as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: May 31, 1995.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

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Small Takes of Marine Mammals Incidental to Specified Activities; Offshore Seismic Activities in Southern California

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

ACTION: Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

SUMMARY: NMFS has received a request from the Exxon Company, U.S.A., Thousand Oaks, CA, for authorization to take small numbers of cetaceans by harassment incidental to conducting a three-dimensional (3–D) seismic survey in the Santa Ynez Unit (SYU), located in the western portion of the Santa Barbara Channel, offshore California, in Federal waters. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize Exxon to incidentally take, by harassment, small numbers of cetaceans in the above mentioned area for a period of 1 year.

DATES: Comments and information must be received no later than July 7, 1995.

ADDRESSES: Comments on the application should be addressed to Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. A copy of the application and a list of references used in this document may be obtained by writing to this address or by telephoning one of the contacts listed below.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, Office of Protected Resources at 301–713–2055, or Craig Wingert, Southwest Regional Office at 310–980–4021.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs 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 regulations are issued.

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 the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth.

On April 30, 1994, the President signed Public Law 103–238, The Marine Mammal Protection Act Amendments of 1994. One part of this law added a new subsection 101(a)(5)(D) to the MMPA to establish 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. The MMPA defines ''harassment'' as:

> * * * any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) 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.

New subsection 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 small numbers 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 May 11, 1995, NMFS received an application from Exxon requesting an authorization for the harassment of small numbers of cetaceans incidental to conducting a 3–D seismic survey within the SYU, located in the western portion of the Santa Barbara Channel, off Southern California, in U.S. waters. As described in their application (Exxon, 1995) Exxon's survey will cover an area of approximately 303 km^2 of the outer continental shelf and will require approximately 2 months, commencing in August 1995, to complete. The survey will provide subsurface data that will enable Exxon to more accurately assess the oil and gas reservoirs in order to optimally locate future development wells from existing platforms.

Deep seismic surveys obtain data about formations several thousands of meters deep, such as the hydrocarbon-bearing Monterery Formation in the SYU. These surveys are accomplished by transmitting sound waves into the earth, which are reflected off subsurface formations and recorded with detectors in the water column. A typical marine seismic source is an airgun array that releases compressed air into the water, creating an acoustical energy pulse that is directed into the earth. Hydrophones spaced along a streamer cable just below the surface of the water receive the reflected energy from the subsurface formations and transmit data to the seismic vessel. On board the vessel, the signals are amplified, digitized, and recorded on magnetic tape.

The contract survey vessel will transverse the SYU area along east-west lines, approximately 24.9 km in length parallel to the coastline, with a few south-north lines approximately 9.65 km in length to be acquired over key geological features. There will be approximately 64 east-west transects and 6 south-north transects over the 2-month period. Field operations will be conducted 24 hours a day, although about half of that time will be consumed by turning the vessel and maneuvering. The airgun arrays will be shut down during turning and maneuvering and will be powered up slowly over a 5-minute period when turned back on. Eighty to 90 percent of the proposed survey will be accomplished with a single vessel. A second vessel will be used to undershoot platform structures and some complex subsurface geological features of limited areal extent. Two vessels abreast each other will be used for undershooting. The survey is designed to acquire the maximum amount of data in the minimum amount of time. Exxon plans to initiate the survey around August 1, 1995, and complete data collection approximately October 1, 1995, prior to the onset of adverse weather and gray whale migration in the Santa Barbara Channel area.

Exxon will employ a 90-m seismic vessel to acquire the survey data. The seismic source will consist of dual airgun arrays deployed 37.5 m apart and fired alternately to acquire separate records. Each array will consist of 18 airguns of differing strengths producing a total of 8.62 megapascals peak to peak energy. The airguns will be sleeve type guns towed at a depth of 5 to 10 m below the water surface. Paravanes will be deployed to separate the airgun arrays.

The proposed survey could potentially affect marine mammals due