 2005 competitions under this program, the amounts requested by applicants for Priority 1 grants exceeded the funds available.

*Program Authority:* 20 U.S.C. 7707(b).

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75 (except for 34 CFR 75.600 through 75.617), 77, 79, 80, 82, 84, 85, 97, 98, and 99. (b) The regulations for this program in 34 CFR part 222.

**Note:** The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

**II. Award Information**

*Type of Award:* Discretionary grant.

*Estimated Available Funds:* \$17,500,000.

*Estimated Range of Awards:* \$50,000–\$5,000,000.

*Estimated Average Size of Awards:* \$1,500,000.

*Estimated Number of Awards:* 11.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 60 months. We will determine each project period based on the nature of the project proposed and the time needed to complete the project. We will specify this period in the grant award document.

**III. Eligibility Information**

1. *Eligible Applicants:* To be eligible for an emergency repair grant, an LEA must enroll a high percentage (at least 40 percent) of federally connected children in average daily attendance (ADA) who reside on Indian lands or who have a parent on active duty in the U.S. uniformed services, have a school that enrolls a high percentage of one of these types of students, be eligible for funding for heavily impacted LEAs under section 8003(b)(2) of the Act, or meet the specific numeric requirements regarding bonding capacity. In making emergency grant awards, the Secretary must also consider the LEA's total assessed value of real property that may be taxed for school purposes, its use of available bonding capacity, and the nature and severity of the school facility emergency.

2.a. *Cost Sharing or Matching:* See 20 U.S.C. 7707(b)(5) and 34 CFR 222.174