Franklin Court Building, 1099 14th Street, NW, Washington, D.C.

Docket Number: 05–005.

Applicant: University of Vermont, Burlington Vermont, 05405.

Instrument: Excimer Laser.

Manufacturer: TuiLaser AG, Germany.

Intended Use: See notice at 70 FR 9046, February 24, 2005.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides: (1) 300 mJ/pulse at 100 Hz at 248 nm, (2) a power level above the laser ablation threshold and (3) very fast rise time.

The National Institute of Standards and Technology and a university research laboratory advise that (1) these capabilities are pertinent to the applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. E5–1492 Filed 4–1–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 122304A]

Taking of Marine Mammals Incidental to Specified Activities; On-ice Seismic Operations in the Beaufort Sea

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) to take small numbers of marine mammals, by harassment, incidental to conducting on-ice vibroseis seismic operations from Milne Point to the eastern channel of the Colville River in the U.S. Beaufort Sea to a distance offshore of 2.3 nautical miles (nm)(4.3 kilometers (km)) has been issued to ConocoPhillips Alaska (CPA) for a period of one year.

DATES: Effective from March 29, 2005 through March 28, 2006.

ADDRESSES: The authorization and 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. The application is also available at: *http://www.nmfs.noaa.gov/prot__res/PR2/Small__Take/smalltake__info.htm#applications.*

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, Office of Protected Resources, NMFS, (301) 713–2289, ext 128 or Brad Smith, Alaska Region, NMFS, (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 marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

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

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. 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].

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

Summary of Request

On November 26, 2004, NMFS received an application from CPA for the taking, by harassment, of two species of marine mammals incidental to conducting an on-ice seismic survey program. The seismic operations will be conducted from Milne Point to the eastern channel of the Colville River in the Alaskan Beaufort Sea to a distance offshore of 2.3 nm (4.3 km), an area encompasing approximately 51 mi2 (132.1 km^2). Water depths in most (greater than 95 percent) of the planned survey area are less than 10 ft (3 m).

The purpose of the project is to gather information about the subsurface of the earth by measuring acoustic waves, which are generated on or near the surface. The acoustic waves reflect at boundaries in the earth that are characterized by acoustic impedance contrasts.

Description of the Activity

The seismic surveys use the ''reflection'' method of data acquisition. Seismic exploration uses a controlled energy source to generate acoustic waves that travel through the earth, including sea ice and water, as well as sub-sea geologic formations, and then uses ground sensors to record the reflected energy transmitted back to the surface. When acoustic energy is generated, compression and shear 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. 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 the various equipment and vehicles used to transport seismic equipment offshore for exploration activities. These ice conditions generally exist from 1 January until 31 May in the Beaufort Sea. 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 wheeled vehicles often require trail clearance with bulldozers for adequate access to and within the site. Crews with tracked vehicles are typically limited by heavy snow cover and may require trail clearance beforehand.

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 begin recording data. 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, or 220 ft, in most applications) and repeats the process. In a typical 16- to 18–hour day, a surveys will complete 6–16 km (4 to 10 linear miles) in 2–dimensional seismic operations and 24 to 64 km (15 to 40 linear miles) in a 3–dimensional seismic operation.

Comments and Responses

A notice of receipt and request for 30–day public comment on the application and proposed authorization was published on February 8, 2005 (70 FR 6626). During the 30–day public comment period, NMFS did not receive any comments.

Description of Habitat, Marine Mammals Affected by the Activity, and the Impact on Affected Marine Mammals

A detailed description of the seismic survey activities, its associated marine mammals and the potential impacts on both the affected marine mammals and subsistence uses of those mammals can be found in the CPA application, a number of documents referenced in the CPA application (see **ADDRESSES**), and in the proposed IHA notice (70 FR 6626, February 8, 2005). That information is not repeated here.

Mitigation and Monitoring

The following mitigation measures will be implemented for the subject surveys: (1) All activities will be conducted as far as practicable from any observed ringed or bearded seal lair and no energy source will be placed over a ringed or bearded seal lair; (2) only vibrator-type energy-source equipment shown to have similar or lesser effects will be used; and (3) CPA will provide training for the seismic crews so they can recognize potential areas of ringed seal lairs and adjust the seismic operations accordingly.

Ringed seal pupping occurs in ice lairs from late March to mid-to-late April (Smith and Hammill, 1981). Prior to commencing on-ice seismic surveys in mid-March, a survey using experienced field personnel and trained dogs will be conducted along the planned on-ice seismic transmission routes in areas where water depths exceed 3 m (9.8 ft) to identify and determine the status of potential seal structures along the planned on-ice transit 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. Few, if any, seals inhabit ice-covered waters shallower than 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 shortly after the end of the seismic surveys. A single on-ice survey will be conducted by biologists on snow machines 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 harassment takes. If dogs are not available for the initial survey, takings will be determined by using observed densities of seals on ice reported by Moulton et al. (200I) for the Northstar development, which is approximately 24 nm (46 km) from the eastern edge of the proposed activity area.

CPA will also continue to work with NMFS, other Federal agencies, the State of Alaska, Native communities of Barrow and Nuiqsut, and the Inupiat Community of the Arctic Slope (ICAS) to assess measures to further minimize any impact from seismic activity. A Plan of Cooperation will be developed between CPA and Nuiqsut to ensure that seismic activities do not interfere with subsistence harvest of ringed or bearded seals.

In the event that seismic surveys can be completed in that portion of the activity area with water depths greater than or equal to 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 mid-March, which would be in water depths of 3 m (9.8 ft) or less. 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 NMFS' National Marine Mammal Laboratory in Seattle and found acceptable.

Reporting

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

Endangered Species Act (ESA)

NMFS has determined that no species listed as threatened or endangered under the ESA will be affected by issuing an incidental harassment authorization under section 101(a)(5)(D) of the MMPA to CPA for this on-ice seismic survey.

National Environmental Policy Act (NEPA)

The information provided in Environmental Assessments (EAs) prepared in 1993 and 1998 for winter seismic activities led NOAA to conclude 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. The proposed action discussed in this document is not substantially different from the 1992 and 1998 actions, and a reference search has indicated that no significant new scientific information or analyses have been developed in the past several years

that would warrant new NEPA documentation. Accordingly, this action is categorically excluded from further review under NOAA Administrative Order 216–6.

Determinations

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 and bearded 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 90 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) For reasons of safety and because of normal operational constraints, seismic operators will avoid moderate and large pressure ridges, where seal and pupping lairs are likely to be most numerous.

(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 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 population 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 and NMFS believe the effects of on-ice seismic are expected to be limited to short-term and localized behavioral changes involving relatively small numbers of seals. NMFS has determined, based on information in the application and supporting documents, that these changes in behavior will have no more than a negligible impact on the affected species or stocks of ringed and bearded seals. Also, the potential effects of the on-ice seismic operations during 2005 are unlikely to result in more than small numbers of seals being affected and will not have an unmitigable adverse impact on subsistence uses of these two species.

Authorization

NMFS has issued an IHA to CPA for conducting seismic surveys from Milne Point to the eastern channel of the Colville River in the U.S. Beaufort Sea, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: March 29, 2005.

Laurie K. Allen,

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

[FR Doc. 05–6612 Filed 4–1–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032905B]

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Caribbean Fishery Management Council (Council) and its Administrative Committee will hold meetings.

DATES: The meetings will be held on May 3 and 4, 2005. The Council will convene on Tuesday, May 3, 2005, from 9 a.m. to 5 p.m., and the Administrative Committee will meet from 5:15 p.m. to 6 p.m. The Council will reconvene on Wednesday, May 4, 2005, from 8:30 a.m. to 5 p.m., approximately.

ADDRESSES: The meetings will be held at Frenchman's Reef and Morning Star Marriott Beach Resort, #5 Estate Bakkeroe, St. Thomas, USVI.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Muńoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–1920, telephone (787) 766–5926.

SUPPLEMENTARY INFORMATION: The Council will hold its 118th regular public meeting to discuss the items contained in the following agenda:

May 3, 2005

9 a.m.–5 p.m.

Call to Order
Adoption of Agenda
Consideration of 117th Council Meeting Verbatim Minutes
Executive Director's Report
R/V Nancy Foster USVI Survey Update
Proposed rule for *Acropora palmata/Acropora cervicornis*
SFA Document–Final Action
CFMC Research Needs

5:15 p.m.– 6 p.m.

Administrative Committee Meeting
-AP/SSC/HAP Membership
-Budget 2002, 2003, 2004/05
-Pending travel and Contracts
-Other Business

May 4, 2005