

environmental impact statement (EIS) is needed for this project.

This project involves construction of a multiple-purpose reservoir as a supplement to the on-going Public Law 83-566 East Locust Creek Watershed project. The project supplement will include one rural water supply reservoir with additional purposes of flood protection, recreation, and fish and wildlife habitat enhancement.

A draft EIS will be prepared and circulated for review by agencies and the public. The Natural Resources Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft EIS. A field investigation is scheduled for September 27 and 28, 2004, and additional planning Meetings will be scheduled as needed. Further information on the proposed action may be obtained from Harold Deckerd, Assistant State Conservationist, at the above address or telephone number.

Dated: September 16, 2004.

**Roger A. Hansen,**  
State Conservationist.

[FR Doc. 04-21390 Filed 9-22-04; 8:45 am]

**BILLING CODE 3410-16-P**

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### President's Export Council: Meeting of the President's Export Council

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice of an open meeting.

**SUMMARY:** The President's Export Council (PEC) will hold a full Council meeting to discuss topics related to export expansion. The meeting will include discussion of trade priorities and initiatives, the World Trade Organization, PEC subcommittee activity and proposed letters of recommendation. The PEC was established on December 20, 1973, and reconstituted May 4, 1979, to advise the President on matters relating to U.S. trade. It was most recently renewed by Executive Order 13316.

**DATES:** September 29, 2004.

**TIME:** 9 a.m. to 11 a.m.

**ADDRESSES:** Room 2237, Rayburn House Office Building, Washington, DC 20515. This program is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be submitted no

later than September 20, 2004, to J. Marc Chittum, President's Export Council, Room 4043, Washington, DC 20230 (Telephone: 202-482-1124). Seating is limited and will be on a first come, first served basis.

**FOR FURTHER INFORMATION CONTACT:** J. Marc Chittum, President's Export Council, Room 4043, Washington, DC 20230 (Phone: 202-482-1124), or visit the PEC Web site, <http://www.ita.doc.gov/td/pec>.

Dated: September 20, 2004.

**J. Marc Chittum,**

Staff Director and Executive Secretary,  
President's Export Council.

[FR Doc. 04-21468 Filed 9-21-04; 12:05 pm]

**BILLING CODE 3510-DR-P**

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 083104A]

#### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Operation of an Offshore Oil and Gas Platform in the Beaufort Sea

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

**ACTION:** Notice of receipt of application for an incidental take authorization; request for comments and information.

**SUMMARY:** NMFS has received a request from BP Exploration (Alaska), 900 East Benson Boulevard, Anchorage, AK 99519 (BP) for renewal of an authorization to take small numbers of marine mammals incidental to operation of an offshore oil and gas platform at the Northstar facility in the Beaufort Sea in state waters. NMFS is considering whether to propose new regulations that would govern the incidental taking of small numbers of marine mammals under a Letter of Authorization (LOA) issued to BP. In order to promulgate regulations and issue an LOA, NMFS must determine that these takings will have a negligible impact on the affected species and stocks of marine mammals. NMFS invites comment on the application and suggestions on the content of the regulations.

**DATES:** Comments and information must be postmarked no later than October 25, 2004.

**ADDRESSES:** Comments on the application should be addressed to Steve Leathery, Chief, Permits,

Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning one of the contacts listed here. The mailbox address for providing email comments is [PR1.083104A@noaa.gov](mailto:PR1.083104A@noaa.gov). Include in the subject line of the e-mail comment the following document identifier: 083104A. Please use only one method for submitting comments. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size. 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](http://www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake_info.htm#applications).

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Hollingshead, NMFS, 301-713-2055, ext. 128 or Brad Smith, NMFS, (907) 271-5006.

#### 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 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 are issued.

Permission may be granted for periods of 5 years or less if the Secretary 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 regulations are prescribed setting forth the permissible methods of taking and the requirements pertaining to the monitoring and reporting of such taking.

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." Except for certain categories of activities not pertinent here, 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

[Level A harassment]; 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 [Level B harassment].

### Summary of Request

In 1999, BP petitioned NMFS to issue regulations governing the potential taking of small numbers of whales and seals incidental to oil and gas development and operations in arctic waters of the United States. That petition was submitted pursuant to section 101(a)(5)(A) of the MMPA. Regulations were promulgated by NMFS on 25 May 2000 (65 FR 34014). These regulations authorize the issuance of annual LOAs for the incidental, but not intentional, taking of small numbers of marine mammals of six species in the event that such taking occurred during construction and operation of an oil and gas facility in the Beaufort Sea offshore from Alaska. The six species are the ringed seal (*Phoca hispida*), bearded seal (*Erignathus barbatus*), spotted seal (*Phoca largha*), bowhead whale (*Balaena mysticetus*), gray whale (*Eschrichtius robustus*), and beluga whale (*Delphinapterus leucas*). To date, LOAs have been issued on September 18, 2000 (65 FR 58265, September 28, 2000), December 14, 2001 (66 FR 65923, December 21, 2001), December 9, 2002 (67 FR 77750, December 19, 2002), and on December 4, 2003 (68 FR 68874, December 10, 2003). The current LOA expires on December 3, 2004. A fifth LOA will be requested by BP later in 2004 to cover the period through May 25, 2005, when the current regulations expire.

On August 30, 2004, BP requested a renewal of five-year regulations governing the take of small numbers of marine mammals incidental to operation of an offshore oil and gas platform at the Northstar facility in the Beaufort Sea in state waters. A copy of this application can be found at: [http://www.nmfs.noaa.gov/prot\\_res/PR2/Small\\_Take/smalltake\\_info.htm#applications](http://www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake_info.htm#applications). The following sections summarize the information contained in the application.

### Description of the Activity

BP is currently producing oil from an offshore development in the Northstar Unit. This development is the first in the Beaufort Sea that makes use of a subsea pipeline to transport oil to shore and then into the Trans-Alaska Pipeline System. The Northstar facility was built in State of Alaska waters approximately 6 miles (9.6 kilometers (km)) north of

Point Storkersen and slightly less than 3.5 miles (5.5 km) from the closest barrier island. It is located adjacent to Prudhoe Bay, and is approximately 54 miles (87 km) northeast of Nuiqsut, an Inupiat community. The main facilities associated with Northstar include a gravel island work surface for drilling and oil production facilities, and two pipelines connecting the island to the existing infrastructure at Prudhoe Bay. One pipeline transports crude oil to shore, and the second imports gas from Prudhoe Bay for gas injection and power generation at Northstar. Permanent living quarters and supporting oil production facilities are also located on the island. The construction of Northstar began in early 2000 and continued through 2001. Well drilling began on December 14, 2000, and oil production commenced on October 31, 2001. The well-drilling program ended in May, 2004 and the drill rig is expected to be demobilized by barge during the 2004 or 2005 open-water period. Although future drilling is not specifically planned, additional wells or well work-over may be required at some time in the future. Oil production will continue beyond the period of the requested authorization.

### Description of Marine Mammals Affected by the Activity

The following six species of seals and cetaceans can be expected to occur in the region of proposed activity and be affected by the Northstar facility: ringed, spotted and bearded seals, and bowhead, gray and beluga whales. General information on these species can be found in NMFS Stock Assessment Reports. These documents are available at: [http://www.nmfs.noaa.gov/prot\\_res/PR2/Stock\\_Assessment\\_Program/sars.html#Stock\\_Assessment\\_Reports](http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/sars.html#Stock_Assessment_Reports). More detailed information on these 6 species can be found in BP's application, which is available at: [http://www.nmfs.noaa.gov/prot\\_res/PR2/Small\\_Take/smalltake\\_info.htm#applications](http://www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake_info.htm#applications).

In addition to these six species for which an incidental take authorization is sought, other species that may occur rarely in the Alaskan Beaufort Sea include the harbor porpoise (*Phocoena phocoena*), killer whale (*Orcinus orca*), narwhal (*Monodon monoceros*), and hooded seal (*Cystophora cristata*). Because of the rarity of these species in the Beaufort Sea, BP does not expect individuals of these species to be exposed to, or affected by, any activities associated with the planned Northstar activities. As a result, BP has not requested these species be included

under its incidental take authorization. Two other marine mammal species found in this area, the Pacific walrus (*Odobenus rosmarus*) and polar bear (*Ursus maritimus*), are managed by the U.S. Fish and Wildlife Service (USFWS). Potential incidental takes of those two species will be the subject of a separate incidental take application by BP to the USFWS.

### Potential Effects on Marine Mammals

The potential impacts of the planned offshore oil development at Northstar on marine mammals involve both acoustic and non-acoustic effects. The presence of facilities and personnel, and the unlikely occurrence of an oil spill, are potential sources of non-acoustic effects. Acoustic effects involve sounds produced by activities such as power generation and oil production on Northstar Island, heavy equipment operations on ice, impact hammering, drilling, and camp operations. Some of these sounds were more prevalent during the construction and drilling periods, and sound levels emanating from Northstar are expected to be reduced during the ongoing production period. During average ambient conditions, some activities are expected to be audible to marine mammals at distances up to 10 km (5.4 nautical miles (nm)) away. However, because of the poor transmission of on-island sounds into the water, and their low effective source levels, sounds from production operations are not expected to disturb marine mammals at distances beyond a few kilometers from the Northstar development.

Responses by pinnipeds to noise are highly variable. Responses observed to date by ringed seals during the ice-covered season are limited to short-term behavioral changes in close proximity to activities at Northstar. During the open-water season responses by ringed seals are expected to be even less than during the ice-covered season. A major oil spill is unlikely (please see response to comments 2 and 3 in 66 FR 65923 (December 21, 2001) for a discussion on potential for an oil spill to affect marine mammals in the Beaufort Sea), but the impact of an oil spill on seals could be lethal to some heavily oiled pups or adults. However, even in the unlikely event of a major spill, the overall impacts to seal populations would be minimal due to the small fraction of the population that would be exposed to, and seriously affected by, recently spilled oil.

Responses to Northstar by migrating bowhead and beluga whales would be short-term and limited due to the typically small proportion of whales

that migrate near Northstar and the relatively low levels of underwater sounds propagating seaward from the island at most times. The limited deflection effects that may occur would happen mainly when vessels are operating for prolonged periods near Northstar. An oil spill is unlikely and, if one occurred, it is even less likely to disperse into the main migration corridor for either whale species. The effects of oiling on bowhead and beluga whales are unknown, but could include fouling of baleen, irritation of the eye, skin, and respiratory tract (if heavily oiled).

#### **Potential Impacts on Subsistence Use of Marine Mammals**

Inupiat hunters emphasize that all marine mammals are sensitive to noise, and, therefore, they make as little noise as possible when hunting. Bowhead whales often show avoidance or other behavioral reactions to strong underwater noise near industrial activities, but often tolerate the weaker noise received when the same activities are occurring farther away. Various studies have provided information about these sound levels and distances (Richardson and Malme, 1993; Richardson et al., 1995a,b; Miller et al., 1999). However, scientific studies done to date have limitations, as discussed in part by Moore and Clarke (1992) and in Minerals Management Service (MMS, 1997). Inupiat whalers believe that some migrating bowheads are diverted by noises at greater distances than have been demonstrated by scientific studies (e.g., Rexford, 1996; MMS, 1997). The whalers have also mentioned that bowheads sometimes seem more skittish and more difficult to approach when industrial activities are underway in the area. There is also concern about the persistence of any deflection of the bowhead migration corridor, and the possibility that sustained deflection might influence subsistence farther "downstream" during the fall migration.

Underwater sounds associated with drilling and production operations have lower source levels than do the seismic pulses and drillship sounds that have been the main concern of the Inupiat hunters. Sounds from vessels supporting activities at Northstar will attenuate below ambient noise levels at closer distances than do seismic or drillship sounds. Thus, reaction distances for whales approaching Northstar are expected to be considerably shorter than those for whales approaching seismic vessels or drillships (BPXA, 1999).

Recently, there has been concern among Inupiat hunters that barges and

other vessels operating within or near the bowhead migration corridor may deflect whales for an extended period (J.C. George, NSB-DWM, pers. comm to Williams). It has been suggested that, if the headings of migrating bowheads are altered through avoidance of vessels, the whales may subsequently maintain the "affected" heading well past the direct zone of influence of the vessel. This might result in progressively increasing deflection as the whale progresses west. However, crew boats and barges supporting Northstar remain well inshore of the main migration corridor, so this type of effect is unlikely to occur in response to Northstar-related vessel traffic.

Potential effects on subsistence could result from direct actions of oil development upon the biological resources or from associated changes in human behavior. For example, the perception that marine mammals might be contaminated or "tainted" by an oil spill could affect subsistence patterns whether or not marine mammals are actually contaminated. The BP application discusses both aspects in greater detail.

In past years, a Plan of Cooperation was negotiated between BP, the Alaska Eskimo Whaling Commission, and the North Slope Borough, and discussions regarding future agreements are ongoing. A new Plan will address concerns relating to subsistence harvest of marine mammals in the region surrounding Northstar.

#### **Mitigation**

Mitigation proposed by BP includes avoidance of seal lairs by 100 m (328 ft) if new activities occur on the floating sea ice after 20 March or such other date in March specified by NMFS. In addition, BP proposes to mitigate potential acoustic effects that might occur due to exposure of whales or seals to strong pulsed sounds. If BP needs to conduct an activity capable of producing pulsed underwater sound with levels  $\geq 180$  or  $\geq 190$  dB re 1  $\mu$ Pa (rms) at locations where whales or seals could be exposed, BP proposes to monitor safety zones defined by those levels. Activities producing underwater sound levels  $\geq 180$  or  $\geq 190$  dB re 1  $\mu$ Pa (rms) would be temporarily shut down if whales and seals, respectively, occur within the relevant radii. The purposes of these mitigation measures are to minimize impacts to marine mammals and their habitat, and to ensure the availability of marine mammals for subsistence purposes.

#### **Monitoring**

The results of intensive studies and analyses to date (Richardson and Williams (eds), 2004) suggest that the biological effects of Northstar are subtle and equivocal, and small in the context of natural variation of the marine ecosystem.

The monitoring proposed by BP includes some research components to be implemented annually and others to be implemented on a contingency basis. Basking and swimming ringed seals would be counted annually by Northstar personnel in a systematic fashion to document the long-term stability of ringed seal abundance and habitat use near Northstar. BP proposes to monitor the bowhead migration in 2005 and subsequent years using two Directional Autonomous Seafloor Acoustic Recorders (DASARs) to record near-island sounds and two to record whale calls. If BP needs to conduct an activity capable of producing pulsed underwater sound with levels  $\geq 180$  or  $\geq 190$  dB re 1  $\mu$ Pa (rms) at locations where whales or seals could be exposed, BP proposes to monitor safety zones defined by those levels. The monitoring proposed would be used in estimating the numbers of marine mammals that may be disturbed (i.e., taken by Level B harassment), incidental to operations of Northstar.

#### **Reporting**

BP proposes to submit a single annual monitoring report, with the first report to cover the activities from May through October 2005, and subsequent reports to cover activities from November of one year through October of the next year. BP proposes that the first report, concerning May-October 2005, would be due on June 1, 2006. For subsequent years, it is proposed that the annual report (to cover monitoring during a 12-month November-October period) would be submitted on June 1st of the following year.

The annual reports would provide summaries of BP's Northstar activities. These summaries would include the following: dates and locations of ice-road construction, on-ice activities, vessel/hovercraft operations, oil spills, emergency training, and major repair or maintenance activities thought to alter the variability or composition of sounds in a way that might have detectable effects on ringed seals or bowhead whales. The annual reports would also provide details of ringed seal and bowhead whale monitoring, the monitoring of Northstar sound via the nearshore DASAR, estimates of the numbers of marine mammals exposed to project activities, descriptions of any

observed reactions, and documentation of any apparent effects on accessibility of marine mammals to subsistence hunters.

BP also proposes to submit a single comprehensive report on the monitoring results from mid-2005 to mid-2009 no later than 240 days prior to expiration of the regulations, i.e., by September 2009. That date assumes the regulations will become effective in May 2005 and expire in May 2010.

If specific mitigation is required for activities on the sea ice initiated after 20 March (requiring searches with dogs for lairs), or during the operation of strong sound sources (requiring visual observations and shut-down), then a preliminary summary of the activity, method of monitoring, and preliminary results would be submitted within 90 days after the cessation of that activity. The complete description of methods, results and discussion would be submitted as part of the annual report.

Any observations concerning possible injuries, mortality, or an unusual marine mammal mortality event would be transmitted to NMFS within 48 hours.

#### Request for Information

This notice is being published in conformance with NMFS regulations at 50 CFR 104(b)(1)(ii). NMFS requests interested persons to submit comments, information, and suggestions concerning the request and the structure and content of the regulations to allow the taking. NMFS will consider this information in developing proposed regulations. Prior to submitting comments, NMFS recommends reviewers of this document first read the responses to comments for the current regulations (see 65 FR 34014, May 25, 2000 and 66 FR 65923, December 21, 2001). If NMFS proposes regulations to allow this take, interested parties would be provided with a 45-day comment period within which to submit comments on the proposed rule.

Dated: September 17, 2004.

**Laurie K. Allen,**

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

[FR Doc. 04-21400 Filed 9-22-04; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 091604B]

#### Endangered Species; File No. 1486 and File No. 1505

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

**ACTION:** Receipt of applications for permits.

**SUMMARY:** Notice is hereby given of the following actions regarding permits for scientific research on shortnose sturgeon (*Acipenser brevirosturnum*): NMFS has received a permit application from the South Carolina Department of Natural Resources, Freshwater Fisheries Section (Mr. Doug Cooke, Principal Investigator), P.O. Drawer 190, 305 Black Oak Road, Bonneau, SC 29431 (File No. 1505). NMFS has received a request to modify a permit application from Mr. Harold M. Brundage, Environmental Research and Consulting, Inc., 112 Commons Court, Chadds Ford, PA 19317 (File No. 1486).

**DATES:** Written or telefaxed comments must be received on or before October 25, 2004.

**ADDRESSES:** The applications and related documents are available for review upon written request or by appointment in the following office(s):

All documents: Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)713-0376.

For File No. 1486: Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298; phone (978)281-9200; fax (978)281-9371; and

For File No. 1505: Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702-2432; phone (727)570-5301; fax (727)570-5320.

Written comments or requests for a public hearing on these applications should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on the particular request would be appropriate.

Comments may also be submitted by facsimile at (301)713-0376, provided the facsimile is confirmed by hard copy

submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing email comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: either File No. 1486 or File No. 1505.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Jefferies or Dr. Tammy Adams, (301)713-2289.

**SUPPLEMENTARY INFORMATION:** The subject permits are requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222-226).

*File No. 1510:* The South Carolina Department of Natural Resources seeks authorization to sample and track shortnose sturgeon in South Carolina coastal waters. Annually, up to 50 fish would be captured via gill nets, trot lines, and trawls, measured, weighed, PIT and dart tagged, tissue sampled for genetic testing and the fish subsequently released. A subset of 20 fish annually would also have a fin ray removed for aging studies, be outfitted with a radio/sonic transmitter and tracked and/or have gastric lavage performed on them. Additionally, the researchers would utilize drift nets and deploy buffer pads to collect up to 200 shortnose sturgeon eggs annually. A second study would be conducted specifically in the Santee-Cooper River system: annually, up to 48 fish would be captured via gill nets, trot lines, and trawls, measured, weighed, PIT and dart tagged, tissue sampled for genetic testing, blood sampled, sexed via laparoscopy and the fish subsequently released. This research would be conducted for five years from issuance of the permit. A total of 2 incidental mortalities annually are requested.

*File No. 1486:* A notice of receipt of an application from Mr. Harold Brundage to conduct scientific research on shortnose sturgeon was published on May 27, 2004 (69 FR 30287). Mr. Brundage sought authorization to sample and track shortnose sturgeon in the Delaware River/Bay and Chesapeake Bay for five years. Annually, up to 3,500 fish in the Delaware system and up to 130 fish in the Chesapeake Bay were to be captured via gill nets and trawls, measured, weighed, PIT and floy T-bar tagged, tissue sampled, and the fish subsequently released. Additionally, up to 60 of the total fish sampled annually