SUPPLEMENTARY INFORMATION: In November 2002, the Islander East Pipeline Company, L.L.C. (Islander East) filed a notice of appeal with the Department of Commerce, pursuant to the Coastal Zone Management Act of 1972 (CZMA), as amended, asking that the Secretary of Commerce override the State of Connecticut's objection to Islander East's proposed natural gas pipeline. The pipeline would extend from near North Haven, Connecicut, across the Long Island Sound to a terminus in Suffolk County (Long Island), New York. Connecticut's objection is based on the project's potential effects on the natural resources or land and water uses of Connecticut's coastal zone.

On March 14, 2003, Islander East requested, on behalf of itself and the State of Connecticut, that the Department's processing of the appeal be stayed in order to allow settlement negotiations to occur between the parties. The requested stay on March 17, 2003.

In addition to announcing the stay, this **Federal Register** notice provides information concerning procedural aspects of the Islander East appeal that are affected by the stay. The public comment period, which runs through May 8, 2003, will remain open during the stay. The federal agency comment period, which is scheduled to close on April 14, 2003, will remain open and be extended through May 1, 2003. After processing of the appeal resumes, both comment periods will be extended for a period generally commensurate with the length of the stay, taking into account the filing date for the State of Connecticut's initial brief. (The State's brief had been due on March 24, 2003. In light of the stay, the State's brief is now due 45 days after the appeal has recommenced.)

The scheduling of a public hearing on the appeal will be delayed until after processing of the appeal resumes, consistent with the request of Islander East and the State. A previous **Federal Register** notice indicated the location and date for the hearing would be announced in early March 2003. *See* 68 FR 5620.

A summary of relevant issues as well as additional background on the appeal appears in a January 24, 2003 **Federal Register** announcement, 68 FR 3513, a copy of which can be found at the Department of Commerce CZMA appeals Web site, *http://www.ogc.doc.gov/czma/htm.* The Web site also provides access to documents from the appeal record, such as the request to stay the proceedings of Islander East's appeal, and general information concerning the appeal process.

Questions about the stay for the Islander East appeal may be sent to NOAA via e-mail (*GCOS.inquiries@noaa.gov*)or made by telephone (301–713–2967, extension 186).

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: March 19, 2003.

James R. Walpole,

General Counsel.

[FR Doc. 03–7016 Filed 3–24–03; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030403B]

Small Takes of Marine Mammals Incidental to Specified Activities; Taking of Ringed and Bearded Seals Incidental to On-ice Seismic Activities

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

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) has been issued to ConocoPhillips Alaska Inc. (CPA) to take small numbers of ringed and bearded seals, by harassment, incidental to conducting on-ice seismic operations in the Beaufort Sea during oil and gas exploration activities.

DATES: This authorization is effective from March 19, 2003, through July 1, 2003.

ADDRESSES: A copy of the application and/or a list of references used in this document may be obtained by writing to the Chief, Marine Mammal Conservation 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.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055, ext 128, or Bradley Smith, Alaska Region (907) 271–5006.

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 small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth.

On April 10, 1996 (61 FR 15884), NMFS published an interim rule establishing, among other things, procedures for issuing IHAs under section 101(a)(5)(D) of the MMPA for activities in Arctic waters. For additional information on the procedures to be followed for this authorization, please refer either to that document or to 50 CFR 216.107.

Description of the Activity

Background

Deep seismic surveys use the ''reflection'' method of data acquisition. Reflection seismic exploration is the process of gathering information about the subsurface of the earth by measuring acoustic (sound or seismic) waves, which are generated on or near the surface. Acoustic waves reflect at boundaries in the earth that are characterized by acoustic impedance contrasts. The acoustic impedance of a rock layer is its density multiplied by its acoustic velocity. Geologists and geophysicists commonly attribute different acoustic impedances to different rock characteristics. Seismic exploration uses a controlled energy source to generate acoustic waves that travel through the earth (including sea ice and water, as well as subsea geologic formations), and then uses ground sensors to record the reflected energy transmitted back to the surface. Energy that is directed into the ground takes on numerous forms. When acoustic energy is generated, compression (p) and shear (s) waves form and travel in and on the earth. The compression and shear waves are affected by the geological formations

of the earth as they travel in it and may be reflected, refracted, diffracted or transmitted when they reach a boundary represented by an acoustic impedance contrast.

The basic components of a seismic survey include an energy source (either acoustic or vibratory), which generates a seismic signal; hydrophones or geophones, which receive the reflected signal; and electronic equipment to amplify and record the signal. The number and placement of sensors, the energy sources, the spacing and placement of energy input locations, and the specific techniques of recording reflected energy are broadly grouped as ''parameters'' of a given exploration program.

In modern reflection seismology, many sensors are used to record each energy input event. The number of sensors in use for each event varies widely according to the type of survey being conducted and the recording equipment available. Common numbers of groups of sensors are 240, 480, and 1040, and some new recording instruments may use as many as 4000 groups of sensors at the same time. The sensors are normally placed in one or more long lines at specified intervals. In North America the common group placement intervals are multiples of 55 ft (17 m), 110 ft (33.5 m) and 220 ft (67 m).

Vibroseis

Vibroseis seismic operations use large trucks with vibrators that systematically put variable frequency energy into the earth. At least 1.2 m (4 ft) of sea ice is required to support heavy vehicles used to transport equipment offshore for exploration activities. These ice conditions generally exist from 1 January until 31 May in the Beaufort Sea. The exploration techniques are most commonly used on landfast ice, but they can be used in areas of stable offshore ice. Several vehicles are normally associated with a typical vibroseis operation. One or two vehicles with survey crews move ahead of the operation and mark the energy input points. Crews with rubber-tire or rubber-track vehicles often require trail clearance with bulldozers for adequate access to and within the site. Crews with rubber-tracked vehicles are typically limited by heavy snow cover, and may require trail clearance beforehand.

A typical wintertime exploration seismic crew consists of 40–110 personnel. Roughly 75 percent of the personnel routinely work on the active seismic crew, with approximately 50 percent of those working in vehicles and the remainder outside laying and retrieving geophones and cable. A camp unit is usually associated with a seismic survey project and will consist of 4–5 sleeper/office trailers, a kitchen/diner trailer, two shop/generator trailers, fuel sleighs and a small survival trailer (BP, 1997). Camp trailers are usually mounted on wide-pad sleighs. It is common to survey and plow ''communication'' roads on sea ice for vehicles to travel to and from the camp.

With the vibroseis technique, activity on the surveyed seismic line begins with the placement of sensors. All sensors are connected to the recording vehicle by multi-pair cable sections. The vibrators move to the beginning of the line, and recording begins. The vibrators move along a source line, which will be at some angle to a sensor line. The vibrators begin vibrating in synchrony via a simultaneous radio signal to all vehicles.

In a typical survey, each vibrator will vibrate four times at each location. The entire formation of vibrators subsequently moves forward to the next energy input point (e.g., 67 m (220 ft) in most applications) and repeat the process. In a typical 16- to 18–hour day, 4 to 10 linear mi (6 to 16 km) in 2D-seismic operations and 15 to 40 linear mi (24 to 64 km) in a 3D-seismic operation are conducted. A detailed description of the work proposed for 2003 is contained in this document and in the application which is available upon request (see **ADDRESSES**).

Summary of the Request

On October 3, 2002, CPA submitted an application to NMFS for an IHA for the taking of ringed seals (*Phoca hispida*) and bearded seals (*Erignathus barbatus*) for a period of 5 months beginning January 1 (upon the expiration of the existing regulations covering the Alaskan North Slope on 31 December 2002 (63 FR 5277, February 2, 1998)) and ending on about May 31, 2003. On-ice seismic operations are ordinarily confined to this 5–month period since this is the period when ice is sufficiently thick (4 - 5 ft; 1.2 - 1.5 m) to safely support the equipment.

The geographic region of activity in 2003 encompasses an 846–square mile (2,190 km^2) area extending from approximately Cape Halkett on the west to Oliktok Point on the east and to approximately 4–20 nm (7.4 – 37 km) offshore the coast. Water depths in most (> 60 percent) of the area are less than 10 ft (3 m), but drop to 30 ft (9 m) along the northern fringe of the region of activity. Few seals inhabit water less than 10 ft (3 m) during winter, since water typically freezes to or near the bottom at this depth or what water is available supports few food resources (Miller *et al.*, 1998 and Link *et al.*, 1999).

Comments and Responses

A notice of receipt of the application and proposed authorization was published on December 31, 2002 (67 FR 79565), and a 30–day public comment period was provided on the application and proposed authorization. Comments were received from the Marine Mammal Commission (MMC) and the Alaska Eskimo Whaling Commission (AEWC).

Comment 1: The AEWC disagrees with NMFS' statement in its notice of receipt and proposed authorization that Nuiqsut hunters are most likely to take ringed seals during the open water season. The AEWC notes that this conclusion is based on two studies and harvest data collected in one year, 1992. They state, ''While many events, including the availability of seasonal construction work, may affect subsistence patterns from year to year, NMFS certainly is aware of the fact that subsistence hunting is an opportunistic activity. Ignoring this fact for even a seemingly low impact activity sets a dangerous precedent for subsistence hunters.''

Response: NMFS is required to incorporate the best scientific and commercial information (including traditional knowledge) currently available when making a determination that an activity will not have more than a negligible impact on affected marine mammal species nor have an unmitigable adverse impact on subsistence needs for marine mammals. In 50 CFR 216.103, NMFS provides its definition for what is an ''unmitigable adverse impact.''

The study cited by NMFS in the **Federal Register** and by the commenter was a 1996 analysis conducted by the North Slope Borough (NSB), presumably based on 1992 harvest data. While this is only a single year of harvest data, that information is consistent with previous statements made by NMFS as several small take applicants for wintertime activities in the Beaufort Sea have provided subsistence harvest data used by NMFS in previous authorizations (NMFS, 1998; 62 FR 5564 (October 27, 1997), and this document). NMFS would therefore appreciate any updated information for use in future small take authorizations.

Comment 2: The AEWC recommends a reasonable mitigation measure. As NMFS notes, the Nuiqsut hunters take ringed seals primarily in the Colville River Delta. As more daylight becomes available during the spring, subsistence

hunting of all types tends to increase. Therefore, a reasonable compromise between CPA's seismic work and ringed seal hunting by Nuiqsut hunters would be for CPA to begin their work in the eastern portion of Harrison Bay and work westward. This will reduce the probability that ringed seal hunters who have an opportunity to hunt during the spring will encounter seismic operations that might interfere with their seal hunting.

Response: NMFS has included this recommendation in the subject IHA and will suggest such a strategy for future vibroseis activities in Harrison Bay. However, such a recommendation is contingent upon favorable ice conditions permitting an east-to-west mapping strategy. As a result, NMFS has made this a recommendation, not a requirement in the IHA. NMFS notes however, that the IHA requires CPA to communicate with the village of Nuiqsut as to location and timing of activities.

Comment 3: The AEWC also recommends a refinement of the previous mitigation measure might also reduce the chance that this seismic work could affect migrating bowhead whales. The AEWC recommends that CPA be required to first complete all work in waters where the depth is greater than three m (9.8 ft) (moving east to west), then go on to their work in waters where the depth is less than 3 m (9.8 ft).

Response: In general, NMFS believes that ice conditions would preclude working from deeper water landward early in the season. Vibroseis activities require a minimum ice depth of 3 to 4 ft (0.9 to 1.2 m) to support the equipment, therefore, standard operations are to move from shore onto grounded ice first, then moving offshore as conditions permit. However, because ringed seals are not normally found in water depths less than 3 m (0.9 ft), and because after about March 20, neonatal ringed seal pups may be exposed to vibroseis sounds, this recommendation has merit to mitigate impacts to adult ringed seals and pups. As a result, NMFS has added this recommendation to the IHA, recognizing that such a strategy would depend upon ice conditions and seismic survey objectives.

The effective source level of vibroseis sounds for horizontal propagation in shallow under ice waters, while uncertain, may at times be as high as 212 dB re (Malme *et al.*, 1989). Received levels would be expected to diminish below 180 dB within 100 m (328 ft)(BP, 1997). Holliday *et al.* (1984) as cited in Richardson *et al.* (1995) estimated that in-water vibroseis sounds would diminish to the ambient noise level (about 70 dB) at distances of 3.5 to 5 km (2.2 to 3.1 mi). Since the spring leads tend north and east of Pt. Barrow, NMFS believes that Harrison Bay would be well south of any such lead, even during unusually open conditions. As a result, NMFS does not believe that vibroseis sounds would reach the offshore leads and influence bowhead whale behavior.

Comment 4: The AEWC recommends that CPA should be required to work out a Conflict Avoidance Agreement (CAA) with the AEWC to ensure that there is no impact to the bowhead migration. The issues that the AEWC will focus on are timing and location of the late-season activities.

Response: Based on the response to comment 3, NMFS does not believe that there will be any impact to bowhead whales because of the distance between vibroseis operations and the offshore leads used by bowheads during their eastward migration. Generally, CAAs are limited to activities that have the potential to disturb bowheads just prior to, and during the bowhead subsistence hunt and therefore, would be subject for discussion and resolution during the CAA negotiations. Therefore, because the CAA is intended to reduce impacts to the subsistence harvest of bowhead whales, if bowhead whales are unlikely to be taken, a CAA is not warranted. Finally, NMFS is unaware that there is a spring harvest of bowhead whales in the offshore waters of Harrison Bay that would warrant NMFS encouraging CPA to seek resolution of impacts on the bowhead harvest. It should be noted that a CAA is a formal agreement between the activity's participants and the AEWC. NMFS does not play a role in its development or implementation.

Comment 5: The MMC believes that the preliminary determinations made by NMFS seem reasonable provided that, prior to commencing on-ice seismic surveys after mid-March, a survey using experienced field personnel and trained dogs be conducted to identify potential seal structures along the planned on-ice seismic transmission routes. As noted in previous MMC correspondence, the MMC believes that the use of trained dogs is the only reliable method for locating seal lairs and other structures.

Response: As noted in CPA's application, and confirmed by CPA during the October 30, 2002, CPA will utilize trained dogs for any offshore vibroseis work that takes place after March 20, 2003, in waters ≥ 3 m (9.8 ft).

Comment 6: The MMC believes that in the event that trained dogs are not available, NMFS should not accept monitoring by humans as an alternative until it has been demonstrated that such monitoring is as effective as that carried out using dogs.

Response: NMFS does not agree with the recommendation of the MMC. There are only one or two individuals available in Alaska that have dogs trained to locate ringed seal lairs. These individuals may also have work, such as conducting scientific research, that would make them unavailable for monitoring at the precise time they might be needed. NMFS believes that, if necessary, trained dogs should be available first to activities that have the greatest potential for injury or mortality to ringed seals and/or their young, such as construction of ice roads.

Comment 7: The MMC also notes that CPA is planning to conduct surveys to a distance of 150 m (492 ft) on each side of all transit routes and recommends that such surveys be made a requirement of the IHA.

Response: This mitigation measure was proposed by CPA and has been incorporated by NMFS into CPA's IHA.

Comment 8: The MMC recommends that should a mortality or serious injury of a seal occur, the authorization specify that operations be suspended while NMFS determines whether steps can be taken to avoid further injuries or mortalities or whether an incidental take authorization under section 101(a)(5)(A) of the MMPA to cover such taking is needed.

Response: Since the taking by serious injury or mortality of ringed seals, or any taking of any other species of marine mammals is prohibited under this IHA, any incidents must be reported to the Regional Administrator, NMFS, or his designee, immediately. As stated in the IHA, takings in violation of the IHA may result in the modification, suspension or revocation of the IHA, depending upon the initial determination of the Regional Administrator.

Comment 9: Even though the effects of the activities proposed by the applicant, by themselves, are likely to be negligible, the MMC is concerned that the cumulative impacts of such activities in combination with similar activities being carried out elsewhere in the Beaufort Sea may, at some point, have more than negligible impacts on marine mammal populations. As such, the MMC recommends that the monitoring programs for such activities be expanded to enable NMFS to assess whether and, if so, to what extent long-term, cumulative effects may be occurring. Such information is essential for ensuring that subtle changes occurring over short periods of time (i.e., seasonally or annually) do not have

more than negligible impacts over longer time periods.

Response: Under section 101(a)(5)(D) of the MMPA, an applicant is responsible for conducting a monitoring program to provide information on whether its activity is having more than a negligible impact on affected species and stocks of marine mammals. There is no requirement for conducting monitoring to determine whether all activities in the Beaufort Sea might some day have a significant cumulative impact on marine mammals, a term recognized under the National Environmental Policy Act (NEPA).

As required by regulations and MMPA, on October 30, 2002, CPA's proposed monitoring plan was peer-reviewed and accepted by the participants at the peer-review workshop held in Anchorage, AK (Angliss (ed), 2002). This workshop was the fourth in recent years to discuss impacts of on-ice activities on marine mammals. At this meeting, NMFS recommended that the industry set up a research fund through an independent organization, such as the National Fish and Wildlife Federation or NOAA Sea Grant. A competitive process for directed funds might encourage marine mammal scientists to develop creative ways to get a better handle on site-specific and cumulative impacts on seals resulting from winter-time activities. The industry suggested that this should be a cooperative undertaking between government and industry. Participants indicated that they would continue to discuss this concept at future meetings.

It should be recognized that research and monitoring of Beaufort Sea marine mammals are also conducted by government agencies, or through government agency funding. This includes, for example, MMS' aerial bowhead whale surveys, an annual population assessment survey for bowhead whales, a study on contaminant levels in bowhead whale tissue, and a bowhead whale health assessment study. These latter three studies are funded by or through NMFS. Information on these projects has been provided in the past to the MMC by NMFS. Based on this multi-faceted monitoring program, NMFS has determined that the monitoring programs for both open-water and wintertime are adequate to identify impacts on marine mammals, both singly from the project and cumulatively throughout the industry.

Comment 10: The MMC believes that important types of long-term information should be gathered as part of the required monitoring plan including data on potential changes in density and abundance of potentially affected marine mammals, reproductive rates, foraging patterns, distribution, and contamination levels where oil and gas exploration, development, and production occurs.

Response: See response to comment 7. NMFS would welcome the participation of the MMC and/or its scientific advisors at its twice-annual peer-review meetings held to discuss monitoring proposed to be undertaken by Arctic-activity applicants for authorizations under section 101(a)(5) of the MMPA. In addition, NMFS would welcome suggestions from the MMC on future methodology to economically assess the suggested parameters for ice-seals during the Arctic winter.

Description of Habitat and Marine Mammals Affected by the Activity

A detailed description of the Beaufort Sea ecosystem can be found in several documents (Corps of Engineers, 1999; NMFS, 1999; Minerals Management Service (MMS), 1992, 1996, 2001) and is not repeated here.

Marine Mammals

The Beaufort/Chukchi Seas support a diverse assemblage of marine mammals, including bowhead whales (*Balaena mysticetus*), gray whales (*Eschrichtius robustus*), beluga (*Delphinapterus leucas*), ringed seals, spotted seals (*Phoca largha*) and bearded seals. Descriptions of the biology and distribution of these species and of others can be found in NMFS (1998, 1999), Western Geophysical (2000) and several other documents (Corps of Engineers, 1999; Lentfer, 1988; MMS, 1992, 1996; Angliss *et al.* (2001)). Angliss et al. (2001) is available online at:*http://www.nmfs.noaa.gov/prot__res/PR2/Stock__Assessment__Program/sars.html#Stock Assessment Reports*.

Ringed and, to a lesser degree, bearded seals could be affected by on-ice seismic activities. These species as well as other marine mammal species in the Beaufort Sea appear to have stable to increasing populations, which is a condition indicative of a healthy ecosystem. Polar bears, which prey on these species, are believed to be stable or increasing in numbers in the Beaufort Sea (U.S. Fish and Wildlife Service (USFWS), 2000 a, b). Similarly, the most recent estimate of bowhead whales shows the population has steadily increased annually at a growth rate of 3.2–3.3 percent to 9,860 (7,700–12,600) animals (International Whaling Commission, 2002). These increases are occurring in concert with subsistence harvest of these species including a 5–year harvest quota of 255 bowheads. The status of these marine mammal populations reflects the high quality of the habitat, which supports abundant and diverse prey populations.

Ringed seals are year-round residents in the Beaufort Sea. They are the most abundant and widely distributed species of marine mammal in the Beaufort Sea (Frost *et al.*, 1988). The world-wide population is estimated at 6 to 7 million (Stirling and Calvert, 1979). The Alaska stock of the Bering-Chukchi-Beaufort Sea area is roughly estimated at between 1 to 1.5 (Frost, 1985) to 3.3 to 3.6 million seals (Frost *et al.*, 1988). Although there are no recent population estimates in the Beaufort Sea, Bengston *et al.* (2000) estimated ringed seal abundance from Barrow south to Shismaref in a portion of the Chukchi Sea to be 245,048 animals from aerial surveys flown in 1999. In Angliss *et al.* (2001), marine mammal scientists state that there are at least that many ringed seals in the Beaufort Sea. Frost *et al.* (1999) reported that observed densities within the area of industrial activity along the Beaufort Sea coast were generally similar between 1985–87 and 1996–98, suggesting that the regional population has been relatively stable during this 13–year period of industrial activity.

During winter and spring, ringed seals inhabit landfast ice and offshore pack ice. Seal densities are highest on stable landfast ice but significant numbers of ringed seals also occur in pack ice (Wiig *et al.*, 1999). Seals congregate at holes and along cracks or deformations in the ice (Frost *et al.*, 1999). Breathing holes are established in landfast ice as the ice forms in autumn and maintained by seals throughout the winter. Adult ringed seals maintain an average of 3.4 holes per seal (Hammill and Smith, 1989). Some holes may be abandoned as winter advances, probably in order for seals to conserve energy by maintaining fewer holes (Brueggeman and Grialou, 2001). As snow accumulates, ringed seals excavate lairs in snowdrifts surrounding their breathing holes, which they use for resting and for the birth and nursing of their single pups in late March to May (McLaren, 1958; Smith and Stirling, 1975; Kelly and Quakenbush, 1990). Pups have been observed to enter the water, dive to over 10 m (32.8 ft), and return to the lair as early as 10 days after birth (Brendan Kelly, personal communication, June 2002), suggesting pups can survive the cold water temperatures at a very early age. Mating occurs in late April and May. From mid-May through July, ringed seals haul out in the open air at

holes and along cracks to bask in the sun and molt.

The seasonal distribution of ringed seals in the Beaufort Sea is affected by a number of factors, but a consistent pattern of seal use has been documented since monitoring began over 20 years ago by using aerial surveys. Seal densities have historically been substantially lower in the western than the eastern part of the Beaufort Sea (Burns and Kelly, 1982; Kelly, 1988). Frost *et al.* (1999) reported consistently lower ringed seal densities in the western versus eastern sectors they surveyed in the Beaufort Sea during 1996, 1997, and 1998. The relatively low densities appear to be related to much of the area occurring between the shore and the barrier islands, which is generally shallow. This area of historically low ringed seal density is also the focus for much of the recent on-ice seismic surveys.

The estimated number of ringed seals likely to be in the 846–mi² (2,190–km²) activity area is less than 3,900 animals. This estimate is based on a density of 1.73 seals per km², which was derived from the most current aerial surveys of the region. Frost and Lowry (1999) reported an observed density of 0.61 ringed seals per km² on the fast ice from aerial surveys conducted in spring 1997 of an area (Sector B2) overlapping the activity area, which is in the range of densities (0.28–0.66) reported for the Northstar project from 1997 to 2001 (Moulton *et al.*, 2001). This value (0.61) was adjusted to account for seals hauled out but not sighted by observers (x 1.22, based on Frost *et al.* (1988)) and seals not hauled out during the surveys (x 2.33, based on Kelly and Quakenbush (1990)) to obtain the density of 1.73 seals/km2. This estimate covered an area from the coast to about 2–20 miles beyond the activity area, and it assumed that habitat conditions were uniform and, therefore, it was not adjusted for water depth. Since a high proportion (≤ 60 percent) of the activity area is within water less than 3 m (9.8 ft) deep, which Moulton *et al.* (2001) reported for Northstar supported about five times fewer seals (0.12–0.13 seals/km²) than the 0.61 seals reported by Frost and Lowry, the actual number of ringed seals is probably closer to slightly more than half of the 3,900 seals or about 2,000 seals. This estimate is calculated as follows: (1) 1,314 km*2* x 0.13 x 1.22 x 2.33 = 486 seals in area having water depths of 0–3 meter (60 percent) in activity area; (2) 876 km*2* x 0.61 x 1.22 x 2.33 = 1,519 seals in area having water depths over 3 meters (40 percent) in activity area; and (3) combining the two numbers gives an estimate of 2,005 seals or approximately 2,000 for the entire activity area. Observed densities of ringed seals reported over 15 years ago in the region of the activity area from 1985 through 1987 (0.85, 1.09, and 1.11 seals per km2) were not used in this analysis, since an estimate was available within the last five years (Frost and Lowry, 1999).

The bearded seal inhabits the Bering, Chukchi, and Beaufort seas (Burns and Frost, 1979). Numbers are considerably higher in the Bering and Chukchi seas, particularly during winter and early spring. Early estimates of bearded seals in the Bering and Chukchi seas range from 250,000 to 300,000 (Popov, 1976; Burns, 1981). Reliable estimates of bearded seal abundance in Alaska waters are unavailable. Since there is no evidence of a decline in the population, the population is presumed to be healthy. Bearded seals are generally associated with pack ice and only rarely use shorefast ice (Burns and Harbo, 1972). Bearded seals occasionally have been observed maintaining breathing holes in annual ice and even hauling out from holes used by ringed seals (Mansfield, 1967; Stirling and Smith, 1977). However, since bearded seals are normally found in broken ice that is unstable for on-ice seismic operation, bearded seals will be rarely encountered during seismic operations.

There are no reliable estimates for bearded seals in the Beaufort Sea or in the activity area (Angliss *et al.*, 2001), but recent surveys show that few bearded seals inhabit the activity area during December through May. An indication of their low numbers is provided by the results of aerial surveys conducted east of the activity area near the Northstar and Liberty development sites. Three to 18 bearded seals were observed in these areas compared to 1,911 to 2,251 ringed seals in the spring of 1999 through 2001 (Moulton *et al.*, 2001; Moulton and Elliott 2000; Moulton *et al.*, 2000). Similarly small numbers of bearded seals would be expected to occur in the activity area, where habitat is even less favorable because of the high proportion of shallow water area.

Potential Effects on Marine Mammals

NMFS and CPA anticipate that only small numbers of ringed seals and, if encountered, very small numbers of bearded seals will be affected. Any takes that occur would result from short-term disturbances by noise and physical activity associated with on-ice seismic operations. While operations have the potential to disturb and temporarily displace some seals, any impacts will likely be confined to small numbers of seals in the immediate vicinity of the activities.

Burns and Kelly (1982) concluded that displacement of ringed seals in close proximity (within 150 m (492 ft)) to seismic lines does occur, and ringed seal pupping in shorefast ice habitats within this distance of an on-ice shot line in favorable ringed seal habitat are likely to be disturbed by vibroseis operations. However, considering (1) the limited area of seismic surveys, (2) the non-random distribution of ringed seals, (3) avoidance by seismic operator of optimal seal habitat (i.e., areas of extensive pressure ridging and snow accumulation) due to safety and operational constraints,(4) occurrence of most of the on-ice seismic surveys in shallow and near shore waters where ringed seal densities are low, (5) the relatively large size of the ringed seal population in the Beaufort Sea and throughout Alaska, and (6) the lack of evidence of on-ice seismic activity negatively affecting the reproductive viability or distribution of the ringed seal population, the disturbance is not likely to have any effect on the ringed or bearded seal populations as a whole.

Aerial survey data collected from 1985 to 1987 and 1997 indicate that ringed seal densities in the fast ice of the region of the activity area as well as among different section of the Beaufort Sea are highly variable among years (Frost *et al.*, 1999). The reported inter-annual variability in overall average density during these years in the region of the activity area was 0.61 to 1.11 seals per km². Based on an estimated rate of temporary displacement determined by Burns (1981) of 0.6 ringed seals per nm² (0.52 per mile) of area subjected to seismic activity, a maximum of 832 seals could be displaced from 1,600 mi (2,575 km) of seismic surveys assuming a uniform distribution. However, since the distribution is not uniform and most of the activity area is marginal habitat for ringed seals, considerably fewer seals would likely be temporarily displaced by the seismic operations. Furthermore, the proposed seismic operations will be concentrated in 143 mi² (378 km²) or about 17 percent of the 846 mi² (2,190 km²) activity area. Consequently, a more accurate maximum limit of the potential take of ringed seals by the proposed seismic operations is 340 (17 percent x 2000) seals, which would be considerably higher than any incidental take of seals in birthing lairs.

Pup mortality could occur if any of these animals were nursing and displacement was protracted. However, due to mitigation measures undertaken by the industry and because it is highly

unlikely that a nursing female would abandon her pup given the normal levels of disturbance from the proposed activities and the typical movement patterns of ringed seal pups among different holes as reported by Lydersen and Hammill (1993), pup mortality is unlikely. Similarly, Kelly and Quakenbush (1990) observed that radio-tagged seals used as many as four lairs spaced as far as 3,437 m (11,276 ft) apart, with mean distances for males equaling 1,997 m (6,552 ft) and for females 634 m (2,080 ft). In addition, seals have multiple breathing holes. Pups may use more holes than adults (mean 8.7), but the holes are generally closer together (Lydersen and Hammill, 1993). Holes have been found as far apart as 0.9 km (0.56 mi). This pattern of use indicates that adult seals and pups can move away from seismic activities, particularly since the seismic equipment does not remain in any specific area for a prolonged time. Given the small proportion (<1 percent) of the population potentially disturbed by the proposed activity, impacts are expected to be negligible for the overall ringed and also bearded seal populations.

Masking effects on pinniped vocalizations and other natural sounds are expected to be limited. Although pulse repetition rates will be high during vibroseis surveys, the source levels of those pulses will be considerably lower than during open-water seismic surveys. This will considerably reduce the potential for masking.

Potential Effects on Subsistence

Residents of the village of Nuiqsut are the primary subsistence users in the activity area. The subsistence harvest during winter and spring is primarily ringed seals, but during the open-water period both ringed and bearded seals are taken. Nuiqsut hunters may hunt year round; however, in more recent years most of the harvest has been in open water instead of the more difficult hunting of seals at holes and lairs (McLaren, 1958; Nelson, 1969). The most important area for Nuiqsut hunters is off the Colville River Delta, between Fish Creek and Pingok Island, which corresponds to approximately the eastern half to the activity area. Seal hunting occurs in this area by snow machine before spring break-up and by boat during summer. Subsistence patterns may be reflected through the harvest data collected in 1992 where Nuiqsut hunters harvested 22 of 24 ringed seals and all 16 bearded seals during the open water season from July to October (Fuller and George, 1997). Only a small number of ringed seals was harvested during the winter to early spring period, which corresponds to the time of the proposed on-ice seismic operations.

Based on harvest patterns and other factors, on-ice seismic operations in the activity area are not expected to have an unmitigable adverse impact on subsistence uses of ringed and bearded seals because:

(1) Operations would end before spring breakup, after which subsistence hunters harvest most of their seals.

(2) Operations would temporarily displace relatively few seals, since most of the habitat in the activity area is marginal to poor and supports relatively low densities of seals during winter. Displaced seals would likely move a short distance and remain in the area for potential harvest by native hunters (Frost and Lowry, 1988; Kelly *et al.*, 1988).

(3) The area where seismic operations would be conducted is small compared to the large Beaufort Sea subsistence hunting area associated with the extremely wide distribution of ringed seals.

In order to ensure the least practicable adverse impact on the species and the subsistence use of ringed seals, all activities will be conducted as far as practicable from any observed ringed seal structure, and crews will be required to avoid hunters and the locations of any seals being hunted in the activity area, whenever possible. Finally, the applicant will consult with subsistence hunters of Nuiqsut and provide the community, the North Slope Borough, and the Inupiat Community of the North Slope with information about its planned activities (timing and extent) before initiating any on-ice seismic activities.

Mitigation

Similar to work in previous years, NMFS expects the following mitigation will be undertaken by the applicant to ensure that any taking will be at the lowest level practicable. All activities will be required to be conducted in a manner that minimizes adverse effects on ringed and bearded seals and their habitat. Activities must be conducted as far as practicable from any observed ringed seals or ringed seal lair. For example, no energy source may be placed over an observed ringed seal lair and only vibrator-type energy-source equipment will be used. Seismic crews will receive training so that they can recognize potential ringed seal lairs and adjust their seismic operations. Furthermore, if seismic operations go beyond March 20, 2003 in waters ≥ 3 m (9.8 ft), a survey using trained dogs will be completed in all areas where surface blading will be conducted. This survey will identify all active seal holes/birthing lairs or hole/lair habitats so they can be avoided by seismic and camp operations to the greatest extent practicable. If trained dogs are not available, then the NMFS Regional Administrator or his designee will be promptly notified to determine possible alternative monitoring that would identify potential ringed seal habitat by trained marine mammal biologists based on the characteristics of the ice (i.e., deformation, cracks, etc.).

Monitoring and Reporting

Ringed seal pupping occurs in lairs from late March to mid-to-late April (Smith and Hammill, 1981). Prior to commencing on-ice seismic surveys after March 20th, a survey using experienced field personnel and trained dogs will be conducted to identify potential seal structures along the planned on-ice seismic transmission routes. The seal structure survey will be conducted before selection of precise transit routes to ensure that seals, particularly pups, are not injured by equipment. The locations of all seal structures will be recorded by Global Positioning System (GPS), staked, and flagged with surveyor's tape. Surveys will be conducted 150 m (492 ft) to each side of the transit routes. Actual width of route may vary depending on wind speed and direction, which strongly influence the efficiency and effectiveness of dogs locating seal structures. Survey will only be conducted in the portions of the activity area where water depths exceed 3 m (9.8 ft). Few, if any, seals inhabit ice-covered waters below 3 m (9.8 ft) due to water freezing to the bottom or poor prey availability caused by the limited amount of ice-free water.

The level of take, while anticipated to be negligible, will be assessed by conducting a second seal structure survey immediately after the end of the seismic surveys. A single on-ice survey will be conducted by biologists on snowmachines using a GPS to relocate and determine the status of seal structures located during the initial survey. The status (active vs. inactive) of each structure will be determined to assess the level of incidental take by seismic operations. The number of active seal structures abandoned between the initial survey and the final survey will be the basis for enumerating take. If dogs are not available for the initial survey, take will be determined by using observed densities of seal on ice reported by Moulton *et al.* (2001) for the Northstar project, which is

approximately 20 nm (37 km) from the eastern edge of the proposed activity area.

In the event that seismic surveys can be completed in that portion of the activity area ≥ 3 m (9.8 ft) before mid-March, no field surveys would be conducted of seal structures. Under this scenario, surveys would be completed before pups are born and disturbance would be negligible. Therefore, take estimates would be determined for only that portion of the activity area exposed to seismic surveys after March 20, which would be in water 3 m (9.8 ft) or less deep. Take for this area would be estimated by using the observed density (13/100 km^2) reported by Moulton *et al.* (2001) for water depths between 0 to 3 m (0 to 9.8 ft) in the Northstar project area, which is the only source of a density estimate stratified by water depth for the Beaufort Sea. This would be an overestimation requiring a substantial downward adjustment to reflect the actual take of seals using lairs, since few if any of the structures in these water depths would be used for birthing, and Moulton et al. (2001) estimate includes all seals. This monitoring program was reviewed at the fall 2002 on-ice meeting sponsored by the National Marine Mammal Laboratory, NMFS, in Seattle and found acceptable.

An annual report must be submitted to NMFS within 90 days of completing the year's activities.

National Environmental Policy Act (NEPA)

As a result of the information provided in EAs prepared in 1993 and 1998 for winter seismic activities, NOAA concluded that implementation of either the preferred alternative or other alternatives identified in the EA would not have a significant impact on the human environment. Therefore, an Environmental Impact Statement was not prepared. Accordingly, because the proposed action discussed in this document is not substantially different from the 1992 and 1998 actions, and because a reference search has indicated that no significant new scientific information or analyses have been developed in the past several years significant enough to warrant new NEPA documentation, this action is categorically excluded from further review under NOAA Administrative Order 216–6.

Endangered Species Act (ESA)

NMFS has determined that no species listed as threatened or endangered under the ESA will be affected by issuing an authorization under section 101(a)(5)(D) of the MMPA.

Conclusions

The anticipated impact of winter seismic activities on the species or stock of ringed and bearded seals is expected to be negligible for the following reasons:

(1) The activity area supports a small proportion (<1 percent) of the ringed seal populations in the Beaufort Sea;

(2) Most of the winter-run seismic lines will be on ice over shallow water where ringed seals are absent or present in very low abundance. Over 60 percent of the activity area is near shore and/or in water less than 3 m (9.8 ft) deep, which is generally considered poor seal habitat. Moulton *et al.* (2001) reported that only 6 percent of 660 ringed seals observed on ice in the Northstar project area were in water between 0 to 3 m (0 to 9.8 ft)deep.

(3) Seismic operators will avoid moderate and large pressure ridges, where seal and pupping lairs are likely to be most numerous, for reasons of safety and because of normal operational constraints;

(4) Many of the on-ice seismic lines and connecting ice roads will be laid out and explored during January and February, when many ringed seals are still transient, and considerably before the spring pupping season;

(5) The sounds from energy produced by vibrators used during on-ice seismic programs typically are at frequencies well below those used by ringed seals to communicate (1000 Hz). Thus, ringed seal hearing is not likely to be very good at those frequencies and seismic sounds are not likely to have strong masking effects on ringed seal calls. This effect is further moderated by the quiet intervals between seismic energy transmissions.

(6) There has been no major displacement of seals away from on-ice seismic operations (Frost and Lowry, 1988). Further confirmation of this lack of major response to industrial activity is illustrated by the fact that there has been no major displacement of seals near the Northstar Project. Studies at Northstar have shown a continued presence of ringed seals throughout winter and creation of new seal structures (Williams *et al.*, 2001).

(7) Although seals may abandon structures near seismic activity, studies have not demonstrated a cause and effect relationship between abandonment and seismic activity or biologically significant impact on ringed seals. Studies by Williams *et al.* (2001), Kelley *et al.* (1986, 1988) and Kelly and Quakenbush (1990) have shown that abandonment of holes and lairs and establishment or re-occupancy of new ones is an ongoing natural occurrence, with or without human presence. Link *et al.* (1999) compared ringed seal densities between areas with and without vibroseis activity and found densities were highly variable within each area and inconsistent between areas (densities were lower for 5 days, equal for 1 day, and higher for 1 day in vibroseis area), suggesting other factors beyond the seismic activity likely influenced seal use patterns. Consequently, a wide variety of natural factors influence this patterns of seal use including time of day, weather, season, ice deformation, ice thickness, accumulation of snow, food availability and predators as well as ring seal behavior and populations dynamics.

In winter, bearded seals are restricted to cracks, broken ice, and other openings in the ice. On-ice seismic operations avoid those areas for safety reasons. Therefore, any exposure of bearded seals to on-ice seismic operations would be limited to distant and transient exposure. Bearded seals exposed to a distant on-ice seismic operation might dive into the water. Consequently, no significant effects on individual bearded seals or their population are expected, and the number of individuals that might be temporarily disturbed would be very low.

As a result, CPA believes the effects of on-ice seismic are expected to be limited to short-term and localized behavioral changes involving relatively small numbers of seals. As NMFS came to a similar finding in the EA prepared in 1998 for on-ice seismic activity in the Beaufort Sea, NMFS has determined that these changes in behavior are expected to be negligible (NMFS, 1998). Therefore, the potential effects of the proposed on-ice seismic operations during 2003 are unlikely to result in more than small numbers of seals being affected, will have no more than a negligible impact on ringed and bearded seal stocks and will not have an unmitigable adverse impact on subsistence uses of these two species.

Authorization

For the reasons described previously in this document, NMFS has issued an IHA to CPA for a 5–month period, provided the mitigation, monitoring, and reporting requirements described in this document and the IHA are undertaken.

Dated: March 19, 2003.

Laurie K. Allen,

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

[FR Doc. 03–7069 Filed 3–24–03; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in India

March 19, 2003.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

EFFECTIVE DATE: March 25, 2003.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the Bureau of Customs and Border Protection Web site at *http://www.customs.gov*. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel Web site at *http://otexa.ita.doc.gov*.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (*see* **Federal Register** notice 68 FR 1599, published on January 13, 2003). Also see 67 FR 68569, published on November 12, 2002.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 19, 2003.

Commissioner,

Bureau of Customs and Border Protection, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 1, 2002, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 2003 and extends through December 31, 2003.

Effective on March 25, 2003, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
338/339	5,077,832 dozen.
340/640	2,774,622 dozen.
341	5,712,802 dozen of which not more than 3,463,684 dozen shall be in Category 341–Y [2].
347/348	992,420 dozen.
351/651	402,569 dozen.
363	72,105,608 numbers.
Group II	
200, 201, 220, 224–227, 237, 239pt. [3], 300, 301, 331pt. [4], 332, 333, 352, 359pt. [5], 360–362, 603, 604, 611–620, 624–629, 631pt. [6], 633, 638, 639, 643–646, 652, 659pt. [7], 666pt. [8], 845, 846 and 852, as a group	152,929,380 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2002.

[2] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054.

[3] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[4] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.

[5] Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[6] Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[7] Category 659pt.: all HTS numbers except 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510 and 6406.99.1540.

[8] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9884, 9404.90.8522 and 9404.90.9522.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 03–6976 Filed 3–24–03 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increase of a Designated Consultation Level for Certain Wool Textile Products Produced or Manufactured in Mexico

March 19, 2003.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection increasing a designated consultation level.

EFFECTIVE DATE: March 25, 2003.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the Bureau of Customs and Border Protection Web site at *http://www.customs.gov*. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel Web site at *http://otexa.ita.doc.gov*.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The unused portion of the 2002 special increase in Category 433 is being recredited to the 2003 limit.

The level does not apply to NAFTA (North American Free Trade Agreement) originating goods, as defined in Annex 300–B, Chapter 4 and Annex 401 of the agreement. In addition, this consultation level does not apply to textile and apparel goods, assembled in Mexico, in