ADDRESSES: Written comments, materials and data, and available reports and articles concerning this proposal should be sent directly to the Field Supervisor, Carlsbad Field Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Pete Sorensen, at the address listed above (telephone 760/431–9440, facsimile 760/431/9618).

SUPPLEMENTARY INFORMATION:

Background

The Peninsular Ranges population of the desert bighorn sheep occurs along the desert slopes of the Peninsular Ranges from the vicinity of Palm Springs, California, into northern Baja California, Mexico. Depressed recruitment, habitat loss and degradation, disease, loss of dispersal corridors, and random events (e.g., drought) affecting small populations threaten the desert bighorn sheep in the Peninsular Ranges.

On May 8 ,1992, the Service published a rule proposing endangered status for the Peninsular Ranges population of the desert bighorn sheep (57 FR 19837). The original comment period closed on November 4, 1992. The Service was unable to make a final listing determination regarding the bighorn sheep because of limited budget, other endangered species assignments driven by court orders, and higher listing priorities. In addition, a moratorium on listing actions (Pub. L. 104–6), which took effect on April 10, 1995, stipulated that no funds could be used to make final listing or critical habitat determinations. Now that funding has been restored, the Service is proceeding with a final determination for the Peninsular Ranges population of desert bighorn sheep.

Due to government reorganization in Mexico, appropriate officials were apparently not made aware of the Service's proposed listing of the Peninsular bighorn sheep. As a result, no comments were received from the Mexican government during the initial comment period on the period rule nor during the subsequent two extended comment periods (62 FR 16518, April 7, 1997, and 62 FR 32733, June 17, 1997). Recently the Service became award of apparent Mexican interest in providing comment on the proposed rule. Therefore, to ensure that the final listing decision is based on the best available information, and abide by the requirement that foreign countries be involved regarding listing decisions that may affect conservation of species in their area, the comment period is being reopened.

Written comments may now be submitted until November 12, 1997, to the Service office in the **ADDRESSES** section.

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: October 14, 1997.

Michael J. Spear,

Regional Director, Region 1.

[FR Doc. 97–28346 Filed 10–24–97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 970725179–7237–02; I.D. 071497A]

RIN 0648–AK33

Taking and Importing Marine Mammals; Taking Ringed Seals

Incidental to On-Ice Seismic Activities

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

ACTION: Proposed rule; request for comment and information.

SUMMARY: NMFS has received an application for renewal of a small take exemption and implementing regulations from BP Exploration (Alaska) (BPXA), on behalf of itself and several other oil exploration companies, for a small take of marine mammals incidental to winter seismic operations in the Beaufort Sea, AK. As a result of that application, NMFS is proposing regulations that would renew an authorization for the incidental taking of a small number of marine mammals. In order to grant the exemption and issue the regulations, 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 the proposed regulations.

DATES: Comments and information must be postmarked no later than November 26, 1997.

ADDRESSES: Comments should be addressed to Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226. A copy of the application and Environmental Assessment (EA) may be obtained by writing to the above address, or by telephoning one of the persons below (see **FOR FURTHER INFORMATION CONTACT**).

Comments regarding the burden-hour estimate or any other aspect of the collection of information requirement contained in this rule should be sent to the above individual and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead (301) 713–2055 or Brad Smith, Western Alaska Field Office, NMFS, (907) 271–5006.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS 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 NMFS finds that the taking will have a negligible impact on the species or stock(s) of marine mammals, will not have an unmitigable adverse impact on the availability of these species 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. Specific regulations governing the taking of ringed seals incidental to on-ice seismic activity, which were published on January 13, 1993 (58 FR 4091), expire on December 31, 1997.

Summary of Request

On July 11, 1997, NMFS received an application for an incidental, small take exemption under section 101(a)(5)(A) of the MMPA from BPXA, on behalf of itself, ARCO Alaska, Inc., Northern Geophysical of America, Inc. and Western Geophysical Co. to renew the incidental take regulations found in 50 CFR part 216, subpart J (previously 50 CFR part 228, subpart B), that govern the taking of ringed seals (*Phoca hispida*) incidental to seismic activities on the ice, offshore Alaska, for a period of 5 years. The applicants state that these activities are not likely to result in physical injuries to, and/or death of, any individual seals. Because seals are

expected to avoid the immediate area around seismic operations, they are not expected to be subject to potential hearing damage from exposure to underwater or in-air sounds from the operations. Any takings of ringed seals are anticipated to result from short-term disturbance by noise and physical activity associated with the seismic operations.

The scope of the petition is limited to pre-lease and post-lease seismic exploration activities in state waters and the Outer Continental Shelf in the Beaufort Sea, offshore Alaska, during the ice-covered seasons. Because a minimum of 3 to 4 ft (.9–1.2 m) of ice is required to safely support the weight of equipment, on-ice seismic operations are usually confined to the 5-month period between January through May. These seismic surveys will be conducted using two types of energy sources: (1) Vibroseis, which uses large trucks with vibrators mounted on them, that systematically put variable frequency energy into the earth and (2) waterguns or airguns carried by a sleigh or other vehicle. The vibroseis method is much more common. Over the next 5-year period, the applicants expect that on-ice seismic activity will cover approximately 22,500 line miles (mi)(3,610 kilometers (km)) or 4,500 line mi/yr (7,242 km/yr). This compares to 13,247 line mi (21,319 km) in the aggregate or 1,305 to 4,903 line mi/yr (2,100 to 7,891 km/yr), during the past 5-year period.

These regulations apply only to the incidental taking of ringed seals and bearded seals (*Erignathus barbatus*) by U.S. citizens engaged in seismic activities on the ice and associated activities in the Beaufort Sea from the shore outward to 45 mi (72 km) and from Point Barrow east to Demarcation Point and only from January 1 through May 31 of any calendar year. However, because bearded seals are normally found in broken ice that is unsuitable for on-ice seismic operations, few, if any, bearded seals will be impacted, and only ringed seals are expected to be harassed incidental to the seismic surveys.

The incidental, but not intentional, taking of ringed and bearded seals by U.S. citizens holding a Letter of Authorization (LOA) is proposed to be permitted during the following: (1) On-ice geophysical seismic activities using two types of energy sources (i.e., vibroseis or waterguns or airguns), and (2) Operation of transportation and camp facilities associated with seismic activities. Oil drilling activities will not be covered under this regulation; such activities will need a separate authorization under either section 101(a)(5)(A) or 101(a)(5)(D) of the MMPA.

Comments and Responses

On August 8, 1997 (62 FR 42737), NMFS published an advance notice of proposed rulemaking on the application and invited interested persons to submit comments, information, and suggestions concerning the application and the structure and content of regulations, if the application is accepted. Subsequent to the 30-day comment period on this notice, no comments were received.

Description of Seismic Activities

''Hardwater'' marine geophysical surveys are conducted before and after oil and gas leases are issued to gather information about subsurface geology and are divided into two classes of surveys: deep seismic and shallow hazard. Deep seismic surveys generally map strata deep beneath the earth's surface (1,000 to 20,000 ft) (364–7,290 m) in search of typical gas and oil-bearing geologic formations. Shallow hazard surveys, also known as ''site clearance'' or ''high resolution'' surveys, are conducted to gather information on potential near-surface hazards (0 to 1,000 ft)(0–364 m) which could be encountered in exploratory drilling.

After leases are issued and drilling begins, seismic operations shift from broad reconnaissance surveys to a combination of shallow hazard surveys and more detailed exploratory work. Post-lease surveys are limited to specific geographic areas or tracts that are of interest. Because each tract is surveyed in greater detail, the line density could increase although the geographic boundaries of the surveyed area would be smaller. As each survey is limited to a particular tract or prospect, future survey activity is anticipated to be widely scattered.

Deep seismic and shallow hazard surveys use the ''reflection'' method of acquiring data. Information abut the earth's subsurface is gathered by measuring acoustic (sound or seismic) waves that are generated on or near the surface. The process involves using a controlled energy source to generate acoustic waves that travel through the earth (in this case, sea ice and water as well as geologic formations beneath the sea) and ground sensors to record the reflected energy transmitted back to the surface.

Several vehicles are normally involved in the vibroseis method of collecting data. One or two vehicles with survey crews move ahead of the operation to mark the energy input points. Bulldozers may move ahead of the crew to prepare pathways for the vehicles. Typically, an on-ice data-recording operation includes 4 to 5 vibrators, 4 to 5 cable and sensor carriers, one recording vehicle and one vibrator tender. A winter-run seismic exploration crew may include 40 to 60 people or up to 110 people if a 3–dimensional survey is involved.

Acquiring seismic data by using airguns or waterguns is similar to the vibroseis technique, but the sound source is compressed air or water rather than vibrations. A detailed description of the methodology for seismic data collection can be found in the BPXA application and is not repeated here.

Marine Mammals

The Beaufort/Chukchi Seas support a diverse assemblage of marine mammals including bowhead whales (*Balaena glacialis*), gray whales (*Eschrichtius robustus*), belukha (*Delphinapterus leucas*), ringed seals, spotted seals (*Phoca largha*), bearded seals, walrus (*Odobenus rosmarus*) and polar bears (*Ursus maritimus*). Descriptions on the biology and distribution of these species, and others, can be found in several documents (BPXA 1996, Lentfer 1988, MMS 1992, NMFS 1990 and 1996, Small and DeMaster 1995). The only marine mammal species under the jurisdiction of NMFS that are anticipated being potentially taken by harassment by this action are ringed seals and possibly a few bearded seals. A description on the biology, distribution, and abundance of ringed seals and bearded seals in Alaska can be found in BPXA's application. Information on ringed seals can also be found in NMFS' 1992 EA on this action. Please refer to these documents for information on this species. For information on polar bears, a species under the jurisdiction of the U.S. Fish and Wildlife Service, please refer to rulemaking actions by that agency (see for example, 58 FR 60402, November 16, 1993, and 60 FR 42805, August 17, 1995).

Potential Impact of On-Ice Seismic Activities on Ringed Seals

Aerial survey data collected from 1970 through 1987 indicate that ringed seal densities in the fast ice of the Beaufort Sea are highly variable among years and among different sections from Point Barrow to Barter Island. The highest observed overall average density of ringed seals in the fast ice of the Beaufort Sea in any year has been 3.6 seals/nmi^2. The reported inter-annual variability in overall average density during 1970–87 was 0.96 to 3.57 seals/nmi^2. Based on an estimated

displacement due to seismic activity of 0.6 ringed seals/nm^2, the maximum number of ringed seals that might be temporarily displaced annually in connection with 4,500 linear mi (3,913 linear nautical mi (nmi)) of seismic surveys, assuming a random distribution of seals, is 2,350 seals.

The impact of seismic activities would likely be confined to the immediate vicinity of operations. Scientists conducted a ground examination of ringed seals structures to determine their fate along seismic and control lines and found no significant overall difference. However, they reported a significant difference in the fates of structures in relation to distance from seismic lines (within 150 m (492 ft) of the shot line in comparison to greater distances). These investigators concluded that displacement in close proximity (within 150 m (492 ft)) to seismic lines does occur, but based on data from aerial surveys however, there has been no major displacement of seals away from on-ice seismic operations as currently conducted in the Beaufort Sea.

Additional factors reduce the probability of incidental take. Portions of many of the seismic lines are likely to be on ice over shallow water where ringed seals are either absent or present in low numbers. Other parts of lines are likely to be within 2 mi (3.2 km) of shore within favorable seal habitat, but where density of seals is lowest. Within optimum seal habitat farther from shore, the seismic operators avoid moderate and large pressure ridges because of concerns for safety and normal operational constraints. Also, a significant portion of the on-ice seismic lines and connecting ice roads is expected to be laid out and explored during January and February when many ringed seals are still transient.

These studies as well as subsequent observations, indicate that some individual ringed seals in the immediate area of operations could be temporarily displaced by on-ice seismic activities. However, given the wide distribution of ringed seals and the relatively low density of breeding seals in the Beaufort Sea, only small numbers of animals are expected to be encountered. Therefore, while impacts might be significant for individual animals (an abandoned pup, for example), impacts are expected to be negligible for the overall ringed seal population.

Potential Impact of On-Ice Seismic Activities on Habitat

Ringed seal habitat may be potentially affected by construction of ice roads and camps, and removal of ice and snow along survey lines, camps and roadways. Because the potential area affected represents only a small part of the Beaufort Sea, and because ringed seal habitat is restored annually, any impact would be localized and temporary. Habitat restoration is often immediate, occurring during the first episode of snow and wind that follows passage of the equipment. Periodic storms are common in the Beaufort Sea region. Also, seismic crews do not place energy sources over observed ringed seal lairs, and they do not typically operate along pressure ridges where lairs are often located.

Because bearded seals are restricted to areas with cracks or other openings in the ice, and, because on-ice seismic operations must avoid these areas for safety reasons, few, if any, bearded seals will be impacted by seismic operations. Any exposure would be limited to short term and localized disturbance caused by noise with the possibility that an animal might dive into the water as a result of that disturbance.

Potential Impact of On-Ice Seismic Activities on Subsistence

On-ice seismic operations in the Beaufort Sea are not expected to have an impact on subsistence uses of ringed seals. Reasons include: (1) Subsistence harvests have declined over the past two decades as Eskimo lifestyles have changed and the MMPA prohibition on hunting marine mammals for purposes other than subsistence; (2) subsistence hunting for ringed seals is principally in regions north of Kuskokwim Bay in the Bering and Chukchi Seas, not the Beaufort Sea area; (3) seals are now hunted principally with rifles in leads or open water, not at breathing holes and lairs on the ice; and (4) areas where seismic operations are conducted are small in comparison to the Beaufort Sea subsistence hunting areas and displacement due to seismic activity is limited.

Additionally, because the applicants coordinate activities with the North Slope Borough and provide communities with information about the planned activities before initiating any on-ice seismic activities, impacts on subsistence needs are expected to be negligible.

Mitigation

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. Seismic crews will receive training so that they can recognize potential ringed seal liars and adjust their seismic operations accordingly.

Monitoring

The requirements for monitoring and reporting include designating a qualified individual under each operating LOA to observe and record the presence of ringed seals, bearded seals, and ringed seal lairs along shot lines and around camps.

Because there is no impact on subsistence hunting, independent peer review of the monitoring plan is not required.

Reporting

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

National Environmental Policy Act (NEPA)

In conjunction with a notice of proposed rulemaking on this issue on September 15, 1992 (57 FR 42538), NMFS released a draft EA that addressed the impacts on the human environment from regulations and the issuance of LOAs and the alternatives to that proposed action. As a result of the information provided in the EA, NOAA concluded that implementation of either the preferred alternative or other identified alternatives would not have a significant impact on the human environment. As a result of that finding, on August 12, 1992, NMFS signed a Finding of No Significant Impact (FONSI) statement and thereby determined that an EIS was not warranted and therefore, none was prepared. Because the proposed action discussed in this document is not substantially different from the 1992 action, and because a reference search has indicated that no new scientific information has been developed in the past 5 years significant enough to warrant new NEPA documentation, NMFS does not intend to prepare a new EA. A copy of the 1992 EA and FONSI is available upon request (see **ADDRESSES**).

Classification

This action has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as described in the Regulatory Flexibility Act, because members of the industry requesting the authorizations

are major energy exploration companies and their contractors, neither of which by definition are small businesses. Therefore, a regulatory flexibility analysis is not required.

This proposed rule contains collection-of-information requirements subject to the provisions of the Paperwork Reduction Act (PRA). This collection, which has an OMB control number of 0648–0151, has been submitted to OMB for review under section 3504(b) of the PRA. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

The reporting burden for this collection is estimated to be approximately 3 hours per response for requesting an authorization (as described in 50 CFR 216.104) and 30 hours per response for submitting reports, including the time for gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including, through the use of automated collection techniques or other forms of information technology. Please send any comments to NMFS and OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 216

Marine mammals, Reporting and recordkeeping requirements.

Dated: October 21, 1997.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 216 is proposed to be amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. Subpart J is revised to read as follows:

Subpart J—Taking of Ringed and Bearded Seals Incidental to On-Ice Seismic Activities

Sec.

Subpart J—Taking of Ringed and Bearded Seals Incidental to On-Ice Seismic Activities

§ 216.111 Specified activity and specified geographical region.

Regulations in this subpart apply only to the incidental taking of ringed seals (*Phoca hispida*) and bearded seals (*Erignathus barbatus*) by U.S. citizens engaged in on-ice seismic exploratory and associated activities over the Outer Continental Shelf of the Beaufort Sea of Alaska, from the shore outward to 45 mi (72 km) and from Point Barrow east to Demarcation Point, from January 1 through May 31 of any calendar year.

§ 216.112 Effective dates.

Regulations in this subpart are effective from January 1, 1998, through December 31, 2003.

§ 216.113 Permissible methods.

(a) The incidental, but not intentional, taking of ringed and bearded seals from January 1 through May 31 by U.S. citizens holding a Letter of Authorization is permitted during the course of the following activities:

(1) On-ice geophysical seismic activities involving vibrator-type, airgun, or other energy source equipment shown to have similar or lesser effects.

(2) Operation of transportation and camp facilities associated with seismic activities.

(b) All activities identified in § 216.113(a) must be conducted in a manner that minimizes to the greatest extent practicable adverse effects on ringed and bearded seals and their habitat.

(c) All activities identified in § 216.113(a) must be conducted as far as practicable from any observed ringed or bearded seal or ringed seal lair. No energy source must be placed over an observed ringed seal lair, whether or not any seal is present.

§ 216.114 Requirements for monitoring and reporting.

(a) Holders of Letters of Authorization are required to cooperate with the National Marine Fisheries Service and any other Federal, state, or local agency monitoring the impacts on ringed or bearded seals.

(b) Holders of Letters of Authorization must designate a qualified individual or individuals to observe and record the presence of ringed or bearded seals and ringed seal lairs along shot lines and around camps, and the information required in

§ 216.114(c).

(c) An annual report must be submitted to the Assistant Administrator for Fisheries within 90 days after completing each year's activities and must include the following information:

(1) Location(s) of survey activities.

(2) Level of effort (e.g., duration, area surveyed, number of surveys), methods used, and a description of habitat (e.g., ice thickness, surface topography) for each location.

(3) Numbers of ringed seals, bearded seals, or other marine mammals observed, proximity to seismic or associated activities, and any seal reactions observed for each location.

(4) Numbers of ringed seal lairs observed and proximity to seismic or associated activities for each location.

(5) Other information as required in a Letter of Authorization.

[FR Doc. 97–28276 Filed 10–22–97; 4:15 pm]

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