

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

RIN 0648–XZ66

Marine Mammals; File No. 781–1824

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

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that a major amendment to Permit No. 781–1824–01 has been issued to the Northwest Fisheries Science Center (NWFSC, Dr. M. Bradley Hanson, Principal Investigator), 2725 Montlake Blvd. East, Seattle, Washington 98112–2097.

ADDRESSES: The permit amendment and related documents are available for review upon written request or by appointment in the following offices: Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206) 526–6150; fax (206) 526–6426.

FOR FURTHER INFORMATION CONTACT: Laura Morse or Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On November 9, 2010, notice was published in the *Federal Register* (75 FR 68757) that a request for an amendment to Permit No. 781–1824–01 to conduct research on cetacean species in the eastern North Pacific off the coast of Washington, Oregon, and California for scientific research had been submitted by the above-named applicant. The requested permit amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The permit amendment authorizes an increase in the number of Southern Resident killer whales (SRKW, *Orcinus orca*) suction cup tagged (from 10 to 20 animals annually) and allows satellite tagging of six SRKW with dart tags annually.

An environmental assessment (EA) analyzing the effects of the permitted activities on the human environment was prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Based on the analyses in the EA, NMFS determined that issuance of the permit would not significantly impact the quality of the human environment and that preparation of an environmental impact statement was not required. That determination is documented in a Finding of No Significant Impact (FONSI), signed on November 22, 2011.

As required by the ESA, issuance of this permit was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: December 8, 2011.

P. Michael Payne,
Chief, Permits and Conservation Division,
Office of Protected Resources, National
Marine Fisheries Service.

[FR Doc. 2011–32084 Filed 12–13–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

RIN 0648–XT57

Takes of Marine Mammals Incidental to Specified Activities; Marine Geophysical Survey in the Commonwealth of the Northern Mariana Islands, February to March 2012

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

ACTION: Notice; proposed Incidental Harassment Authorization; request for comments.

SUMMARY: NMFS has received an application from the Lamont-Doherty Earth Observatory of Columbia University (L–DEO) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to conducting a marine geophysical (seismic) survey in the Commonwealth of the Northern Mariana Islands (CNMI), a commonwealth in a political union with the U.S., February to March, 2012. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to L–DEO to incidentally harass, by Level B

harassment only, 22 species of marine mammals during the specified activity.

DATES: Comments and information must be received no later than January 13, 2012.

ADDRESSES: Comments on the application should be addressed to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is ITP.Goldstein@noaa.gov. NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

All comments received are a part of the public record and will generally be posted to <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications> without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

A copy of the application containing a list of the references used in this document may be obtained by writing to the above address, telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) or visiting the Internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>.

The National Science Foundation (NSF), which is providing funding to L–DEO to conduct the survey, has prepared a draft “Environmental Assessment Pursuant to the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* and Executive Order 12114 Marine Seismic Survey in the Commonwealth of the Northern Mariana Islands, 2012” (EA). NSF’s EA incorporates an “Environmental Assessment of a Marine Geophysical Survey by the R/V *Marcus G. Langseth* in the Commonwealth of the Northern Mariana Islands, February–March 2012,” prepared by LGL Ltd., Environmental Research Associates (LGL), on behalf of NSF and L–DEO, which is also available at the same Internet address. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Jolie Harrison, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the MMPA (16 U.S.C. 1371 (a)(5)(D)) directs the Secretary of Commerce (Secretary) to authorize, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for the incidental taking of small numbers of marine mammals shall be granted if NMFS finds that the taking will have 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 (where relevant). The authorization must set forth the permissible methods of taking, other means of effecting the least practicable adverse impact on the species or stock and its habitat, and requirements pertaining to the mitigation, monitoring and reporting of such takings. 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. Section 101(a)(5)(D) of the MMPA establishes a 45-day time limit for NMFS's 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 public comment period, NMFS must either issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On December 16, 2009, NMFS received an application from the L-DEO requesting NMFS to issue an IHA for the take, by Level B harassment only, of small numbers of marine mammals incidental to conducting a marine seismic survey in the CNMI during June to July, 2010. NMFS published a notice in the **Federal Register** (75 FR 8652) with preliminary determinations and a proposed IHA. Ship maintenance issues resulted in schedule challenges that forced the survey into an inclement weather period and after further consideration by the principal investigator and ship operator, the proposed seismic survey was postponed until a more suitable operational period could be achieved.

NMFS received a revised application on September 29, 2011, from L-DEO for the taking by harassment, of marine mammals, incidental to conducting a marine seismic survey in the CNMI within the U.S. Exclusive Economic Zone (EEZ) in depths from approximately 2,000 meters (m) (6,561.7 feet [ft]) to greater than 8,000 m (26,246.7 ft). L-DEO plans to conduct the proposed survey from approximately February 2 to March 21, 2012.

L-DEO plans to use one source vessel, the R/V *Marcus G. Langseth* (*Langseth*) and a seismic airgun array to collect seismic data over the Mariana outer forearc, the trench and the outer rise of the subducting and bending Pacific plate. In addition to the proposed operations of the seismic airgun array, L-DEO intends to operate a multibeam echosounder (MBES) and a sub-bottom profiler (SBP) continuously throughout the survey.

Acoustic stimuli (*i.e.*, increased underwater sound) generated during the operation of the seismic airgun array may have the potential to cause a short-term behavioral disturbance for marine mammals in the survey area. This is the principal means of marine mammal taking associated with these activities and L-DEO has requested an authorization to take 22 species of marine mammals by Level B harassment. Take is not expected to result from the use of the MBES or SBP, for reasons discussed in this notice; nor is take expected to result from collision with the vessel because it is a single vessel moving at a relatively slow speed during seismic acquisition within the survey, for a relatively short period of time (approximately 46 days). It is likely that any marine mammal would be able to avoid the vessel.

Description of the Specified Activity

L-DEO's proposed seismic survey in the CNMI will take place during February to March, 2012, in the area 16.5° to 19° North, 146.5° to 150.5° East (see Figure 1 of the IHA application). The proposed seismic survey will take place in water depths ranging from 2,000 m to greater than 8,000 m and consists of approximately 2,800 kilometers (km) 1,511.9 nautical miles [nmi]) of transect lines (including turns) in the study area. The seismic survey will be conducted in the U.S. Exclusive Economic Zone (EEZ) and in International Waters. The closest that the vessel will approach to any island is approximately 50 km (27 nmi) from Alamagan. The project is scheduled to occur from approximately February 2 to March 2, 2012. Some minor deviation from these dates is possible, depending on logistics and weather. The proposed seismic survey will be conducted over the Mariana outer forearc, the trench, and the outer rise of the subducting and bending Pacific plate. The objective is to understand the water cycle within subduction-zone systems. Subduction systems are where the basic building blocks of continental crust are made and where Earth's great earthquakes occur. Little is known about either of these processes, but water cycling through the system is thought to be the primary controlling factor in both arc-crust generation and megathrust seismicity.

The survey will involve one source vessel, the *Langseth*. The *Langseth* will deploy an array of 36 airguns as an energy source at a tow depth of 9 m (29.5 ft). The acoustic receiving system will consist of a single 6 km (3.2 nmi) long hydrophone streamer and 85 ocean bottom seismometers (OBSs). As the airgun is towed along the survey lines, the hydrophone streamer will receive the returning acoustic signals and transfer the data to the on-board processing system. The OBSs record the returning acoustic signals internally for later analysis. The OBSs to be used for the 2012 program will be deployed and most (approximately 60) will be retrieved during the cruise, whereas 25 will be left in place for one year.

The planned seismic survey (*e.g.*, equipment testing, startup, line changes, repeat coverage of any areas, and equipment recovery) will consist of approximately 2,800 km of transect lines (including turns) in the CNMI survey area (see Figure 1 of the IHA application). This includes one line and parts of three lines shown in Figure 1 of the IHA application that are shot twice at different shot intervals: The westernmost north-south line and the

western portions of the east-west lines. In addition to the operations of the airgun array, a Kongsberg EM 122 MBES and Knudsen Chirp 3260 SBP will also be operated from the *Langseth* continuously throughout the cruise. There will be additional seismic operations associated with equipment testing, ramp-up, and possible line changes or repeat coverage of any areas where initial data quality is sub-standard. In L-DEO's calculations, 25% has been added for those additional operations.

All planned seismic data acquisition activities will be conducted by L-DEO, the *Langseth*'s operator, with on-board assistance by the scientists who have proposed the study. The Principal Investigators are Drs. Doug Wiens (Washington University) and Daniel Lizarralde (Woods Hole Oceanographic Institution [WHOI]). The vessel will be self-contained, and the crew will live aboard the vessel for the entire cruise.

Vessel Specifications

The *Langseth*, owned by the National Science Foundation, will tow the 36 airgun array, as well as the hydrophone streamer, along predetermined lines. The *Langseth* will also deploy and retrieve the OBSs. When the *Langseth* is towing the airgun array and the hydrophone streamer, the turning rate of the vessel is limited to five degrees per minute. Thus, the maneuverability of the vessel is limited during operations with the streamer.

The vessel has a length of 71.5 m (235 ft); a beam of 17.0 m (56 ft); a maximum draft of 5.9 m (19 ft); and a gross tonnage of 3,834. The *Langseth* was designed as a seismic research vessel with a propulsion system designed to be as quiet as possible to avoid interference with the seismic signals emanating from the airgun array. The ship is powered by two 3,550 horsepower (hp) Bergen BRG-6 diesel engines which drive two propellers directly. Each propeller has four blades and the shaft typically rotates at 750 revolutions per minute. The vessel also has an 800 hp bowthruster, which is not used during seismic acquisition. The *Langseth*'s operation speed during seismic acquisition is typically 7.4 to 9.3 km per hour (hr) (km/hr) (4 to 5 knots [kts]). When not towing seismic survey gear, the *Langseth* typically cruises at 18.5 km/hr (10 kts). The *Langseth* has a range of 25,000 km (13,499 nmi) (the distance the vessel can travel without refueling).

The vessel also has an observation tower from which protected species visual observers (PSVO) will watch for marine mammals before and during the proposed airgun operations. When

stationed on the observation platform, the PSVO's eye level will be approximately 21.5 m (71 ft) above sea level providing the PSVO an unobstructed view around the entire vessel.

Acoustic Source Specifications

Seismic Airguns

The *Langseth* will deploy a 36 airgun array, with a total volume of approximately 6,600 cubic inches (in³). The airgun array will consist of a mixture of Bolt 1500LL and Bolt 1900LLX airguns ranging in size from 40 to 360 in³, with a firing pressure of 1,900 pounds per square inch (psi). The airguns will be configured as four identical linear arrays or "strings" (see Figure 2 of the application). Each string will have 10 airguns, the first and last airguns in the strings are spaced 16 m (52 ft) apart. Of the 10 airguns, nine airguns in each string will be fired simultaneously, whereas the tenth is kept in reserve as a spare, to be turned on in case of failure of another airgun. The four airgun strings will be distributed across an area of approximately 24 x 16 m (78.7 x 52.5 ft) behind the *Langseth* and will be towed approximately 140 m (459.3 ft) behind the vessel. The shot interval will be 37.5 m or 150 m (123 or 492.1 ft) during the study. The shot interval will be relatively short, approximately 15 to 18 seconds (s), for the MCS surveying with the hydrophone streamer (most of the seismic operations), and relatively longer, 150 m (or approximately 58 to 73 s), when recording data on the OBSs. During firing, a brief (approximately 0.1 s) pulse sound is emitted; the airguns will be silent during the intervening periods. The dominant frequency components range from two to 188 Hertz (Hz).

The tow depth of the array will be 9 m (29.5 ft) during the surveys. Because the actual source is a distributed sound source (36 airguns) rather than a single point source, the highest sound measurable at any location in the water will be less than the nominal source level. In addition, the effective source level for sound propagating in near-horizontal directions will be substantially lower than the nominal source level applicable to downward propagation because of the directional nature of the sound from the airgun array.

Metrics Used in This Document

This section includes a brief explanation of the sound measurements frequently used in the discussions of acoustic effects in this document. Sound

pressure is the sound force per unit area, and is usually measured in micropascals (μPa), where 1 pascal (Pa) is the pressure resulting from a force of one newton exerted over an area of one square meter. Sound pressure level (SPL) is expressed as the ratio of a measured sound pressure and a reference level. The commonly used reference pressure level in underwater acoustics is 1 μPa, and the units for SPLs are dB re: 1 μPa. SPL (in decibels [dB]) = 20 log (pressure/reference pressure).

SPL is an instantaneous measurement and can be expressed as the peak, the peak-peak (p-p), or the root mean square (rms). Root mean square, which is the square root of the arithmetic average of the squared instantaneous pressure values, is typically used in discussions of the effects of sounds on vertebrates and all references to SPL in this document refer to the root mean square unless otherwise noted. SPL does not take the duration of a sound into account.

Characteristics of the Airgun Pulses

Airguns function by venting high-pressure air into the water which creates an air bubble. The pressure signature of an individual airgun consists of a sharp rise and then fall in pressure, followed by several positive and negative pressure excursions caused by the oscillation of the resulting air bubble. The oscillation of the air bubble transmits sounds downward through the seafloor and the amount of sound transmitted in the near horizontal directions is reduced. However, the airgun array also emits sounds that travel horizontally toward non-target areas.

The nominal source levels of the airgun arrays used by L-DEO on the *Langseth* are 236 to 265 dB re 1 μPa (p-p) and the rms value for a given airgun pulse is typically 16 dB re 1 μPa lower than the peak-to-peak value (Greene, 1997; McCauley *et al.*, 1998, 2000a). However, the difference between rms and peak or peak-to-peak values for a given pulse depends on the frequency content and duration of the pulse, among other factors.

Accordingly, L-DEO has predicted the received sound levels in relation to distance and direction from the 36 airgun array and the single Bolt 1900LL 40 in³ airgun, which will be used during power-downs. A detailed description of L-DEO's modeling for marine seismic source arrays for protected species mitigation is provided in Appendix A of NSF's EA. These are the nominal source levels applicable to downward propagation. The effective source levels

for horizontal propagation are lower than those for downward propagation when the source consists of numerous airguns spaced apart from one another.

Appendix B(3) of NSF's EA discusses the characteristics of the airgun pulses. NMFS refers the reviewers to the IHA application and EA documents for additional information.

Predicted Sound Levels for the Airguns

To determine exclusion zones (EZs) for the airgun array to be used in the CNMI, it would be prudent to use the empirical values that resulted from the propagation measurements in the Gulf of Mexico (GOM) (Tolstoy *et al.*, 2009). Tolstoy *et al.*, (2009) reported results for propagation measurements of pulses from the *Langseth*'s 36 airgun, 6,600 in³ array in shallow-water (approximately 50 m [164 ft]) and deep-water depths (approximately 1,600 m [5,249 ft]) in the Gulf of Mexico (GOM) in 2007 and 2008. L-DEO has used these corrected empirical values to determine exclusion zones (EZs) for the 36 airgun array and modeled measurements for the single airgun; to designate EZs for purposes of

mitigation, and to estimate take for marine mammals in the CNMI.

Results of the GOM calibration study (Tolstoy *et al.*, 2009) showed that radii around the airguns for various received levels varied with water depth. The propagation also varies with the airgun array's tow depth. The depth of the airgun array was different in the GOM calibration study (6 m [19.7 ft]) than in the proposed survey (9 m); thus correction factors have been applied to the distances reported by Tolstoy *et al.* (2009). The correction factors used were the ratios of the 160, 180, and 190 dB distances from the modeled results for the 6,600 in³ airgun array towed at 6 m vs. 9 m. For a single airgun, the tow depth has minimal effect on the maximum near-field output and the shape of the frequency spectrum for the single airgun; thus, the predicted EZs are essentially the same at different tow depths. The L-DEO model does not allow for bottom interactions, and thus is most directly applicable to deep water. A detailed description of the modeling effort is provided in Appendix A of NSF's EA.

Using the corrected measurements (airgun array) or model (single airgun), Table 1 (below) shows the distances at which three rms sound levels are expected to be received from the 36 airgun array and a single airgun. The 180 and 190 dB re 1 μ Pa (rms) distances are the safety criteria for potential Level A harassment as specified by NMFS (2000) and are applicable to cetaceans and pinnipeds, respectively. If marine mammals are detected within or about to enter the appropriate EZ, the airguns will be powered-down (or shut-down, if necessary) immediately.

Table 1 summarizes the measured or predicted distances at which sound levels (160, 180, and 190 dB [rms]) are expected to be received from the 36 airgun array and a single airgun operating in deep water depths.

Table 1. Measured (array) or predicted (single airgun) distances to which sound levels \geq 190, 180, and 160 dB re: 1 μ Pa (rms) could be received in various water depth categories during the proposed survey in the CNMI, February to March, 2012.

Source and volume	Tow depth (m)	Water depth (m)	Predicted RMS radii distances (m)		
			190 dB	180 dB	160 dB
Single Bolt airgun (40 in ³)	9	Deep (> 1,000)	12	40	385
4 Strings 36 airguns (6,600 in ³)	9	Deep (> 1,000)	400	940	3,850

OBS Description and Deployment

Approximately 85 OBSs will be deployed by the *Langseth* before the survey, in water depths of 3,100 to 8,100 m (10,170 to 26,574.8 ft). There are three types of OBS deployments:

(1) Approximately 20 broadband OBSs located on the bottom in a wide two-dimensional (2D) array with a spacing of no more than 100 km (54 nmi);

(2) Approximately 5 short-period OBSs tethered in the water column above the trench areas deeper than 6 km (3.2 nmi); and

(3) Approximately 60 short-period OBSs located on the bottom in a 2D array with a spacing of about 75 km (40.5 nmi) (see Figure 1 of L-DEO's application).

The first two types will be left in place for one year for passive recording, and the third type will be retrieved after the seismic operations. OBSs deployed in water deeper than 5,500 m (18,044.6 ft) will require a tether to keep the instruments at a depth of 5,500 to 6,000 m (18,044.6 to 19,685 ft), as the instruments are rated to a maximum depth of 6,000 m. The lengths of the tethers will vary from 65 to 2,600 m

(213.3 to 8,530.2 ft). The tether will fall to the seafloor when the OBS is released.

Two different types of OBSs may be used during the 2012 program. The WHOI "D2" OBS has a height of approximately 1 m (3.3 ft) and a maximum diameter of 50 cm (inches [19.7 in]). The anchor is made of hot-rolled steel and weighs 23 kilograms (kg; pounds [50.7 lb]). The anchor dimensions are 2.5 \times 30.5 \times 38.1 cm (1 \times 12 \times 15 in). The Scripps Institution of Oceanography LC4x4 OBSs will also be used during the cruise. This OBS has a volume of approximately 1 m³ (35.3 ft³), with an anchor that consists of a large piece of steel grating (approximately 1 m²). Once an OBS is ready to be retrieved, an acoustic release transponder interrogates the OBS at a frequency of 9 to 11 kHz, and a response is received at a frequency of 9 to 13 kHz. The burn-wire release assembly is then activated, and the instrument is released from the anchor to float to the surface.

Along with the airgun operations, two additional acoustical data acquisition systems will be operated from the *Langseth* continuously during the survey. The ocean floor will be mapped

with the Kongsberg EM 122 MBES and a Knudsen 320B SBP. These sound sources will be operated continuously from the *Langseth* throughout the cruise.

MBES

The *Langseth* will operate a Kongsberg EM 122 MBES concurrently during airgun operations to map characteristics of the ocean floor. The hull-mounted MBES emits brief pulses of sound (also called a ping) (10.5 to 13, usually 12 kHz) in a fan-shaped beam that extends downward and to the sides of the ship. The transmitting beamwidth is 1° or 2° fore-aft and 150° athwartship and the maximum source level is 242 dB re: 1 μ Pa.

Each ping consists of eight (in water greater than 1,000 m) or four (less than 1,000 m) successive, fan-shaped transmissions, each encompassing a sector that extends 1° fore-aft. Continuous-wave pulses increase from 2 to 15 milliseconds (ms) long in water depths up to 2,600 m (8,530.2 ft), and frequency modulated (FM) chirp pulses up to 100 ms long are used in water greater than 2,600 m. The successive transmissions span an overall cross-track angular

extent of about 150°, with 2 ms gaps between the pulses for successive sectors.

SBP

The *Langseth* will also operate a Knudsen Chirp 3260 SBP continuously throughout the cruise simultaneously with the MBES to map and provide information about the sedimentary features and bottom topography. The beam is transmitted as a 27° cone, which is directed downward by a 3.5 kHz transducer in the hull of the *Langseth*. The nominal power output is 10 kilowatts (kW), but the actual maximum radiated power is 3 kW or 222 dB re 1 µPam. The pulse duration is up to 64 milliseconds (ms), and the pulse interval is one second, but a common mode of operation is to broadcast five pulses at one second intervals followed by a five second pause.

NMFS expects that acoustic stimuli resulting from the proposed operation of the single airgun or the 36 airgun array has the potential to harass marine mammals, incidental to the conduct of the proposed seismic survey. NMFS expects these disturbances to be temporary and result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of small numbers of certain species of marine mammals. NMFS does not expect that the movement of the *Langseth*, during the conduct of the seismic survey, has the potential to harass marine mammals

because of the relatively slow operation speed of the vessel (4.6 knots [kts]; 8.5 km/hr; 5.3 mph) during seismic acquisition.

Description of the Proposed Dates, Duration, and Specified Geographic Region

The survey will occur in the CNMI in the area 16.5° to 19° North, 146.5 to 150.5° East. The seismic survey will take place in water depths of 2,000 m to greater than 8,000 m. The *Langseth* will depart from Guam on February 5, 2012, and return to Guam on March 21, 2012. The *Langseth* will return to port from March 2 to 5, 2012. Seismic operations will be carried out for 16 days, with the balance of the cruise occupied in transit (approximately 2 days) and in deployment and retrieval of OBSs and maintenance (25 days). Some minor deviation from this schedule is possible, depending on logistics and weather (*i.e.*, the cruise may depart earlier or be extended due to poor weather; there could be additional days (up to three) of seismic operations if collected data are deemed to be of substandard quality).

Description of the Marine Mammals in the Area of the Proposed Specified Activity

Twenty-seven marine mammal species (20 odontocetes [dolphins and small- and large-toothed whales] and 7 mysticetes [baleen whales]) are known to or could occur in the CNMI study area. Several of these species are listed as endangered under the U.S.

Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*), including the North Pacific right (*Eubalaena japonica*), humpback (*Megaptera novaeangliae*), sei (*Balaenoptera borealis*), fin (*Balaenoptera physalus*), blue (*Balaenoptera musculus*), and sperm (*Physeter macrocephalus*) whales

Cetaceans are the subject of the IHA application to NMFS. There are not reported sightings of pinnipeds in the CNMI (*e.g.*, Department of the Navy, 2005). The dugong (*Dugong dugon*) is distributed throughout most of the Indo-Pacific region between approximately 27° North and South of the equator (Marsh, 2002), but it seems unlikely that dugongs have ever inhabited the Mariana Islands (Nishiwaki *et al.*, 1979). The dugong is also listed as endangered under the ESA. There have been some extralimital sightings in Guam, including a single dugong in Cocos Lagoon in 1974 (Randall *et al.*, 1975) and several sightings of an individual in 1985 along the southeastern coast (Eldredge, 2003). The dugong is the one marine mammal species mentioned in this document that is managed by the U.S. Fish and Wildlife Service (USFWS) and is not considered further in this analysis; all others are managed by NMFS. Table 2 (below) presents information on the abundance, distribution, population status, conservation status, and density of the marine mammals that may occur in the proposed survey area during February to March, 2012.

BILLING CODE 3510-22-P

Table 2. The habitat, regional abundance, and conservation status of marine mammals that may occur in or near the proposed seismic survey area in the CNMI. (See text and Tables 2 and 3 in L-DEO's application for further details.)

Species	Habitat	Regional Abundance ⁴	ESA ¹	MMPA ²	Density (#/1,000 km ²) ³
Mysticetes					
North Pacific right whale (<i>Eubalaena japonica</i>)	Pelagic and coastal	Few 100s	EN	D	0
Humpback whale (<i>Megaptera novaeangliae</i>)	Mainly nearshore, banks	938 to 1,107 ⁵	EN	D	0
Minke whale (<i>Balaenoptera acutorostrata</i>)	Pelagic and coastal	25,000 ⁶	NL	NC	0
Bryde's whale (<i>Balaenoptera edeni</i>)	Pelagic and coastal	20,000 to 30,000	NL	NC	0.41
Sei whale (<i>Balaenoptera borealis</i>)	Primarily offshore, pelagic	7,260 to 12,620 ⁷	EN	D	0.29
Fin whale (<i>Balaenoptera physalus</i>)	Continental slope, pelagic	13,620 to 18,680 ⁸	EN	D	0
Blue whale (<i>Balaenoptera musculus</i>)	Pelagic, shelf, coastal	NA	EN	D	0
Odontocetes					
Sperm whale (<i>Physeter macrocephalus</i>)	Pelagic, deep sea	29,674 ⁹	EN	D	1.23
Pygmy sperm whale (<i>Kogia breviceps</i>)	Deep waters off the shelf	NA	NL	NC	3.19
Dwarf sperm whale (<i>Kogia sima</i>)	Deep waters off the shelf	11,200 ¹⁰	NL	NC	7.65
Cuvier's beaked whale (<i>Ziphius cavirostris</i>)	Pelagic	20,000 ¹⁰	NL	NC	6.66
Longman's beaked whale (<i>Indopacetus pacificus</i>)	Deep water	NA	NL	NC	0.44
Blainville's beaked whale (<i>Mesoplodon densirostris</i>)	Pelagic	25,300 ¹¹	NL	NC	1.28
Ginkgo-toothed beaked whale	Pelagic	NA	NL	NC	0

(<i>Mesoplodon ginkgodens</i>)					
Rough-toothed dolphin (<i>Steno bredanensis</i>)	Deep water	146,000 ¹⁰	NL	NC	
Bottlenose dolphin (<i>Tursiops truncatus</i>)	Coastal, oceanic, shelf break	243,500 ¹⁰	NL	NC D - Western North Atlantic coastal	0.29
Pantropical spotted dolphin (<i>Stenella attenuata</i>)	Coastal and pelagic	800,000 ¹⁰	NL	NC D - Northeastern offshore	0.21
Spinner dolphin (<i>Stenella longirostris</i>)	Coastal and pelagic	800,000 ¹⁰	NL	NC D - Eastern	3.14
Striped dolphin (<i>Stenella coeruleoalba</i>)	Off continental shelf	1,000,000 ¹⁰	NL	NC	6.16
Fraser's dolphin (<i>Lagenodelphis hosei</i>)	Deep water	289,000 ¹⁰	NL	NC	4.47
Short-beaked common dolphin (<i>Delphinus delphis</i>)	Shelf, pelagic, seamounts	3,000,000 ¹⁰	NL	NC	9.63
Risso's dolphin (<i>Grampus griseus</i>)	Deep water, seamounts	175,000 ¹⁰	NL	NC	0.81
Melon-headed whale (<i>Peponocephala electra</i>)	Oceanic	45,000 ¹⁰	NL	NC	4.28
Pygmy killer whale (<i>Feresa attenuata</i>)	Deep, pantropical waters	39,000 ¹⁰	NL	NC	0.14
False killer whale (<i>Pseudorca crassidens</i>)	Pelagic	40,000 ¹⁰	NL Proposed EN - insular Hawaiian	NC	1.11
Killer whale (<i>Orcinus orca</i>)	Pelagic, shelf, coastal	8,500 ¹⁰	NL EN - Southern resident	NC D - Southern resident, AT1 transient	0.15
Short-finned pilot whale (<i>Globicephala macrorhynchus</i>)	Pelagic, shelf coastal	500,000 ¹⁰	NL	NC	1.59

NA = Not available or not assessed.

¹ U.S. Endangered Species Act: EN = Endangered, T = Threatened, NL = Not listed.

² U.S. Marine Mammal Protection Act: D = Depleted, NC = Not Classified.

³ Density estimate as listed in Table 3 of the application.

⁴ North Pacific (Jefferson *et al.*, 2008) unless otherwise indicated.

⁵ Western North Pacific (Calambokidis *et al.*, 2008).⁶ Northwest Pacific and Okhotsk Sea (IWC, 2010).⁷ North Pacific (Tillman, 1977).⁸ North Pacific (Ohsumi and Wada, 1974).⁹ Western North Pacific (Whitehead, 2002b).¹⁰ Eastern Tropical Pacific (Wade and Gerrodette, 1993).¹¹ Eastern Tropical Pacific all *Mesoplodon* spp. (Wade and Gerrodette, 1993).**BILLING CODE 3510-22-C**

Refer to sections III and IV of L-DEO's application for detailed information regarding the abundance and distribution, population status, and life history and behavior of these species and their occurrence in the proposed project area. The application also presents how L-DEO calculated the estimated densities for the marine mammals in the proposed survey area. NMFS has reviewed these data and determined them to be the best available scientific information for the purposes of the proposed IHA.

Potential Effects on Marine Mammals

Acoustic stimuli generated by the operation of the airguns, which introduce sound into the marine environment, may have the potential to cause Level B harassment of marine mammals in the proposed survey area. The effects of sounds from airgun operations might include one or more of the following: Tolerance, masking of natural sounds, behavioral disturbance, temporary or permanent hearing impairment, or non-auditory physical or physiological effects (Richardson *et al.*, 1995; Gordon *et al.*, 2004; Nowacek *et al.*, 2007; Southall *et al.*, 2007). Permanent hearing impairment, in the unlikely event that it occurred, would constitute injury, but temporary threshold shift (TTS) is not an injury (Southall *et al.*, 2007). Although the possibility cannot be entirely excluded, it is unlikely that the proposed project would result in any cases of temporary or permanent hearing impairment, or any significant non-auditory physical or physiological effects. Based on the available data and studies described here, some behavioral disturbance is expected, but NMFS expects the disturbance to be localized and short-term.

Tolerance to Sound

Studies on marine mammals' tolerance to sound in the natural environment are relatively rare. Richardson *et al.* (1995) defines tolerance as the occurrence of marine mammals in areas where they are exposed to human activities or man-made noise. In many cases, tolerance develops by the animal habituating to the stimulus (*i.e.*, the gradual waning of

responses to a repeated or ongoing stimulus) (Richardson, *et al.*, 1995; Thorpe, 1963), but because of ecological or physiological requirements, many marine animals may need to remain in areas where they are exposed to chronic stimuli (Richardson, *et al.*, 1995).

Numerous studies have shown that pulsed sounds from airguns are often readily detectable in the water at distances of many kms. Several studies have shown that marine mammals at distances more than a few kms from operating seismic vessels often show no apparent response (see Appendix B[5] in NSF's EA). That is often true even in cases when the pulsed sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of the marine mammal group. Although various baleen whales and toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to airgun pulses under some conditions, at other times marine mammals of all three types have shown no overt reactions. The relative responsiveness of baleen and toothed whales are quite variable.

Masking of Natural Sounds

The term masking refers to the inability of a subject to recognize the occurrence of an acoustic stimulus as a result of the interference of another acoustic stimulus (Clark *et al.*, 2009). Introduced underwater sound may, through masking, reduce the effective communication distance of a marine mammal species if the frequency of the source is close to that used as a signal by the marine mammal, and if the anthropogenic sound is present for a significant fraction of the time (Richardson *et al.*, 1995).

Masking effects of pulsed sounds (even from large arrays of airguns) on marine mammal calls and other natural sounds are expected to be limited. Because of the intermittent nature and low duty cycle of seismic airgun pulses, animals can emit and receive sounds in the relatively quiet intervals between pulses. However, in some situations, reverberation occurs for much or the entire interval between pulses (*e.g.*, Simard *et al.*, 2005; Clark and Gagnon, 2006) which could mask calls. Some baleen and toothed whales are known to continue calling in the presence of

seismic pulses, and their calls can usually be heard between the seismic pulses (*e.g.*, Richardson *et al.*, 1986; McDonald *et al.*, 1995; Greene *et al.*, 1999; Nieukirk *et al.*, 2004; Smultea *et al.*, 2004; Holst *et al.*, 2005a, b, 2006; and Dunn and Hernandez, 2009). However, Clark and Gagnon (2006) reported that fin whales in the Northeast Pacific Ocean went silent for an extended period starting soon after the onset of a seismic survey in the area. Similarly, there has been one report that sperm whales ceased calling when exposed to pulses from a very distant seismic ship (Bowles *et al.*, 1994). However, more recent studies found that they continued calling in the presence of seismic pulses (Madsen *et al.*, 2002; Tyack *et al.*, 2003; Smultea *et al.*, 2004; Holst *et al.*, 2006; and Jochens *et al.*, 2008). Dolphins and porpoises commonly are heard calling while airguns are operating (*e.g.*, Gordon *et al.*, 2004; Smultea *et al.*, 2004; Holst *et al.*, 2005a, b; and Potter *et al.*, 2007). The sounds important to small odontocetes are predominantly at much higher frequencies than are the dominant components of airgun sounds, thus limiting the potential for masking.

In general, NMFS expects the masking effects of seismic pulses to be minor, given the normally intermittent nature of seismic pulses. Refer to Appendix B(4) of NSF's EA for a more detailed discussion of masking effects on marine mammals.

Behavioral Disturbance

Disturbance includes a variety of effects, including subtle to conspicuous changes in behavior, movement, and displacement. Reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.*, 1995; Wartzok *et al.*, 2004; Southall *et al.*, 2007; Weilgart, 2007). If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period,

impacts on individuals and populations could be significant (e.g., Lusseau and Bejder, 2007; Weilgart, 2007). Given the many uncertainties in predicting the quantity and types of impacts of noise on marine mammals, it is common practice to estimate how many mammals would be present within a particular distance of industrial activities and/or exposed to a particular level of industrial sound. In most cases, this approach likely overestimates the numbers of marine mammals that would be affected in some biologically-important manner.

The sound criteria used to estimate how many marine mammals might be disturbed to some biologically-important degree by a seismic program are based primarily on behavioral observations of a few species. Scientists have conducted detailed studies on humpback, gray (*Eschrichtius robustus*), bowhead (*Balaena mysticetus*), and sperm whales. Less detailed data are available for some other species of baleen whales, small toothed whales, and sea otters, but for many species there are no data on responses to marine seismic surveys.

Baleen Whales—Baleen whales generally tend to avoid operating airguns, but avoidance radii are quite variable (reviewed in Richardson *et al.*, 1995). Whales are often reported to show no overt reactions to pulses from large arrays of airguns at distances beyond a few kms, even though the airgun pulses remain well above ambient noise levels out to much longer distances. However, as reviewed in Appendix B(5) of NSF's EA, baleen whales exposed to strong noise pulses from airguns often react by deviating from their normal migration route and/or interrupting their feeding and moving away. In the cases of migrating gray and bowhead whales, the observed changes in behavior appeared to be of little or no biological consequence to the animals (Richardson, *et al.*, 1995). They simply avoided the sound source by displacing their migration route to varying degrees, but within the natural boundaries of the migration corridors.

Studies of gray, bowhead, and humpback whales have shown that seismic pulses with received levels of 160 to 170 dB re 1 μ Pa (rms) seem to cause obvious avoidance behavior in a substantial fraction of the animals exposed (Malme *et al.*, 1986, 1988; Richardson *et al.*, 1995). In many areas, seismic pulses from large arrays of airguns diminish to those levels at distances ranging from four to 15 km from the source. A substantial proportion of the baleen whales within those distances may show avoidance or

other strong behavioral reactions to the airgun array. Subtle behavioral changes sometimes become evident at somewhat lower received levels, and studies summarized in Appendix B(5) of NSF's EA have shown that some species of baleen whales, notably bowhead and humpback whales, at times, show strong avoidance at received levels lower than 160 to 170 dB re 1 μ Pa (rms).

McCauley *et al.* (1998, 2000a) studied the responses of humpback whales off western Australia to a full-scale seismic survey with a 16 airgun array (2,678 in³) and to a single airgun (20 in³) with source level of 227 dB re 1 μ Pa (p-p). In the 1998 study, they documented that avoidance reactions began at five to eight km from the array, and that those reactions kept most pods approximately three to four km (1.6 to 2.2 nmi) from the operating seismic boat. In the 2000 study, they noted localized displacement during migration of four to five km (2.2 to 2.7 nmi) by traveling pods and seven to 12 km (3.8 to 6.5 nmi) by more sensitive resting pods of cow-calf pairs. Avoidance distances with respect to the single airgun were smaller but consistent with the results from the full array in terms of the received sound levels. The mean received level for initial avoidance of an approaching airgun was 140 dB re 1 μ Pa (rms) for humpback pods containing females, and at the mean closest point of approach distance the received level was 143 dB re 1 μ Pa (rms). The initial avoidance response generally occurred at distances of five to eight km (2.7 to 4.3 nmi) from the airgun array and two km (1.1 nmi) from the single airgun. However, some individual humpback whales, especially males, approached within distances of 100 to 400 m (328 to 1,312 ft), where the maximum received level was 179 dB re 1 μ Pa (rms).

Data collected by observers during several seismic surveys in the Northwest Atlantic showed that sighting rates of humpback whales were significantly greater during non-seismic periods compared with periods when a full array was operating (Moulton and Holst, 2010). In addition, humpback whales were more likely to swim away and less likely to swim towards a vessel during seismic vs. non-seismic periods (Moulton and Holst, 2010).

Humpback whales on their summer feeding grounds in southeast Alaska did not exhibit persistent avoidance when exposed to seismic pulses from a 1.64-L (100 in³) airgun (Malme *et al.*, 1985). Some humpbacks seemed "startled" at received levels of 150 to 169 dB re 1 μ Pa. Malme *et al.* (1985) concluded that there was no clear evidence of avoidance, despite the possibility of

subtle effects, at received levels up to 172 dB re 1 μ Pa (rms). However, Moulton and Holst (2010) reported that humpback whales monitored during seismic surveys in the Northwest Atlantic had lower sighting rates and were most often seen swimming away from the vessel during seismic periods compared with periods when airguns were silent.

Studies have suggested that south Atlantic humpback whales wintering off Brazil may be displaced or even strand upon exposure to seismic surveys (Engel *et al.*, 2004). The evidence for this was circumstantial and subject to alternative explanations (IAGC, 2004). Also, the evidence was not consistent with subsequent results from the same area of Brazil (Parente *et al.*, 2006), or with direct studies of humpbacks exposed to seismic surveys in other areas and seasons. After allowance for data from subsequent years, there was "no observable direct correlation" between strandings and seismic surveys (IWC, 2007: 236).

There are no data on reactions of right whales to seismic surveys, but results from the closely-related bowhead whale show that their responsiveness can be quite variable depending on their activity (migrating versus feeding). Bowhead whales migrating west across the Alaskan Beaufort Sea in autumn, in particular, are unusually responsive, with substantial avoidance occurring out to distances of 20 to 30 km (10.8 to 16.2 nmi) from a medium-sized airgun source at received sound levels of around 120 to 130 dB re 1 μ Pa (Miller *et al.*, 1999; Richardson *et al.*, 1999; see Appendix B(5) of NSF's EA). However, more recent research on bowhead whales (Miller *et al.*, 2005; Harris *et al.*, 2007) corroborates earlier evidence that, during the summer feeding season, bowheads are not as sensitive to seismic sources. Nonetheless, subtle but statistically significant changes in surfacing-respiration-dive cycles were evident upon statistical analysis (Richardson *et al.*, 1986). In the summer, bowheads typically begin to show avoidance reactions at received levels of about 152 to 178 dB re 1 μ Pa (Richardson *et al.*, 1986, 1995; Ljungblad *et al.*, 1988; Miller *et al.*, 2005).

Reactions of migrating and feeding (but not wintering) gray whales to seismic surveys have been studied. Malme *et al.* (1986, 1988) studied the responses of feeding eastern Pacific gray whales to pulses from a single 100 in³ airgun off St. Lawrence Island in the northern Bering Sea. They estimated, based on small sample sizes, that 50 percent of feeding gray whales stopped

feeding at an average received pressure level of 173 dB re 1 μ Pa on an (approximate) rms basis, and that 10 percent of feeding whales interrupted feeding at received levels of 163 dB re 1 μ Pa (rms). Those findings were generally consistent with the results of experiments conducted on larger numbers of gray whales that were migrating along the California coast (Malme *et al.*, 1984; Malme and Miles, 1985), and western Pacific gray whales feeding off Sakhalin Island, Russia (Wursig *et al.*, 1999; Gailey *et al.*, 2007; Johnson *et al.*, 2007; Yazvenko *et al.*, 2007a, b), along with data on gray whales off British Columbia (Bain and Williams, 2006).

Various species of *Balaenoptera* (blue, sei, fin, and minke whales) have occasionally been seen in areas ensounded by airgun pulses (Stone, 2003; MacLean and Haley, 2004; Stone and Tasker, 2006), and calls from blue and fin whales have been localized in areas with airgun operations (*e.g.*, McDonald *et al.*, 1995; Dunn and Hernandez, 2009; Castellote *et al.*, 2010). Sightings by observers on seismic vessels off the United Kingdom from 1997 to 2000 suggest that, during times of good sightability, sighting rates for mysticetes (mainly fin and sei whales) were similar when large arrays of airguns were shooting vs. silent (Stone, 2003; Stone and Tasker, 2006). However, these whales tended to exhibit localized avoidance, remaining significantly further (on average) from the airgun array during seismic operations compared with non-seismic periods (Stone and Tasker, 2006). Castellote *et al.* (2010) reported that singing fin whales in the Mediterranean moved away from an operating airgun array.

Ship-based monitoring studies of baleen whales (including blue, fin, sei, minke, and humpback whales) in the Northwest Atlantic found that overall, this group had lower sighting rates during seismic vs. non-seismic periods (Moulton and Holst, 2010). Baleen whales as a group were also seen significantly farther from the vessel during seismic compared with non-seismic periods, and they were more often seen to be swimming away from the operating seismic vessel (Moulton and Holst, 2010). Blue and minke whales were initially sighted significantly farther from the vessel during seismic operations compared to non-seismic periods; the same trend was observed for fin whales (Moulton and Holst, 2010). Minke whales were most often observed to be swimming away from the vessel when seismic operations

were underway (Moulton and Holst, 2010).

Data on short-term reactions by cetaceans to impulsive noises are not necessarily indicative of long-term or biologically significant effects. It is not known whether impulsive sounds affect reproductive rate or distribution and habitat use in subsequent days or years. However, gray whales have continued to migrate annually along the west coast of North America with substantial increases in the population over recent years, despite intermittent seismic exploration (and much ship traffic) in that area for decades (Appendix A in Malme *et al.*, 1984; Richardson *et al.*, 1995; Allen and Angliss, 2010). The western Pacific gray whale population did not seem affected by a seismic survey in its feeding ground during a previous year (Johnson *et al.*, 2007). Similarly, bowhead whales have continued to travel to the eastern Beaufort Sea each summer, and their numbers have increased notably, despite seismic exploration in their summer and autumn range for many years (Richardson *et al.*, 1987; Allen and Angliss, 2010).

Toothed Whales—Little systematic information is available about reactions of toothed whales to noise pulses. Few studies similar to the more extensive baleen whale/seismic pulse work summarized above and (in more detail) in Appendix B of NSF's EA have been reported for toothed whales. However, there are recent systematic studies on sperm whales (*e.g.*, Gordon *et al.*, 2006; Madsen *et al.*, 2006; Winsor and Mate, 2006; Jochens *et al.*, 2008; Miller *et al.*, 2009). There is an increasing amount of information about responses of various odontocetes to seismic surveys based on monitoring studies (*e.g.*, Stone, 2003; Smultea *et al.*, 2004; Moulton and Miller, 2005; Bain and Williams, 2006; Holst *et al.*, 2006; Stone and Tasker, 2006; Potter *et al.*, 2007; Hauser *et al.*, 2008; Holst and Smultea, 2008; Weir, 2008; Barkaszi *et al.*, 2009; Richardson *et al.*, 2009; Moulton and Holst, 2010).

Seismic operators and Protected Species Observers (PSOs) on seismic vessels regularly see dolphins and other small toothed whales near operating airgun arrays, but in general there is a tendency for most delphinids to show some avoidance of operating seismic vessels (*e.g.*, Goold, 1996a,b,c; Calambokidis and Osmeck, 1998; Stone, 2003; Moulton and Miller, 2005; Holst *et al.*, 2006; Stone and Tasker, 2006; Weir, 2008; Richardson *et al.*, 2009; Barkaszi *et al.*, 2009; Moulton and Holst, 2010). Some dolphins seem to be attracted to the seismic vessel and floats, and some ride the bow wave of

the seismic vessel even when large arrays of airguns are firing (*e.g.*, Moulton and Miller, 2005). Nonetheless, small toothed whales more often tend to head away, or to maintain a somewhat greater distance from the vessel, when a large array of airguns is operating than when it is silent (*e.g.*, Stone and Tasker, 2006; Weir, 2008; Barry *et al.*, 2010; Moulton and Holst, 2010). In most cases, the avoidance radii for delphinids appear to be small, on the order of one km or less, and some individuals show no apparent avoidance. The beluga whale (*Delphinapterus leucas*) is a species that (at least at times) shows long-distance avoidance of seismic vessels. Aerial surveys conducted in the southeastern Beaufort Sea during summer found that sighting rates of beluga whales were significantly lower at distances 10 to 20 km (5.4 to 10.8 nmi) compared with 20 to 30 km from an operating airgun array, and PSOs on seismic boats in that area rarely see belugas (Miller *et al.*, 2005; Harris *et al.*, 2007).

Captive bottlenose dolphins (*Tursiops truncatus*) and beluga whales exhibited changes in behavior when exposed to strong pulsed sounds similar in duration to those typically used in seismic surveys (Finneran *et al.*, 2000, 2002, 2005). However, the animals tolerated high received levels of sound before exhibiting aversive behaviors.

Results for porpoises depend on species. The limited available data suggest that harbor porpoises show stronger avoidance of seismic operations than do Dall's porpoises (Stone, 2003; MacLean and Koski, 2005; Bain and Williams, 2006; Stone and Tasker, 2006). Dall's porpoises seem relatively tolerant of airgun operations (MacLean and Koski, 2005; Bain and Williams, 2006), although they too have been observed to avoid large arrays of operating airguns (Calambokidis and Osmeck, 1998; Bain and Williams, 2006). This apparent difference in responsiveness of these two porpoise species is consistent with their relative responsiveness to boat traffic and some other acoustic sources (Richardson *et al.*, 1995; Southall *et al.*, 2007).

Most studies of sperm whales exposed to airgun sounds indicate that the sperm whale shows considerable tolerance of airgun pulses (*e.g.*, Stone, 2003; Moulton *et al.*, 2005, 2006a; Stone and Tasker, 2006; Weir, 2008). In most cases the whales do not show strong avoidance, and they continue to call (see Appendix B of NSF's EA for review). However, controlled exposure experiments in the GOM indicate that foraging behavior was altered upon

exposure to airgun sound (Jochens *et al.*, 2008; Miller *et al.*, 2009; Tyack, 2009).

There are almost no specific data on the behavioral reactions of beaked whales to seismic surveys. However, some northern bottlenose whales (*Hyperoodon ampullatus*) remained in the general area and continued to produce high-frequency clicks when exposed to sound pulses from distant seismic surveys (Gosselin and Lawson, 2004; Laurinolli and Cochrane, 2005; Simard *et al.*, 2005). Most beaked whales tend to avoid approaching vessels of other types (e.g., Wursig *et al.*, 1998). They may also dive for an extended period when approached by a vessel (e.g., Kasuya, 1986), although it is uncertain how much longer such dives may be as compared to dives by undisturbed beaked whales, which also are often quite long (Baird *et al.*, 2006; Tyack *et al.*, 2006). Based on a single observation, Aguilar-Soto *et al.* (2006) suggested that foraging efficiency of Cuvier's beaked whales may be reduced by close approach of vessels. In any event, it is likely that most beaked whales would also show strong avoidance of an approaching seismic vessel, although this has not been documented explicitly. In fact, Moulton and Holst (2010) reported 15 sightings of beaked whales during seismic studies in the Northwest Atlantic; seven of those sightings were made at times when at least one airgun was operating. There was little evidence to indicate that beaked whale behavior was affected by airgun operations; sighting rates and distances were similar during seismic and non-seismic periods (Moulton and Holst, 2010).

There are increasing indications that some beaked whales tend to strand when naval exercises involving mid-frequency sonar operation are ongoing nearby (e.g., Simmonds and Lopez-Jurado, 1991; Frantzi, 1998; NOAA and USN, 2001; Jepson *et al.*, 2003; Hildebrand, 2005; Barlow and Gisiner, 2006; see also the "Stranding and Mortality" section in this notice). These strandings are apparently a disturbance response, although auditory or other injuries or other physiological effects may also be involved. Whether beaked whales would ever react similarly to seismic surveys is unknown. Seismic survey sounds are quite different from those of the sonar in operation during the above-cited incidents.

Odontocete reactions to large arrays of airguns are variable and, at least for delphinids and Dall's porpoises, seem to be confined to a smaller radius than has been observed for the more responsive of the mysticetes, belugas, and harbor porpoises (Appendix B of NSF's EA).

Pinnipeds—Pinnipeds are not likely to show a strong avoidance reaction to the airgun array. Visual monitoring from seismic vessels has shown only slight (if any) avoidance of airguns by pinnipeds, and only slight (if any) changes in behavior, see Appendix B(5) of NSF's EA. In the Beaufort Sea, some ringed seals avoided an area of 100 m to (at most) a few hundred meters around seismic vessels, but many seals remained within 100 to 200 m (328 to 656 ft) of the trackline as the operating airgun array passed by (e.g., Harris *et al.*, 2001; Moulton and Lawson, 2002; Miller *et al.*, 2005). Ringed seal sightings averaged somewhat farther away from the seismic vessel when the airguns were operating than when they were not, but the difference was small (Moulton and Lawson, 2002). Similarly, in Puget Sound, sighting distances for harbor seals and California sea lions tended to be larger when airguns were operating (Calambokidis and Osmeck, 1998). Previous telemetry work suggests that avoidance and other behavioral reactions may be stronger than evident to date from visual studies (Thompson *et al.*, 1998).

Hearing Impairment and Other Physical Effects

Exposure to high intensity sound for a sufficient duration may result in auditory effects such as a noise-induced threshold shift—an increase in the auditory threshold after exposure to noise (Finneran, Carder, Schlundt, and Ridgway, 2005). Factors that influence the amount of threshold shift include the amplitude, duration, frequency content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of threshold shift just after exposure is called the initial threshold shift. If the threshold shift eventually returns to zero (i.e., the threshold returns to the pre-exposure value), it is called temporary threshold shift (TTS) (Southall *et al.*, 2007).

Researchers have studied TTS in certain captive odontocetes and pinnipeds exposed to strong sounds (reviewed in Southall *et al.*, 2007). However, there has been no specific documentation of TTS let alone permanent hearing damage, i.e., permanent threshold shift (PTS), in free-ranging marine mammals exposed to sequences of airgun pulses during realistic field conditions.

Temporary Threshold Shift—TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter, 1985). While

experiencing TTS, the hearing threshold rises and a sound must be stronger in order to be heard. At least in terrestrial mammals, TTS can last from minutes or hours to (in cases of strong TTS) days. For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the noise ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals, and none of the published data concern TTS elicited by exposure to multiple pulses of sound. Available data on TTS in marine mammals are summarized in Southall *et al.* (2007). Table 1 (above) presents the distances from the *Langseth's* airguns at which the received energy level (per pulse, flat-weighted) would be expected to be greater than or equal to 180 dB re 1 μ Pa (rms).

To avoid the potential for injury, NMFS (1995, 2000) concluded that cetaceans should not be exposed to pulsed underwater noise at received levels exceeding 180 dB re 1 μ Pa (rms). NMFS believes that to avoid the potential for permanent physiological damage (Level A harassment), cetaceans should not be exposed to pulsed underwater noise at received levels exceeding 180 dB re 1 μ Pa (rms). The 180 dB level is a shutdown criterion applicable to cetaceans, as specified by NMFS (2000); these levels were used to establish the EZs. NMFS also assumes that cetaceans exposed to levels exceeding 160 dB re 1 μ Pa (rms) may experience Level B harassment.

Researchers have derived TTS information for odontocetes from studies on the bottlenose dolphin and beluga. For the one harbor porpoise tested, the received level of airgun sound that elicited onset of TTS was lower (Lucke *et al.*, 2009). If these results from a single animal are representative, it is inappropriate to assume that onset of TTS occurs at similar received levels in all odontocetes (cf. Southall *et al.*, 2007). Some cetaceans apparently can incur TTS at considerably lower sound exposures than are necessary to elicit TTS in the beluga or bottlenose dolphin.

For baleen whales, there are no data, direct or indirect, on levels or properties of sound that are required to induce TTS. The frequencies to which baleen whales are most sensitive are assumed to be lower than those to which odontocetes are most sensitive, and natural background noise levels at those low frequencies tend to be higher. As a result, auditory thresholds of baleen whales within their frequency band of best hearing are believed to be higher

(less sensitive) than are those of odontocetes at their best frequencies (Clark and Ellison, 2004). From this, it is suspected that received levels causing TTS onset may also be higher in baleen whales (Southall *et al.*, 2007). For this proposed study, L-DEO expects no cases of TTS given the low abundance of baleen whales in the planned study area at the time of the survey, and the strong likelihood that baleen whales would avoid the approaching airguns (or vessel) before being exposed to levels high enough for TTS to occur.

In pinnipeds, TTS thresholds associated with exposure to brief pulses (single or multiple) of underwater sound have not been measured. Initial evidence from more prolonged (non-pulse) exposures suggested that some pinnipeds (harbor seals in particular) incur TTS at somewhat lower received levels than do small odontocetes exposed for similar durations (Kastak *et al.*, 1999, 2005; Ketten *et al.*, 2001). The TTS threshold for pulsed sounds has been indirectly estimated as being an SEL of approximately 171 dB re 1 $\mu\text{Pa}^2\cdot\text{s}$ (Southall *et al.*, 2007) which would be equivalent to a single pulse with a received level of approximately 181 to 186 dB re 1 μPa (rms), or a series of pulses for which the highest rms values are a few dB lower. Corresponding values for California sea lions and northern elephant seals are likely to be higher (Kastak *et al.*, 2005).

Permanent Threshold Shift—When PTS occurs, there is physical damage to the sound receptors in the ear. In severe cases, there can be total or partial deafness, whereas in other cases, the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985). There is no specific evidence that exposure to pulses of airgun sound can cause PTS in any marine mammal, even with large arrays of airguns. However, given the possibility that mammals close to an airgun array might incur at least mild TTS, there has been further speculation about the possibility that some individuals occurring very close to airguns might incur PTS (e.g., Richardson *et al.*, 1995, p. 372ff; Gedamke *et al.*, 2008). Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage, but repeated or (in some cases) single exposures to a level well above that causing TTS onset might elicit PTS.

Relationships between TTS and PTS thresholds have not been studied in marine mammals, but are assumed to be similar to those in humans and other terrestrial mammals. PTS might occur at a received sound level at least several dBs above that inducing mild TTS if the

animal were exposed to strong sound pulses with rapid rise times—see Appendix B(6) of NSF's EA. Based on data from terrestrial mammals, a precautionary assumption is that the PTS threshold for impulse sounds (such as airgun pulses as received close to the source) is at least 6 dB higher than the TTS threshold on a peak-pressure basis, and probably greater than six dB (Southall *et al.*, 2007).

Given the higher level of sound necessary to cause PTS as compared with TTS, it is considerably less likely that PTS would occur. Baleen whales generally avoid the immediate area around operating seismic vessels, as do some other marine mammals.

Stranding and Mortality—Marine mammals close to underwater detonations of high explosives can be killed or severely injured, and the auditory organs are especially susceptible to injury (Ketten *et al.*, 1993; Ketten, 1995). However, explosives are no longer used in marine waters for commercial seismic surveys or (with rare exceptions) for seismic research; they have been replaced entirely by airguns or related non-explosive pulse generators. Airgun pulses are less energetic and have slower rise times, and there is no specific evidence that they can cause serious injury, death, or stranding even in the case of large airgun arrays. However, the association of strandings of beaked whales with naval exercises involving mid-frequency active sonar and, in one case, an L-DEO seismic survey (Malakoff, 2002; Cox *et al.*, 2006), has raised the possibility that beaked whales exposed to strong “pulsed” sounds may be especially susceptible to injury and/or behavioral reactions that can lead to stranding (e.g., Hildebrand, 2005; Southall *et al.*, 2007). Appendix B(6) of NSF's EA provides additional details.

Specific sound-related processes that lead to strandings and mortality are not well documented, but may include:

- (1) Swimming in avoidance of a sound into shallow water;
- (2) A change in behavior (such as a change in diving behavior) that might contribute to tissue damage, gas bubble formation, hypoxia, cardiac arrhythmia, hypertensive hemorrhage or other forms of trauma;

- (3) A physiological change such as a vestibular response leading to a behavioral change or stress-induced hemorrhagic diathesis, leading in turn to tissue damage; and

- (4) Tissue damage directly from sound exposure, such as through acoustically-mediated bubble formation and growth or acoustic resonance of tissues. Some of these mechanisms are unlikely to

apply in the case of impulse sounds. However, there are indications that gas-bubble disease (analogous to “the bends”), induced in supersaturated tissue by a behavioral response to acoustic exposure, could be a pathologic mechanism for the strandings and mortality of some deep-diving cetaceans exposed to sonar. The evidence for this remains circumstantial and associated with exposure to naval mid-frequency sonar, not seismic surveys (Cox *et al.*, 2006; Southall *et al.*, 2007).

Seismic pulses and mid-frequency sonar signals are quite different, and some mechanisms by which sonar sounds have been hypothesized to affect beaked whales are unlikely to apply to airgun pulses. Sounds produced by airgun arrays are broadband impulses with most of the energy below one kHz. Typical military mid-frequency sonar emits non-impulse sounds at frequencies of two to 10 kHz, generally with a relatively narrow bandwidth at any one time. A further difference between seismic surveys and naval exercises is that naval exercises can involve sound sources on more than one vessel. Thus, it is not appropriate to assume that there is a direct connection between the effects of military sonar and seismic surveys on marine mammals. However, evidence that sonar signals can, in special circumstances, lead (at least indirectly) to physical damage and mortality (e.g., Balcomb and Claridge, 2001; NOAA and USN, 2001; Jepson *et al.*, 2003; Fernández *et al.*, 2004, 2005; Hildebrand 2005; Cox *et al.*, 2006) suggests that caution is warranted when dealing with exposure of marine mammals to any high-intensity “pulsed” sound.

There is no conclusive evidence of cetacean strandings or deaths at sea as a result of exposure to seismic surveys, but a few cases of strandings in the general area where a seismic survey was ongoing have led to speculation concerning a possible link between seismic surveys and strandings. Suggestions that there was a link between seismic surveys and strandings of humpback whales in Brazil (Engel *et al.*, 2004) were not well founded (IAGC, 2004; IWC, 2007). In September, 2002, there was a stranding of two Cuvier's beaked whales (*Ziphius cavirostris*) in the Gulf of California, Mexico, when the L-DEO vessel R/V *Maurice Ewing* was operating a 20 airgun (8,490 in³) array in the general area. The link between the stranding and the seismic surveys was inconclusive and not based on any physical evidence (Hogarth, 2002; Yoder, 2002). Nonetheless, the Gulf of California incident plus the beaked whale strandings near naval exercises

involving use of mid-frequency sonar suggests a need for caution in conducting seismic surveys in areas occupied by beaked whales until more is known about effects of seismic surveys on those species (Hildebrand, 2005). No injuries of beaked whales are anticipated during the proposed study because of:

(1) The high likelihood that any beaked whales nearby would avoid the approaching vessel before being exposed to high sound levels, and

(2) Differences between the sound sources operated by L-DEO and those involved in the naval exercises associated with strandings.

Non-auditory Physiological Effects—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance, and other types of organ or tissue damage (Cox *et al.*, 2006; Southall *et al.*, 2007). Studies examining such effects are limited. However, resonance effects (Gentry, 2002) and direct noise-induced bubble formations (Crum *et al.*, 2005) are implausible in the case of exposure to an impulsive broadband source like an airgun array. If seismic surveys disrupt diving patterns of deep-diving species, this might perhaps result in bubble formation and a form of the bends, as speculated to occur in beaked whales exposed to sonar. However, there is no specific evidence of this upon exposure to airgun pulses.

In general, very little is known about the potential for seismic survey sounds (or other types of strong underwater sounds) to cause non-auditory physical effects in marine mammals. Such effects, if they occur at all, would presumably be limited to short distances and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.*, 2007), or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of seismic vessels, including most baleen whales, some odontocetes, and some pinnipeds, are especially unlikely to incur non-auditory physical effects.

Potential Effects of Other Acoustic Devices

MBES

L-DEO will operate the Kongsberg EM 122 MBES from the source vessel during the planned study. Sounds from the

MBES are very short pulses, occurring for two to 15 ms once every five to 20 s, depending on water depth. Most of the energy in the sound pulses emitted by this MBES is at frequencies near 12 kHz, and the maximum source level is 242 dB re 1 μ Pa (rms). The beam is narrow (1 to 2°) in fore-aft extent and wide (150°) in the cross-track extent. Each ping consists of eight (in water greater than 1,000 m deep) or four (in water less than 1,000 m deep) successive fan-shaped transmissions (segments) at different cross-track angles. Any given mammal at depth near the trackline would be in the main beam for only one or two of the nine segments. Also, marine mammals that encounter the Kongsberg EM 122 are unlikely to be subjected to repeated pulses because of the narrow fore-aft width of the beam and will receive only limited amounts of pulse energy because of the short pulses. Animals close to the ship (where the beam is narrowest) are especially unlikely to be ensonified for more than one 2 to 15 ms pulse (or two pulses if in the overlap area). Similarly, Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when an MBES emits a pulse is small. The animal would have to pass the transducer at close range and be swimming at speeds similar to the vessel in order to receive the multiple pulses that might result in sufficient exposure to cause TTS.

Navy sonars that have been linked to avoidance reactions and stranding of cetaceans: (1) Generally have longer pulse duration than the Kongsberg EM 122; and (2) are often directed close to horizontally versus more downward for the MBES. The area of possible influence of the MBES is much smaller—a narrow band below the source vessel. Also, the duration of exposure for a given marine mammal can be much longer for naval sonar. During L-DEO's operations, the individual pulses will be very short, and a given mammal would not receive many of the downward-directed pulses as the vessel passes by. Possible effects of an MBES on marine mammals are outlined below.

Masking—Marine mammal communications will not be masked appreciably by the MBES signals given the low duty cycle of the echosounder and the brief period when an individual mammal is likely to be within its beam. Furthermore, in the case of baleen whales, the MBES signals (12 kHz) do not overlap with the predominant frequencies in the calls, which would avoid any significant masking.

Behavioral Responses—Behavioral reactions of free-ranging marine mammals to sonars, echosounders, and other sound sources appear to vary by species and circumstance. Observed reactions have included silencing and dispersal by sperm whales (Watkins *et al.*, 1985), increased vocalizations and no dispersal by pilot whales (Rendell and Gordon, 1999), and the previously-mentioned beachings by beaked whales. During exposure to a 21 to 25 kHz "whale-finding" sonar with a source level of 215 dB re 1 μ Pa, gray whales reacted by orienting slightly away from the source and being deflected from their course by approximately 200 m (656.2 ft) (Frankel, 2005). When a 38 kHz echosounder and a 150 kHz acoustic Doppler current profiler were transmitting during studies in the Eastern Tropical Pacific, baleen whales showed no significant responses, while spotted and spinner dolphins were detected slightly more often and beaked whales less often during visual surveys (Gerrodette and Pettis, 2005).

Captive bottlenose dolphins and a beluga whale exhibited changes in behavior when exposed to 1 s tonal signals at frequencies similar to those that will be emitted by the MBES used by L-DEO, and to shorter broadband pulsed signals. Behavioral changes typically involved what appeared to be deliberate attempts to avoid the sound exposure (Schlundt *et al.*, 2000; Finneran *et al.*, 2002; Finneran and Schlundt, 2004). The relevance of those data to free-ranging odontocetes is uncertain, and in any case, the test sounds were quite different in duration as compared with those from an MBES.

Very few data are available on the reactions of pinnipeds to echosounder sounds at frequencies similar to those used during seismic operations. Hastie and Janik (2007) conducted a series of behavioral response tests on two captive gray seals to determine their reactions to underwater operation of a 375 kHz multibeam imaging echosounder that included significant signal components down to 6 kHz. Results indicated that the two seals reacted to the signal by significantly increasing their dive durations. Because of the likely brevity of exposure to the MBES sounds, pinniped reactions are expected to be limited to startle or otherwise brief responses of no lasting consequences to the animals. However, pinnipeds are not expected to occur in the proposed study area.

Hearing Impairment and Other Physical Effects—Given recent stranding events that have been associated with the operation of naval sonar, there is concern that mid-frequency sonar

sounds can cause serious impacts to marine mammals (see above). However, the MBES proposed for use by L-DEO is quite different than sonar used for Navy operations. Pulse duration of the MBES is very short relative to the naval sonar. Also, at any given location, an individual marine mammal would be in the beam of the MBES for much less time given the generally downward orientation of the beam and its narrow fore-aft beamwidth; Navy sonar often uses near-horizontally-directed sound. Those factors would all reduce the sound energy received from the MBES rather drastically relative to that from naval sonar.

NMFS believes that the brief exposure of marine mammals to one pulse, or small numbers of signals, from the MBES is not likely to result in the harassment of marine mammals.

SBP

L-DEO will also operate a SBP from the source vessel during the proposed survey. Sounds from the SBP are very short pulses, occurring for one to four ms once every second. Most of the energy in the sound pulses emitted by the SBP is at 3.5 kHz, and the beam is directed downward. The SBP on the *Langseth* has a maximum source level of 222 dB re 1 μ Pa.

Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when a bottom profiler emits a pulse is small—even for an SBP more powerful than that on the *Langseth*. If the animal was in the area, it would have to pass the transducer at close range in order to be subjected to sound levels that could cause TTS.

Masking—Marine mammal communications will not be masked appreciably by the SBP signals given the directionality of the signal and the brief period when an individual mammal is likely to be within its beam. Furthermore, in the case of most baleen whales, the SBP signals do not overlap with the predominant frequencies in the calls, which would avoid significant masking.

Behavioral Responses—Marine mammal behavioral reactions to other pulsed sound sources are discussed above, and responses to the SBP are likely to be similar to those for other pulsed sources if received at the same levels. However, the pulsed signals from the SBP are considerably weaker than those from the MBES. Therefore, behavioral responses are not expected unless marine mammals are very close to the source.

Hearing Impairment and Other Physical Effects—It is unlikely that the

SBP produces pulse levels strong enough to cause hearing impairment or other physical injuries even in an animal that is (briefly) in a position near the source. The SBP is usually operated simultaneously with other higher-power acoustic sources, including airguns. Many marine mammals will move away in response to the approaching higher-power sources or the vessel itself before the mammals would be close enough for there to be any possibility of effects from the less intense sounds from the SBP.

Acoustic Release Signals

The acoustic release transponder used to communicate with the OBSs uses frequencies 9 to 13 kHz. These signals will be used very intermittently. It is unlikely that the acoustic release signals would have a significant effect on marine mammals through masking, disturbance, or hearing impairment. Any effects likely would be negligible given the brief exposure at presumably low levels.

The potential effects to marine mammals described in this section of the document do not take into consideration the proposed monitoring and mitigation measures described later in this document (see the “Proposed Mitigation” and “Proposed Monitoring and Reporting” sections) which, as noted are designed to effect the least practicable adverse impact on affected marine mammal species and stocks.

Anticipated Effects on Marine Mammal Habitat

The proposed seismic survey will not result in any permanent impact on habitats used by the marine mammals in the proposed survey area, including the food sources they use (*i.e.* fish and invertebrates). The main impact associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals, previously discussed in this notice.

Anticipated Effects on Fish

One reason for the adoption of airguns as the standard energy source for marine seismic surveys is that, unlike explosives, they have not been associated with large-scale fish kills. However, existing information on the impacts of seismic surveys on marine fish populations is limited (see Appendix D of NSF’s EA). There are three types of potential effects of exposure to seismic surveys: (1) Pathological, (2) physiological, and (3) behavioral. Pathological effects involve lethal and temporary or permanent sub-lethal injury. Physiological effects

involve temporary and permanent primary and secondary stress responses, such as changes in levels of enzymes and proteins. Behavioral effects refer to temporary and (if they occur) permanent changes in exhibited behavior (*e.g.*, startle and avoidance behavior). The three categories are interrelated in complex ways. For example, it is possible that certain physiological and behavioral changes could potentially lead to an ultimate pathological effect on individuals (*i.e.*, mortality).

The specific received sound levels at which permanent adverse effects to fish potentially could occur are little studied and largely unknown. Furthermore, the available information on the impacts of seismic surveys on marine fish is from studies of individuals or portions of a population; there have been no studies at the population scale. The studies of individual fish have often been on caged fish that were exposed to airgun pulses in situations not representative of an actual seismic survey. Thus, available information provides limited insight on possible real-world effects at the ocean or population scale. This makes drawing conclusions about impacts on fish problematic because, ultimately, the most important issues concern effects on marine fish populations, their viability, and their availability to fisheries.

Hastings and Popper (2005), Popper (2009), and Popper and Hastings (2009a,b) provided recent critical reviews of the known effects of sound on fish. The following sections provide a general synopsis of the available information on the effects of exposure to seismic and other anthropogenic sound as relevant to fish. The information comprises results from scientific studies of varying degrees of rigor plus some anecdotal information. Some of the data sources may have serious shortcomings in methods, analysis, interpretation, and reproducibility that must be considered when interpreting their results (see Hastings and Popper, 2005). Potential adverse effects of the program’s sound sources on marine fish are noted.

Pathological Effects—The potential for pathological damage to hearing structures in fish depends on the energy level of the received sound and the physiology and hearing capability of the species in question (see Appendix D of NSF’s EA). For a given sound to result in hearing loss, the sound must exceed, by some substantial amount, the hearing threshold of the fish for that sound (Popper, 2005). The consequences of temporary or permanent hearing loss in individual fish on a fish population are unknown; however, they likely depend on the number of individuals affected

and whether critical behaviors involving sound (e.g., predator avoidance, prey capture, orientation and navigation, reproduction, *etc.*) are adversely affected.

Little is known about the mechanisms and characteristics of damage to fish that may be inflicted by exposure to seismic survey sounds. Few data have been presented in the peer-reviewed scientific literature. As far as L-DEO and NMFS know, there are only two papers with proper experimental methods, controls, and careful pathological investigation implicating sounds produced by actual seismic survey airguns in causing adverse anatomical effects. One such study indicated anatomical damage, and the second indicated TTS in fish hearing. The anatomical case is McCauley *et al.* (2003), who found that exposure to airgun sound caused observable anatomical damage to the auditory maculae of pink snapper (*Pagrus auratus*). This damage in the ears had not been repaired in fish sacrificed and examined almost two months after exposure. On the other hand, Popper *et al.* (2005) documented only TTS (as determined by auditory brainstem response) in two of three fish species from the Mackenzie River Delta. This study found that broad whitefish (*Coregonus nasus*) exposed to five airgun shots were not significantly different from those of controls. During both studies, the repetitive exposure to sound was greater than would have occurred during a typical seismic survey. However, the substantial low-frequency energy produced by the airguns (less than 400 Hz in the study by McCauley *et al.* [2003] and less than approximately 200 Hz in Popper *et al.* [2005]) likely did not propagate to the fish because the water in the study areas was very shallow (approximately nine m in the former case and less than two m in the latter). Water depth sets a lower limit on the lowest sound frequency that will propagate (the "cutoff frequency") at about one-quarter wavelength (Urlick, 1983; Rogers and Cox, 1988).

Wardle *et al.* (2001) suggested that in water, acute injury and death of organisms exposed to seismic energy depends primarily on two features of the sound source: (1) The received peak pressure, and (2) the time required for the pressure to rise and decay. Generally, as received pressure increases, the period for the pressure to rise and decay decreases, and the chance of acute pathological effects increases. According to Buchanan *et al.* (2004), for the types of seismic airguns and arrays involved with the proposed

program, the pathological (mortality) zone for fish would be expected to be within a few meters of the seismic source. Numerous other studies provide examples of no fish mortality upon exposure to seismic sources (Falk and Lawrence, 1973; Holliday *et al.*, 1987; La Bella *et al.*, 1996; Santulli *et al.*, 1999; McCauley *et al.*, 2000a,b, 2003; Bjarti, 2002; Thomsen, 2002; Hassel *et al.*, 2003; Popper *et al.*, 2005; Boeger *et al.*, 2006).

Some studies have reported, some equivocally, that mortality of fish, fish eggs, or larvae can occur close to seismic sources (Kostyuchenko, 1973; Dalen and Knutsen, 1986; Booman *et al.*, 1996; Dalen *et al.*, 1996). Some of the reports claimed seismic effects from treatments quite different from actual seismic survey sounds or even reasonable surrogates. However, Payne *et al.* (2009) reported no statistical differences in mortality/morbidity between control and exposed groups of capelin eggs or monkfish larvae. Saetre and Ona (1996) applied a 'worst-case scenario' mathematical model to investigate the effects of seismic energy on fish eggs and larvae. They concluded that mortality rates caused by exposure to seismic surveys are so low, as compared to natural mortality rates, that the impact of seismic surveying on recruitment to a fish stock must be regarded as insignificant.

Physiological Effects—Physiological effects refer to cellular and/or biochemical responses of fish to acoustic stress. Such stress potentially could affect fish populations by increasing mortality or reducing reproductive success. Primary and secondary stress responses of fish after exposure to seismic survey sound appear to be temporary in all studies done to date (Sverdrup *et al.*, 1994; Santulli *et al.*, 1999; McCauley *et al.*, 2000a,b). The periods necessary for the biochemical changes to return to normal are variable and depend on numerous aspects of the biology of the species and of the sound stimulus (see Appendix D of NSF's EA).

Behavioral Effects—Behavioral effects include changes in the distribution, migration, mating, and catchability of fish populations. Studies investigating the possible effects of sound (including seismic survey sound) on fish behavior have been conducted on both uncaged and caged individuals (e.g., Chapman and Hawkins, 1969; Pearson *et al.*, 1992; Santulli *et al.*, 1999; Wardle *et al.*, 2001; Hassel *et al.*, 2003). Typically, in these studies fish exhibited a sharp startle response at the onset of a sound followed by habituation and a return to normal behavior after the sound ceased.

In general, any adverse effects on fish behavior or fisheries attributable to seismic testing may depend on the species in question and the nature of the fishery (season, duration, fishing method). They may also depend on the age of the fish, its motivational state, its size, and numerous other factors that are difficult, if not impossible, to quantify at this point, given such limited data on effects of airguns on fish, particularly under realistic at-sea conditions.

Anticipated Effects on Fisheries

It is possible that the *Langseth's* streamer may become entangled with various types of fishing gear. L-DEO will employ avoidance tactics as necessary to prevent conflict. It is not expected that L-DEO's operations will have a significant impact on fisheries in the CNMI. Nonetheless, L-DEO will minimize the potential to have a negative impact on the fisheries by avoiding areas where fishing is actively underway.

There is general concern about potential adverse effects of seismic operations on fisheries, namely a potential reduction in the "catchability" of fish involved in fisheries. Although reduced catch rates have been observed in some marine fisheries during seismic testing, in a number of cases the findings are confounded by other sources of disturbance (Dalen and Raknes, 1985; Dalen and Knutsen, 1986; Lokkeborg, 1991; Skalski *et al.*, 1992; Engas *et al.*, 1996). In other airgun experiments, there was no change in catch per unit effort (CPUE) of fish when airgun pulses were emitted, particularly in the immediate vicinity of the seismic survey (Pickett *et al.*, 1994; La Bella *et al.*, 1996). For some species, reductions in catch may have resulted from a change in behavior of the fish, e.g., a change in vertical or horizontal distribution, as reported in Slotte *et al.* (2004).

Anticipated Effects on Invertebrates

The existing body of information on the impacts of seismic survey sound on marine invertebrates is very limited. However, there is some unpublished and very limited evidence of the potential for adverse effects on invertebrates, thereby justifying further discussion and analysis of this issue. The three types of potential effects of exposure to seismic surveys on marine invertebrates are pathological, physiological, and behavioral. Based on the physical structure of their sensory organs, marine invertebrates appear to be specialized to respond to particle displacement components of an impinging sound field and not to the

pressure component (Popper *et al.*, 2001; see also Appendix E of NSF's EA).

The only information available on the impacts of seismic surveys on marine invertebrates involves studies of individuals; there have been no studies at the population scale. Thus, available information provides limited insight on possible real-world effects at the regional or ocean scale. The most important aspect of potential impacts concerns how exposure to seismic survey sound ultimately affects invertebrate populations and their viability, including availability to fisheries.

Literature reviews of the effects of seismic and other underwater sound on invertebrates were provided by Moriyasu *et al.* (2004) and Payne *et al.* (2008). The following sections provide a synopsis of available information on the effects of exposure to seismic survey sound on species of decapod crustaceans and cephalopods, the two taxonomic groups of invertebrates on which most such studies have been conducted. The available information is from studies with variable degrees of scientific soundness and from anecdotal information. A more detailed review of the literature on the effects of seismic survey sound on invertebrates is provided in Appendix E of NSF's EA.

Pathological Effects—In water, lethal and sub-lethal injury to organisms exposed to seismic survey sound appears to depend on at least two features of the sound source: (1) the received peak pressure; and (2) the time required for the pressure to rise and decay. Generally, as received pressure increases, the period for the pressure to rise and decay decreases, and the chance of acute pathological effects increases. For the type of airgun array planned for the proposed program, the pathological (mortality) zone for crustaceans and cephalopods is expected to be within a few meters of the seismic source, at most; however, very few specific data are available on levels of seismic signals that might damage these animals. This premise is based on the peak pressure and rise/decay time characteristics of seismic airgun arrays currently in use around the world.

Some studies have suggested that seismic survey sound has a limited pathological impact on early developmental stages of crustaceans (Pearson *et al.*, 1994; Christian *et al.*, 2003; DFO, 2004). However, the impacts appear to be either temporary or insignificant compared to what occurs under natural conditions. Controlled field experiments on adult crustaceans (Christian *et al.*, 2003, 2004; DFO, 2004)

and adult cephalopods (McCauley *et al.*, 2000a,b) exposed to seismic survey sound have not resulted in any significant pathological impacts on the animals. It has been suggested that exposure to commercial seismic survey activities has injured giant squid (Guerra *et al.*, 2004), but the article provides little evidence to support this claim. Andre *et al.* (2011) exposed cephalopods, primarily cuttlefish, to continuous 50 to 400 Hz sinusoidal wave sweeps for two hours while captive in relatively small tanks, and reported morphological and ultrastructural evidence of massive acoustic trauma (*i.e.*, permanent and substantial alterations of statocyst sensory hair cells). The received SPL was reported as 157+/- 5 dB re 1 μ Pa, with peak levels at 175 dB re 1 μ Pa. As in the McCauley *et al.* (2003) paper on sensory hair cell damage in pink snapper as a result of exposure to seismic sound, the cephalopods were subjected to higher sound levels than they would be under natural conditions, and they were unable to swim away from the sound source.

Physiological Effects—Physiological effects refer mainly to biochemical responses by marine invertebrates to acoustic stress. Such stress potentially could affect invertebrate populations by increasing mortality or reducing reproductive success. Primary and secondary stress responses (*i.e.*, changes in haemolymph levels of enzymes, proteins, *etc.*) of crustaceans have been noted several days or months after exposure to seismic survey sounds (Payne *et al.*, 2007). The periods necessary for these biochemical changes to return to normal are variable and depend on numerous aspects of the biology of the species and of the sound stimulus.

Behavioral Effects—There is increasing interest in assessing the possible direct and indirect effects of seismic and other sounds on invertebrate behavior, particularly in relation to the consequences for fisheries. Changes in behavior could potentially affect such aspects as reproductive success, distribution, susceptibility to predation, and catchability by fisheries. Studies investigating the possible behavioral effects of exposure to seismic survey sound on crustaceans and cephalopods have been conducted on both uncaged and caged animals. In some cases, invertebrates exhibited startle responses (*e.g.*, squid in McCauley *et al.*, 2000a,b). In other cases, no behavioral impacts were noted (*e.g.*, crustaceans in Christian *et al.*, 2003, 2004; DFO 2004). There have been anecdotal reports of

reduced catch rates of shrimp shortly after exposure to seismic surveys; however, other studies have not observed any significant changes in shrimp catch rate (Andriguetto-Filho *et al.*, 2005). Similarly, Parry and Gason (2006) did not find any evidence that lobster catch rates were affected by seismic surveys. Any adverse effects on crustacean and cephalopod behavior or fisheries attributable to seismic survey sound depend on the species in question and the nature of the fishery (season, duration, fishing method).

Proposed Mitigation

In order to issue an Incidental Take Authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses.

L-DEO has based the mitigation measures described herein, to be implemented for the proposed seismic survey, on the following:

(1) Protocols used during previous L-DEO seismic research cruises as approved by NMFS;

(2) Previous IHA applications and IHAs approved and authorized by NMFS; and

(3) Recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), and Weir and Dolman (2007).

To reduce the potential for disturbance from acoustic stimuli associated with the activities, L-DEO and/or its designees has proposed to implement the following mitigation measures for marine mammals:

- (1) Proposed exclusion zones;
- (2) Power-down procedures;
- (3) Shut-down procedures; and
- (4) Ramp-up procedures.

Planning Phase—This seismic survey was originally proposed for 2010. A National Environmental Policy Act (NEPA) document was prepared for the proposed survey and was posted for public comment on NSF's Web site. No public comments were received by NSF in response to the public comment period during that process. Because of ship maintenance issues, weather, and timing constraints of the IHA process, the proposed survey was unable to be supported on the *Langseth* in 2010 as proposed, and as a result the survey was deferred to a future time when the ship would be able to support the effort. An IHA application was submitted to NMFS for the proposed 2010 survey,

however it was withdrawn when it became apparent the ship would not be able to support the survey. An ESA section 7 consultation request that was also initiated with NMFS was withdrawn.

Subsequently, the PIs worked with L-DEO and NSF to identify potential time periods to carry out the survey taking into consideration key factors such as environmental conditions (*i.e.*, the seasonal presence of marine mammals, sea turtles, and sea birds), weather conditions, equipment, and optimal timing for other proposed seismic surveys using the *Langseth*. Most marine mammal species are expected to occur in the area year-round, so altering the timing of the proposed project likely would result in no net benefits for those species. After considering what energy source level was necessary to achieve the research goals, the PIs determined the use of the 36-airgun array with a total volume of 6,600 in³ would be required. Given the research goals, location of the survey, and associated deep water, this energy source level was viewed appropriate. The draft NEPA documentation prepared for the proposed 2010 survey forms the basis for this assessment; however, it has been updated to reflect current scientific information and any revisions of the proposed survey and timing. NEPA documentation for the proposed 2012 survey will also be open for a public comment period, and an ESA section 7 consultation has been requested and reinitiated.

Proposed Exclusion Zones—Received sound levels have been predicted by L-DEO, in relation to distance and direction from the airguns, for the 36 airgun array and for the single 1900LL 40 in³ airgun, which will be used during power-downs. Results were recently reported for propagation measurements of pulses from the 36 airgun array in two water depths (approximately 1,600 m and 50 m [5,249 and 164 ft]) in the GOM in 2007 to 2008 (Tolstoy *et al.*, 2009). It would be prudent to use the corrected empirical values that resulted to determine EZs for the airgun array. Results of the propagation measurements (Tolstoy *et al.*, 2009) showed that radii around the airguns for various received levels varied with water depth. In addition, propagation varies with array tow depth. The empirical values that resulted from Tolstoy *et al.* (2009) are used here to determine EZs for the 36 airgun array. However, the depth of the array was different in the GOM calibration study (6 m [19.7 ft]) than in the proposed survey (9 m); thus, correction factors have been applied to the distances

reported by Tolstoy *et al.* (2009). The correction factors used were the ratios of the 160, 180, and 190 dB distances from the modeled results for the 6,600 in³ airgun array towed at 6 m versus 9 m, from LGL (2008): 1.285, 1.338, and 1.364, respectively.

Measurements were not reported for a single airgun, so model results will be used. The L-DEO model does not allow for bottom interactions, and thus is most directly applicable to deep water and to relatively short ranges. A detailed description of the modeling effort is predicted in Appendix A of the EA.

Based on the corrected propagation measurements (airgun array) and modeling (single airgun), the distances from the source where sound levels are predicted to be 190, 180, and 160 dB re 1 μ Pa (rms) were determined (see Table 1 above). The 180 and 190 dB radii are shut-down criteria applicable to cetaceans and pinnipeds, respectively, as specified by NMFS (2000); these levels were used to establish the EZs. If the Protected Species Visual Observer (PSVO) detects marine mammal(s) within or about to enter the appropriate EZ, the airguns will be powered-down (or shut-down, if necessary) immediately.

Power-down Procedures—A power-down involves decreasing the number of airguns in use to one airgun, such that the radius of the 180 dB (or 190 dB) zone is decreased to the extent that marine mammals are no longer in or about to enter the EZ. A power-down of the airgun array can also occur when the vessel is moving from one seismic line to another. During a power-down for mitigation, L-DEO will operate one airgun. The continued operation of one airgun is intended to alert marine mammals to the presence of the seismic vessel in the area. In contrast, a shut-down occurs when all airgun activity is suspended.

If the PSVO detects a marine mammal outside the EZ, but it is likely to enter the EZ, L-DEO will power-down the airguns before the animal is within the EZ. Likewise, if a mammal is already within the EZ, when first detected L-DEO will power-down the airguns immediately. During a power-down of the airgun array, L-DEO will operate the single 40 in³ airgun. If a marine mammal is detected within or near the smaller EZ around that single airgun (Table 1), L-DEO will shut-down the airgun (see next section).

Following a power-down, L-DEO will not resume airgun activity until the marine mammal has cleared the EZ. L-DEO will consider the animal to have cleared the EZ if:

- A PSVO has visually observed the animal leave the EZ, or
- A PSVO has not sighted the animal within the EZ for 15 min for species with shorter dive durations (*i.e.*, small odontocetes or pinnipeds), or 30 min for species with longer dive durations (*i.e.*, mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, killer, and beaked whales).

During airgun operations following a power down or shut-down whose duration has exceeded the time limits specified previously, L-DEO will ramp-up the airgun array gradually (see Shut-down and Ramp-up Procedures).

Shut-down Procedures—L-DEO will shut down the operating airgun(s) if a marine mammal is seen within or approaching the EZ for the single airgun. L-DEO will implement a shut-down:

- (1) If an animal enters the EZ of the single airgun after L-DEO has initiated a power-down; or
- (2) If a animal is initially seen within the EZ of the single airgun when more than one airgun (typically the full airgun array) is operating.

L-DEO will not resume airgun activity until the marine mammal has cleared the EZ, or until the PSVO is confident that the animal has left the vicinity of the vessel. Criteria for judging that the animal has cleared the EZ will be as described in the preceding section.

Considering the conservation status for the North Pacific right whale, the airguns will be shut-down immediately in the unlikely event that this species is observed, regardless of the distance from the *Langseth*. Ramp-up will only begin if the right whale has not been seen for 30 min.

Ramp-up Procedures—L-DEO will follow a ramp-up procedure when the airgun array begins operating after a specified period without airgun operations or when a power-down shut down has exceeded that period. L-DEO proposes that, for the present cruise, this period would be approximately eight min. This period is based on the 180 dB radius (940 m) for the 36 airgun array towed at a depth of 9 m in relation to the minimum planned speed of the *Langseth* while shooting (7.4 km/hr). L-DEO has used similar periods (approximately 8 to 10 min) during previous L-DEO surveys.

Ramp-up will begin with the smallest airgun in the array (40 in³). Airguns will be added in a sequence such that the source level of the array will increase in steps not exceeding six dB per five min period over a total duration of approximately 35 min. During ramp-up, the Protected Species Observers will

monitor the EZ, and if marine mammals are sighted, L-DEO will implement a power-down or shut-down as though the full airgun array were operational.

If the complete EZ has not been visible for at least 30 min prior to the start of operations in either daylight or nighttime, L-DEO will not commence the ramp-up unless at least one airgun (40 in³ or similar) has been operating during the interruption of seismic survey operations. Given these provisions, it is likely that the airgun array will not be ramped-up from a complete shut-down at night or in thick fog, because the outer part of the EZ for that array will not be visible during those conditions. If one airgun has operated during a power-down period, ramp-up to full power will be permissible at night or in poor visibility, on the assumption that marine mammals will be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away. L-DEO will not initiate a ramp-up of the airguns if a marine mammal is sighted within or near the applicable EZs during the day or close to the vessel at night.

NMFS has carefully evaluated the applicant's proposed mitigation measures and has considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. NMFS's evaluation of potential measures included consideration of the following factors in relation to one another:

- (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- (2) The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- (3) The practicability of the measure for applicant implementation.

Based on NMFS's evaluation of the applicant's proposed measures, as well as other measures considered by NMFS or recommended by the public, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable adverse impacts on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth

"requirements pertaining to the monitoring and reporting of such taking." The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for IHAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area.

Monitoring

L-DEO proposes to sponsor marine mammal monitoring during the proposed project, in order to implement the proposed mitigation measures that require real-time monitoring, and to satisfy the anticipated monitoring requirements of the IHA. L-DEO's proposed "Monitoring Plan" is described below this section. L-DEO understands that this monitoring plan will be subject to review by NMFS, and that refinements may be required. The monitoring work described here has been planned as a self-contained project independent of any other related monitoring projects that may be occurring simultaneously in the same regions. L-DEO is prepared to discuss coordination of its monitoring program with any related work that might be done by other groups insofar as this is practical and desirable.

Vessel-Based Visual Monitoring

PSVOs will be based aboard the seismic source vessel and will watch for marine mammals near the vessel during daytime airgun operations and during any ramp-ups of the airguns at night. PSVOs will also watch for marine mammals near the seismic vessel for at least 30 min prior to the start of airgun operations after an extended shut-down (*i.e.*, greater than approximately 8 min for this proposed cruise). When feasible, PSVOs will conduct observations during daytime periods when the seismic system is not operating for comparison of sighting rates and behavior with and without airgun operations and between acquisition periods. Based on PSVO observations, the airguns will be powered-down or shut-down when marine mammals are observed within or about to enter a designated EZ. The EZ is a region in which a possibility exists of adverse effects on animal hearing or other physical effects.

During seismic operations in the CNMI, at least four PSOs (PSVO and/or Protected Species Acoustic Observer [PSAO]) will be based aboard the *Langseth*. L-DEO will appoint the PSOs with NMFS's concurrence. Observations

will take place during ongoing daytime operations and nighttime ramp-ups of the airguns. During the majority of seismic operations, two PSVOs will be on duty from the observation tower to monitor marine mammals near the seismic vessel. Use of two simultaneous PSVOs will increase the effectiveness of detecting animals near the source vessel. However, during meal times and bathroom breaks, it is sometimes difficult to have two PSVOs on effort, but at least one PSVO will be on duty. PSVO(s) will be on duty in shifts of duration no longer than 4 hr.

Two PSVOs will also be on visual watch during all nighttime ramp-ups of the seismic airguns. A third PSAO will monitor the PAM equipment 24 hours a day to detect vocalizing marine mammals present in the action area. In summary, a typical daytime cruise would have scheduled two PSVOs on duty from the observation tower, and a third PSAO on PAM. Other crew will also be instructed to assist in detecting marine mammals and implementing mitigation requirements (if practical). Before the start of the seismic survey, the crew will be given additional instruction on how to do so.

The *Langseth* is a suitable platform for marine mammal observations. When stationed on the observation platform, the eye level will be approximately 21.5 m (70.5 ft) above sea level, and the PSVO will have a good view around the entire vessel. During daytime, the PSVOs will scan the area around the vessel systematically with reticle binoculars (*e.g.*, 7 x 50 Fujinon), Big-eye binoculars (25 x 150), and with the naked eye. During darkness, night vision devices (NVDs) will be available (ITT F500 Series Generation 3 binocular-image intensifier or equivalent), when required. Laser range-finding binoculars (Leica LRF 1200 laser rangefinder or equivalent) will be available to assist with distance estimation. Those are useful in training observers to estimate distances visually, but are generally not useful in measuring distances to animals directly; that is done primarily with the reticles in the binoculars.

When marine mammals are detected within or about to enter the designated EZ, the airguns will immediately be powered-down or shut-down if necessary. The PSVO(s) will continue to maintain watch to determine when the animal(s) are outside the EZ by visual confirmation. Airgun operations will not resume until the animal is confirmed to have left the EZ, or if not observed after 15 min for species with shorter dive durations (small odontocetes and pinnipeds) or 30 min

for species with longer dive durations (mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, killer, and beaked whales).

Passive Acoustic Monitoring (PAM)

PAM will complement the visual monitoring program, when practicable. Visual monitoring typically is not effective during periods of poor visibility or at night, and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. Acoustical monitoring can be used in addition to visual observations to improve detection, identification, and localization of cetaceans. The acoustic monitoring will serve to alert visual observers (if on duty) when vocalizing cetaceans are detected. It is only useful when marine mammals call, but it can be effective either by day or by night, and does not depend on good visibility. It will be monitored in real time so that the PSVOs can be advised when cetaceans are detected.

The PAM system consists of hardware (*i.e.*, hydrophones) and software. The “wet end” of the system consists of a towed hydrophone array that is connected to the vessel by a tow cable. The tow cable is 250 m (820.2 ft) long, and the hydrophones are fitted in the last 10 m (32.8 ft) of cable. A depth gauge is attached to the free end of the cable, and the cable is typically towed at depths less than 20 m (65.6 ft). The array will be deployed from a winch located on the back deck. A deck cable will connect from the winch to the main computer laboratory where the acoustic station, signal conditioning, and processing system will be located. The acoustic signals received by the hydrophones are amplified, digitized, and then processed by the Pamguard software. The system can detect marine mammal vocalizations at frequencies up to 250 kHz.

One PSAO, an expert bioacoustician in addition to the four PSVOs, with primary responsibility for PAM, will be onboard the *Langseth*. The towed hydrophones will ideally be monitored by the PSAO 24 hours per day while at the proposed seismic survey area during airgun operations, and during most periods when the *Langseth* is underway while the airguns are not operating. However, PAM may not be possible if damage occurs to the array or back-up systems during operations. The primary PAM streamer on the *Langseth* is a digital hydrophone streamer. Should the digital streamer fail, back-up systems should include an analog spare streamer and a hull-mounted hydrophone. One PSAO will monitor

the acoustic detection system by listening to the signals from two channels via headphones and/or speakers and watching the real-time spectrographic display for frequency ranges produced by cetaceans. The PSAO monitoring the acoustical data will be on shift for one to six hours at a time. All PSOs are expected to rotate through the PAM position, although the expert PSAO will be on PAM duty more frequently.

When a vocalization is detected while visual observations are in progress, the PSAO will contact the PSVO immediately, to alert him/her to the presence of cetaceans (if they have not already been seen), and to allow a power-down or shut-down to be initiated, if required. When bearings (primary and mirror-image) to calling cetacean(s) are determined, the bearings will be related to the PSVO(s) to help him/her sight the calling animal. The information regarding the call will be entered into a database. Data entry will include an acoustic encounter identification number, whether it was linked with a visual sighting, date, time when first and last heard and whenever any additional information was recorded, position and water depth when first detected, bearing if determinable, species or species group (*e.g.*, unidentified dolphin, sperm whale), types and nature of sounds heard (*e.g.*, clicks, continuous, sporadic, whistles, creaks, burst pulses, strength of signal, *etc.*), and any other notable information. The acoustic detection can also be recorded for further analysis.

PSVO Data and Documentation

PSVOs will record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. Data will be used to estimate numbers of animals potentially ‘taken’ by harassment (as defined in the MMPA). They will also provide information needed to order a power-down or shut-down of the airguns when a marine mammal is within or near the EZ. Observations will also be made during daytime periods when the *Langseth* is underway without seismic operations. In addition to transits to, from, and through the study area, there will also be opportunities to collect baseline biological data during the deployment and recovery of OBSs.

When a sighting is made, the following information about the sighting will be recorded:

1. Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial

sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (*e.g.*, none, avoidance, approach, paralleling, *etc.*), and behavioral pace.

2. Time, location, heading, speed, activity of the vessel, sea state, visibility, and sun glare.

The data listed under (2) will also be recorded at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

All observations and power-downs or shut-downs will be recorded in a standardized format. Data will be entered into an electronic database. The accuracy of the data entry will be verified by computerized data validity checks as the data are entered and by subsequent manual checking of the database. These procedures will allow initial summaries of data to be prepared during and shortly after the field program, and will facilitate transfer of the data to statistical, graphical, and other programs for further processing and archiving.

Results from the vessel-based observations will provide:

1. The basis for real-time mitigation (airgun power-down or shut-down).

2. Information needed to estimate the number of marine mammals potentially taken by harassment, which must be reported to NMFS.

3. Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted.

4. Information to compare the distance and distribution of marine mammals relative to the source vessel at times with and without seismic activity.

5. Data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

L-DEO will submit a report to NMFS and NSF within 90 days after the end of the cruise. The report will describe the operations that were conducted and sightings of marine mammals near the operations. The report will provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report will summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities). The report will also include estimates of the number and nature of exposures that could result in “takes” of marine mammals by harassment or in other ways.

In the unanticipated event that the specified activity clearly causes the take

of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality (e.g., ship-strike, gear interaction, and/or entanglement), L-DEO will immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS at (301) 427-8401 and/or by email to *Michael.Payne@noaa.gov* and *Howard.Goldstein@noaa.gov*, and the NMFS Pacific Islands Regional Office Stranding Coordinator at (808) 944-2269 (*David.Schofield@noaa.gov*). The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with L-DEO to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. L-DEO may not resume their activities until notified by NMFS via letter or email, or telephone.

In the event that L-DEO discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), L-DEO will immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at (301) 427-8401, and/or by email to *Michael.Payne@noaa.gov* and *Howard.Goldstein@noaa.gov*, and the NMFS Pacific Islands Regional Office (808) 944-2269 and/or by email to the Pacific Islands Regional Stranding Coordinator (*David.Schofield@noaa.gov*). The report must include the same information identified in the paragraph above.

Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with L-DEO to determine whether modifications in the activities are appropriate.

In the event that L-DEO discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), L-DEO will report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at (301) 427-8401, and/or by email to *Michael.Payne@noaa.gov* and *Howard.Goldstein@noaa.gov*, and the NMFS Pacific Islands Regional Office (808) 944-2269, and/or by email to the Pacific Islands Regional Stranding Coordinator (*David.Schofield@noaa.gov*), within 24 hours of discovery. L-DEO will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

Estimated Take by Incidental Harassment

Except with respect to certain 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].

Only take by Level B harassment is anticipated and proposed to be authorized as a result of the proposed marine seismic survey in the CNMI. Acoustic stimuli (i.e., increased underwater sound) generated during the operation of the seismic airgun array may have the potential to cause marine mammals in the survey area to be exposed to sounds at or greater than 160 dB or cause temporary, short-term changes in behavior. There is no evidence that the planned activities could result in injury, serious injury, or mortality within the specified geographic area for which L-DEO seeks the IHA. The required mitigation and monitoring measures will minimize any potential risk for injury, serious injury, or mortality.

The following sections describe L-DEO's methods to estimate take by incidental harassment and present the applicant's estimates of the numbers of

marine mammals that could be affected during the proposed seismic program. The estimates are based on a consideration of the number of marine mammals that could be disturbed appreciably by operations with the 36 airgun array to be used during approximately 2,800 km of survey lines in the CNMI.

L-DEO assumes that, during simultaneous operations of the airgun array and the other sources, any marine mammals close enough to be affected by the MBES and SBP would already be affected by the airguns. However, whether or not the airguns are operating simultaneously with the other sources, marine mammals are expected to exhibit no more than short-term and inconsequential responses to the MBES and SBP given their characteristics (e.g., narrow, downward-directed beam) and other considerations described previously. Such reactions are not considered to constitute "taking" (NMFS, 2001). Therefore, L-DEO provides no additional allowance for animals that could be affected by sound sources other than airguns.

The only systematic marine mammal survey conducted in the CNMI was a ship-based survey conducted for the U.S. Navy during January to April, 2007, in four legs: January 16 to February 2, February 6 to 25, March 1 to 20, and March 24 to 12 (SRS-Parsons *et al.*, 2007; Fulling *et al.*, 2011). The cruise area was defined by the boundaries 10 to 18° North and 142 to 148° East, encompassing an area approximately 585,000 km² (170,558.7 nmi²) including the islands of Guam and the southern CNMI almost as far north as Pagan. The systematic line-transect survey effort was conducted from the flying bridge (10.5 m [34.5 ft] above sea level) of the 56 m (183.7 ft) long M/V *Kahana* using standard line-transect protocols developed by NMFS Southwest Fisheries Science Center (SWFSC). Observers visually surveyed 11,033 km (5,957.3 nmi) of trackline, mostly in high Beaufort sea states (88% of the time in the Beaufort sea states 4 to 6).

L-DEO used the densities calculated in Fulling *et al.* (2011) for the 12 species sighted in that survey. For eight species not sighted in that survey but expected to occur in the CNMI, relevant densities are available for the "outer EEZ stratum" of Hawaiian waters, based on a 13,500 km (7,289.4 nmi) survey conducted by NMFS SWFSC in August to November, 2002 (Barlow, 2006). Another potential source of relevant densities are the SWFSC surveys conducted in the ETP during summer/fall 1986 to 1996 (Ferguson and Barlow, 2001, 2003). However, for five of the

remaining seven species that could occur in the survey area, there were no sightings in more than 50 offshore tropical ($< 20^\circ$ latitude) $5^\circ \times 5^\circ$ strata. The short-beaked common dolphin was sighted in a number of offshore tropical strata, so its density was calculated as the effort-weighted mean of densities in the 17 offshore $5^\circ \times 5^\circ$ strata between 10° North and 20° North (Ferguson and Barlow, 2003).

Table 2 (Table 3 of the IHA application) gives the estimated densities of each marine mammal species expected to occur in the waters of the proposed survey area. L-DEO used the densities reported by Fulling *et al.* (2011), Barlow (2006), and Ferguson and Barlow (2001, 2003), and those have been corrected, by the original authors, for detectability bias, and in two of the three areas, for availability bias. Detectability bias is associated with diminishing sightability with increasing lateral distance from the trackline ($f(0)$). Availability bias refers to the fact that there is less-than-100% probability of sighting an animal that is present along the survey trackline $f(0)$, and it is measured by $g(0)$. Fulling *et al.* (2011) did not correct the Marianas densities for $g(0)$, which, for all but large (≤ 20) groups of dolphins (where $g(0) = 1$), resulted in underestimates of density.

There is some uncertainty about the representativeness of the density data and the assumptions used in the calculations. For example, the seasonal timing of the surveys either overlapped (Marianas) or followed (Hawaii and ETP) the proposed surveys. Also, most of the Marianas survey was in high sea states that would have presented detection of many marine mammals, especially cryptic species such as beaked whales and *Kogia* spp. However, the approach used here is believed to be the best available approach.

L-DEO's estimates of exposures to various sound levels assume that the proposed surveys will be fully completed; in fact, the ensonified areas calculated using the planned number of line-km have been increased by 25% to accommodate lines that may need to be repeated, equipment testing, *etc.* As is typical during offshore ship surveys, inclement weather and equipment malfunctions are likely to cause delays and may limit the number of useful line-kilometers of seismic operations that can be undertaken. Furthermore, any marine mammal sightings within or near the designated EZs will result in the power-down or shut-down of seismic operations as a mitigation measure. Thus, the following estimates of the numbers of marine mammals potentially exposed to sound levels of

160 dB re 1 μ Pa (rms) are precautionary, and probably overestimate the actual numbers of marine mammals that might be involved. These estimates also assume that there will be no weather, equipment, or mitigation delays, which is highly unlikely.

L-DEO estimated the number of different individuals that may be exposed to airgun sounds with received levels greater than or equal to 160 dB re 1 μ Pa (rms) on one or more occasions by considering the total marine area that would be within the 160 dB radius around the operating airgun array on at least one occasion and the expected density of marine mammals. The number of possible exposures (including repeated exposures of the same individuals) can be estimated by considering the total marine area that would be within the 160 dB radius around the operating airguns, including areas of overlap. In the proposed survey, the seismic lines are widely spaced in the survey area, so few individual marine mammals would be exposed more than once during the survey. The area including overlap is only 1.4 times the area excluding overlap, so a marine mammal that stayed in the survey area during the entire survey could be exposed approximately two times, on average. Thus, few individual marine mammals would be exposed more than once during the survey. However, it is unlikely that a particular animal would stay in the area during the entire survey.

The number of different individuals potentially exposed to received levels greater than or equal to 160 re 1 μ Pa (rms) was calculated by multiplying:

(1) The expected species density, times

(2) The anticipated area to be ensonified to that level during airgun operations excluding overlap.

The area expected to be ensonified was determined by entering the planned survey lines into a MapInfo GIS, using the GIS to identify the relevant areas by "drawing" the applicable 160 dB buffer (see Table 1 of the IHA application) around each seismic line, and then calculating the total area within the buffers. Areas of overlap (because of lines being closer together than the 160 dB radius) were included only once when estimating the number of individuals exposed.

Applying the approach described above, approximately 15,685 km^2 (4,573 nmi^2) (approximately 19,607 km^2 [5,716.5 nmi^2] including the 25% contingency) would be within the 160 dB isopleth on one or more occasions during the survey. Because this approach does not allow for turnover in the marine mammal populations in the

study area during the course of the survey, the actual number of individuals exposed could be underestimated. In addition, the approach assumes that no cetaceans will move away from or toward the trackline as the *Langseth* approaches in response to increasing sound levels prior to the time the levels reach 160 dB, which will result in overestimates for those species known to avoid seismic vessels.

Table 3 (Table 4 of the IHA application) shows the estimates of the number of different individual marine mammals that potentially could be exposed to greater than or equal to 160 dB re 1 μ Pa (rms) during the seismic survey if no animals moved away from the survey vessel. The requested take authorization, given in Table 3 (the far right column of Table 4 of the IHA application), has been increased to the mean group size for the particular species in cases where the calculated number of individuals exposed was between one and the mean group size. Mean group sizes are from the same source as densities (see Table 3 of L-DEO's application). For the minke whale, which was not sighted during the January to April, 2007 survey in the waters of Guam and the southern CNMI, but was the baleen whale species most frequently detected acoustically, the requested take authorization (given in the far right column of Table 5 of L-DEO's application) has also been increased to the mean group size.

The estimate of the number of individual cetaceans that could be exposed to seismic sounds with received levels greater than or equal to 160 dB re 1 μ Pa (rms) during the proposed survey is 1,487 (see Table 4 of the IHA application). That total includes 14 baleen whales, 6 of which are sei whales (0.06% of the regional population). In addition, 24 sperm whales or 0.08% of the regional population, could be exposed during the survey, and 165 beaked whales, including Cuvier's, Longman's, and Blainville's beaked whales. Most (72.1%) of the cetaceans potentially exposed are delphinids; pantropical spotted, short-beaked common, striped, and Fraser's dolphins, and melon-headed whales are estimated to be the most common species in the area, with estimates of 443, 189, 121, 88, and 84, which would represent 0.06%, 0.01%, 0.01%, 0.03%, and 0.19% of the regional populations, respectively.

In monitoring reports for seismic surveys, NMFS sometimes receives reports of unidentified species of marine mammals documented within areas around active airgun arrays and the animals may have been potentially

exposed to received levels of greater than or equal to 160 dB (rms) (*i.e.*, the threshold for Level B harassment). These animals may be reported as an unidentified species of marine mammal by PSOs due to poor environmental conditions (*e.g.*, high Beaufort sea state/wind force, sun glare, clouds, rain, fog, darkness, *etc.*), the distance of the animal(s) relative to the vessel, brief activity of animal(s) at the surface, animal(s) avoidance behavior and/or lack of expertise of PSOs in identifying the species of marine mammals that may occur in the study area. Due to these circumstances, NMFS proposes to

include the take unidentified large whales (*i.e.*, minke, Bryde's, sei, and sperm whales), unidentified beaked whales (*i.e.*, Cuvier's, Longman's, and Blainville's beaked whales), unidentified *Kogia* spp. (*i.e.*, pygmy and dwarf sperm whales), unidentified blackfish (*i.e.*, melon-headed, pygmy killer, false killer, killer, and short-finned pilot whales), and unidentified small dolphins (rough-toothed, bottlenose, pantropical spotted, spinner, striped, Fraser's, short-beaked common, and Risso's dolphins) for L-DEO's planned seismic survey in the CNMI. In order to estimate the potential number

of takes for unidentified marine mammals, NMFS added up all of the calculated exposures and requested takes for each marine mammal species in the determined "unidentified" categories. The total estimated number of unidentified large whales, unidentified *Kogia* spp. unidentified beaked whales, unidentified blackfish, and unidentified small dolphins are 38, 212, 165, 143, and 929, respectively, which would represent less than 2% of the regional population for any species of marine mammals expected to occur in the proposed study area.

BILLING CODE 3510-22-P

Table 3. Estimates of the possible numbers of marine mammals exposed to different sound levels ≥ 160 dB during L-DEO's proposed seismic survey in the CNMI during February to March, 2012.

Species	Estimated Number of Individuals Exposed to Sound Levels ≥ 160 dB re 1 μ Pa	Requested or Adjusted Take Authorization	Approximate Percent of Regional Population ¹
Mysticetes			
North Pacific right whale	0	0	0
Humpback whale	0	0	0
Minke whale	0	3 ²	0
Bryde's whale	8	8	0.03
Sei whale	6	6	0.06
Blue whale	0	0	0
Unidentified large whale (includes minke, Bryde's, sei, and sperm whale)	38	41	0.15 0.19 0.52 0.13
Odontocetes			
Sperm whale	24	24	0.08
Pygmy sperm whale	62	62	NA
Dwarf sperm whale	150	150	1.34
Cuvier's beaked whale	131	131	0.65
Longman's beaked whale	9	18 ³	NA
Blainville's beaked whale	25	25	0.10
Ginkgo-toothed beaked whale	0	0	0
Rough-toothed dolphin	6	9 ³	< 0.01
Bottlenose dolphin	4	4	< 0.01
Pantropical spotted dolphin	443	443	0.06
Spinner dolphin	62	98 ³	0.01
Striped dolphin	121	121	0.01
Fraser's dolphin	88	286 ³	0.03
Short-beaked common dolphin	189	189	0.01
Risso's dolphin	16	16	0.01
Melon-headed whale	84	95 ³	0.19
Pygmy killer whale	3	6 ³	0.01
False killer whale	22	22	0.05
Killer whale	3	5 ³	0.03
Short-finned pilot whale	31	31	0.01
Unidentified <i>Kogia</i> spp. (includes pygmy and dwarf sperm whale)	212	212	NA 1.89
Unidentified beaked whale (includes Cuvier's, Longman's, and Blainville's beaked whale)	165	174	0.83 NA 0.65
Unidentified blackfish (includes melon-headed, pygmy killer, false killer, killer, and short-finned pilot whale)	143	159	0.32 0.37 0.36 1.68 0.03
Unidentified small dolphin (includes rough-toothed, bottlenose, pantropical spotted, spinner, striped, Fraser's, short-	929	1,166	0.64 0.38 0.12 0.12

beaked common, and Risso's dolphin)			0.09
			0.32
			0.03
			0.53

NA = Not available or not assessed.

¹ Regional population sizes are from Table 3 in L-DEO's application.

² Requested take authorization increased to mean group size from Jefferson *et al.* (2008).

³ Requested take authorization increased to mean group size from density sources in Table 4 of L-DEO's application.

Encouraging and Coordinating Research

L-DEO and NSF will coordinate the planned marine mammal monitoring program associated with the seismic survey in the CNMI with other parties that may have an interest in the area and/or be conducting marine mammal studies in the same region during the proposed seismic survey. L-DEO and NSF have coordinated, and will continue to coordinate with other applicable agencies, and will comply with their requirements. Actions of this type that are underway include (but are not limited to) the following:

- Contact the U.S. Army Corps of Engineers (ACOE), to confirm that no permits will be required by the ACOE for the proposed survey.
- Contact CNMI history preservation office regarding the National Historic Preservation Act.
- Contact the CNMI Coastal Resources Management Office and submit a Scientific Research Permit application.
- Contact U.S. Navy Pacific Fleet Environmental and Geo-Marine, Inc. for recent information on cetacean surveys in the area.

Negligible Impact and Small Numbers Analysis and Determination

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." In making a negligible impact determination, NMFS evaluated factors such as:

- (1) The number of anticipated injuries, serious injuries, or mortalities;
- (2) The number, nature, and intensity, and duration of Level B harassment (all relatively limited); and
- (3) The context in which the takes occur (*i.e.*, impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/ contemporaneous actions when added to baseline data);

(4) The status of stock or species of marine mammals (*i.e.*, depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);

(5) Impacts on habitat affecting rates of recruitment/survival; and

(6) The effectiveness of monitoring and mitigation measures.

For reasons stated previously in this document, the specified activities associated with the marine seismic survey are not likely to cause PTS, or other non-auditory injury, serious injury, or death because:

(1) The likelihood that, given sufficient notice through relatively slow ship speed, marine mammals are expected to move away from a noise source that is annoying prior to its becoming potentially injurious;

(2) The potential for temporary or permanent hearing impairment is relatively low and would likely be avoided through the incorporation of the required monitoring and mitigation measures (described above);

(3) The fact that cetaceans would have to be closer than 940 m (3,084 ft) in deep water when the 36 airgun array is in use at 9 m tow depth, and 40 m (131.2 ft) in deep water when the single airgun is in use at 9 m from the vessel to be exposed to levels of sound believed to have even a minimal chance of causing PTS; and

(4) The likelihood that marine mammal detection ability by trained PSOs is high at close proximity to the vessel.

No injuries, serious injuries, or mortalities are anticipated to occur as a result of the L-DEO's planned marine seismic survey, and none are proposed to be authorized by NMFS. Only short-term behavioral disturbance is anticipated to occur due to the brief and sporadic duration of the survey activities. Table 3 of this document outlines the number of requested Level B harassment takes that are anticipated as a result of these activities. Due to the nature, degree, and context of Level B (behavioral) harassment anticipated and described (see "Potential Effects on Marine Mammals" section above) in this

notice, the activity is not expected to impact rates of recruitment or survival for any affected species or stock. Additionally, the seismic survey will not adversely impact marine mammal habitat.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (*i.e.*, 24 hr cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.*, 2007). While seismic operations are anticipated to occur on consecutive days, the entire duration of the survey is not expected to last more than approximately 46 days (*i.e.*, 16 days of seismic operations, 2 days of transit, and 25 days of deployment and retrieval of OBSs and maintenance) and the *Langseth* will be continuously moving along planned tracklines that are geographically spread-out. Therefore, the seismic survey will be increasing sound levels in the marine environment in a relatively small area surrounding the vessel, which is constantly travelling over far distances, for a relatively short time period (*i.e.*, several weeks) in the study area.

Of the 27 marine mammal species under NMFS jurisdiction that are known to or likely to occur in the study area, six are listed as threatened or endangered under the ESA: North Pacific right, humpback, sei, fin, blue, and sperm whales. These species are also considered depleted under the MMPA. Of these ESA-listed species, incidental take has been requested to be authorized for sei and sperm whales. There is generally insufficient data to determine population trends for the other depleted species in the study area. To protect these animals (and other marine mammals in the study area), L-DEO must cease or reduce airgun operations if animals enter designated zones. No injury, serious injury, or mortality is expected to occur and due to the nature, degree, and context of the Level B harassment anticipated, the

activity is not expected to impact rates of recruitment or survival.

As mentioned previously, NMFS estimates that 22 species of marine mammals under its jurisdiction could be potentially affected by Level B harassment over the course of the IHA. For each species, these numbers are small (each, less than one percent, except for dwarf sperm whales [1.3%] whales) relative to the regional population size. The population estimates for the marine mammal species that may be taken by Level B harassment were provided in Table 2 of this document.

NMFS's practice has been to apply the 160 dB re 1 μ Pa (rms) received level threshold for underwater impulse sound levels to determine whether take by Level B harassment occurs. Southall *et al.* (2007) provide a severity scale for ranking observed behavioral responses of both free-ranging marine mammals and laboratory subjects to various types of anthropogenic sound (see Table 4 in Southall *et al.* [2007]).

NMFS has preliminarily determined, provided that the aforementioned mitigation and monitoring measures are implemented, that the impact of conducting a marine seismic survey in the CNMI, February to March, 2012, may result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of small numbers of certain species of marine mammals. See Table 3 (above) for the requested authorized take numbers of cetaceans.

While behavioral modifications, including temporarily vacating the area during the operation of the airgun(s), may be made by these species to avoid the resultant acoustic disturbance, the availability of alternate areas within these areas and the short and sporadic duration of the research activities, have led NMFS to preliminarily determine that this action will have a negligible impact on the species in the specified geographic region.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS preliminarily finds that L-DEO's planned research activities will result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking from the marine seismic survey will have a negligible impact on the affected species or stocks of marine mammals; and that impacts to affected species or stocks of marine mammals

have been mitigated to the lowest level practicable.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Section 101(a)(5)(D) also requires NMFS to determine that the authorization will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals in the study area (offshore waters of the CNMI) that implicate MMPA section 101(a)(5)(D).

Endangered Species Act

Of the species of marine mammals that may occur in the proposed survey area, several are listed as endangered under the ESA, including the North Pacific right, humpback, sei, fin, blue, and sperm whales. Under section 7 of the ESA, NSF has initiated formal consultation with the NMFS, Office of Protected Resources, Endangered Species Act Interagency Cooperation Division, on this proposed seismic survey. NMFS's Office of Protected Resources, Permits and Conservation Division, has initiated formal consultation under section 7 of the ESA with NMFS's Office of Protected Resources, Endangered Species Act Interagency Cooperation Division, to obtain a Biological Opinion evaluating the effects of issuing the IHA on threatened and endangered marine mammals and, if appropriate, authorizing incidental take. NMFS will conclude formal section 7 consultation prior to making a determination on whether or not to issue the IHA. If the IHA is issued, NSF and L-DEO, in addition to the mitigation and monitoring requirements included in the IHA, will be required to comply with the Terms and Conditions of the Incidental Take Statement corresponding to NMFS's Biological Opinion issued to both NSF and NMFS's Office of Protected Resources.

National Environmental Policy Act

With L-DEO's complete application, NSF provided NMFS a draft "Environmental Assessment Pursuant to the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* and Executive Order 12114 Marine Seismic Survey in the Commonwealth of the Northern Mariana Islands, 2012," which incorporates an "Environmental Assessment of a Marine Geophysical Survey by the R/V *Marcus G. Langseth* in the Commonwealth of the Northern Mariana Islands, February–March 2012," prepared by LGL on behalf of

NSF and L-DEO. The EA analyzes the direct, indirect, and cumulative environmental impacts of the proposed specified activities on marine mammals including those listed as threatened or endangered under the ESA. Prior to making a final decision on the IHA application, NMFS will either prepare an independent EA, or, after review and evaluation of the NSF EA for consistency with the regulations published by the Council of Environmental Quality (CEQ) and NOAA Administrative Order 216–6, Environmental Review Procedures for Implementing the National Environmental Policy Act, adopt the NSF EA and make a decision of whether or not to issue a Finding of No Significant Impact (FONSI).

Proposed Authorization

NMFS proposes to issue an IHA to L-DEO for conducting a marine seismic survey in the CNMI, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The duration of the IHA would not exceed one year from the date of its issuance.

Information Solicited

NMFS requests interested persons to submit comments and information concerning this proposed project and NMFS's preliminary determination of issuing an IHA (see **ADDRESSES**). Concurrent with the publication of this notice in the *Federal Register*, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: December 8, 2011.

James H. Lecky,

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

[FR Doc. 2011–32100 Filed 12–13–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA868

International Affairs; U.S. Fish Quotas in the Northwest Atlantic Fisheries Organization Regulatory Area

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

ACTION: Notification of U.S. fish quotas.

SUMMARY: NMFS announces that fish quotas are available for harvest in the Northwest Atlantic Fisheries