

May 1, 2019

Jolie Harrison
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Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910-3225
NOAA-NMFS-2019-0026

Via electronic submission: www.regulations.gov

RE: Proposed Rule; Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Oil and Gas Activities in Cook Inlet, Alaska [Docket No. 190214112-9112-01]

Dear Ms. Harrison:

This letter provides the written comments of the International Association of Geophysical Contractors (IAGC), regarding the proposed rule for the incidental take of marine mammals during oil and gas activities in the Cook Inlet in Alaska. We appreciate the opportunity to provide comment and inform the final rule.

I. THE ASSOCIATION

The IAGC is the international trade association for the geophysical and exploration industry, the cornerstone of the energy industry. Our membership includes onshore and offshore survey operators and acquisition companies, data process providers, exploration and production companies, equipment and software manufacturers, industry suppliers and service providers. The IAGC has more than 80 member companies in nearly 50 countries, comprised of a wide range of geophysical survey companies, equipment manufacturers, consultancies and providers of support services. The IAGC is further supported by a number of 'Industry Partners' which includes Exploration and Production companies.

The IAGC's mission is to optimize the business and regulatory climate, and enhance public understanding to support a strong, viable geophysical industry essential to discovering and delivering the world's energy resources. The IAGC's vision is to be the most credible and effective voice for promoting and ensuring a safe, environmentally responsible and competitive geophysical and exploration industry.

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II. COMMENTS

A. The 7,300-meter Shut Down Zone for Beluga Whales is Unnecessary and Impractical

The proposed 7,300-m shutdown zone for beluga whales is intended to, “manage for the low numbers of allowable Level B takes.” First, the application states that, “Level B zones for 2D/3D seismic, pipe driving, VSP, water jet, and tugs towing were based on measured levels.” The basis for these measurements is unclear, and whether these measurements were recorded in an appropriately analogous environment is unknown.

Additionally, the 7,300-m radius appears to have been calculated without the application of the appropriate weighting function, and therefore represents an overly conservative estimation of the distance at which Level B take of marine mammals may occur. Requiring a 7,300-m shutdown zone is therefore is not consistent with the best available science to calculate Level B takes for any species, and thus, should not be treated as the shutdown zone for beluga whales. We urge NMFS to evaluate the best available science and apply appropriate mitigation measures.

B. Protected Species Observer Specifications are Impracticable

The Protected Species Observer (PSO) specifications included in the proposed rule are burdensome, impractical and many have little benefit for mitigating risk.

The PSO specifications include;

- Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from the PSO, apparent reaction to activities (e.g., none, avoidance, approach, paralleling, etc.), closest point of approach, and behavioral pace.
- Time, location, speed, activity of the vessel, sea state, ice cover, visibility, and sun glare.
- The positions of other vessel(s) in the vicinity of the PSO location.
- The vessel’s position, speed, water depth, sea state, ice cover, visibility, and sun glare will also be recorded at the start and end of each observation watch, every 30 minutes during a watch, and whenever there is a change in any of those variables.

Implementation of these requirements presents a serious burden to PSOs. Data relating to environmental variables not directly relevant to survey operations (e.g. sea ice cover, other vessels in the area) distracts observers from monitoring the safety and exclusion zones. Collecting additional data is likely to interfere with the primary purpose of stationing PSOs aboard a seismic vessel: to assist in mitigation and determine when power downs and shutdowns are necessary.

Determining marine mammal behavioral state is highly subjective, and PSOs are not trained to make such a determination. Additionally, the proposal fails to specify the criteria to be employed in recording the behavioral state. Accordingly, both intra- and inter-observer variability is likely to be high. In addition to distracting PSOs from monitoring the safety and exclusion zones, without proper training and consistent criteria, any data collected during the survey will be rendered entirely invalid for further analysis.

Finally, monitoring guidelines specify observers stationed on the source vessel, on the chase or support vessel, and conducting aerial surveys. These steep monitoring requirements appear to stem from the 7,300-m radius referenced above. When the Level B radius is reduced to the appropriate level, observers aboard chase- and support vessels are unlikely to be necessary to monitor the safety and exclusion zones. The proposed routine aerial surveys are superfluous to maintaining clearance of the safety and exclusion zones, and therefore the aerial monitoring requirement should be removed from consideration.

C. Sound Source Verification (SSV) Studies are Burdensome and Variable

A sound source verification (SSV) study was specified for the lower Cook Inlet, with potential to add additional SSV studies. In the experience of the Associations' members, SSV poses a complicated and unnecessary burden on operations because the results of SSV are highly variable. This is primarily due to constantly changing conditions in the water column. Generic sound source studies for representative habitats are more efficient, useful, and verifiable when coupled with field studies than are survey specific SSV studies. For these reasons, the requirements for survey specific SSV should be removed.

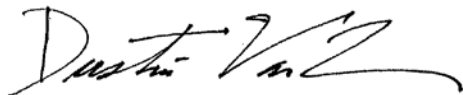
III. CONCLUSION

The IAGC finds the proposed mitigation measures, detailed above, to be precautionary and without basis in the best available science. Seismic surveys have been operating for decades in the Arctic with no more than a negligible impact on marine mammals. Non-science based and burdensome requirements on those activities are not consistent with the Marine Mammal Protection Act under which NMFS has proposed this rule.

We appreciate the effort that NMFS has devoted to the development of this proposed rule. We support this effort generally but, as detailed above, we have concerns about the lack of substantive support for some of the proposed mitigation measures. We respectfully ask NMFS to address these concerns in the final rule. The IAGC will continue to support a process that is consistent with the best available science.

Should you have any questions, please contact Alex Rivard at (alex.rivard@iagc.org), or the undersigned via email at dustin.vanliew@iagc.org. Thank you for considering and responding to these comments.

Sincerely,



Dustin Van Liew
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