

DC 20230 (or via the Internet at dhynek@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202-395-7245) or e-mail (bharrisk@omb.eop.gov).

Dated: February 2, 2010.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XU06

Notice of Intent to Prepare an Environmental Impact Statement on the Effects of Oil and Gas Activities in the Arctic Ocean

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

ACTION: Notice of Intent to prepare an Environmental Impact Statement; request for comments.

SUMMARY: The National Marine Fisheries Service (NMFS) announces its intent to prepare an Environmental Impact Statement (EIS) to analyze the environmental impacts of issuing Incidental Take Authorizations (ITAs) pursuant to the Marine Mammal Protection Act (MMPA) to the oil and gas industry for the taking of marine mammals incidental to offshore exploration activities (e.g., seismic surveys and exploratory drilling) in Federal and state waters of the U.S. Chukchi and Beaufort Seas off Alaska.

DATES: All comments, written statements, and questions regarding the scoping process and preparation of the EIS must be received no later than April 9, 2010.

ADDRESSES: Written comments and statements should be addressed to Mr. P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20190-3225. The mailbox address for providing e-mail comments is arcticeis.comments@noaa.gov.

Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size. Comments and statements may also be submitted via

fax to (301) 713-0376. Information on this project can also be found on the Protected Resources webpage at: <http://www.nmfs.noaa.gov/pr/permits/eis/arctic.htm>.

FOR FURTHER INFORMATION CONTACT: Michael Payne, Office of Protected Resources, NMFS, (301) 713-2289 ext. 110.

SUPPLEMENTARY INFORMATION:

Background

Sections 101 (a)(5)(A) and (D) of the MMPA (16 USC 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of proposed authorization is provided to the public for review. The term "take" under the MMPA means "to harass, hunt, capture, kill or collect, or attempt to harass, hunt, capture, kill or collect." 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]."

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

Summary of Previous National Environmental Policy Act (NEPA) Documents

In 2006, the U.S. Minerals Management Service (MMS) prepared a Programmatic Environmental Assessment (PEA) for the 2006 Arctic

Outer Continental Shelf (OCS) seismic surveys. NMFS was a cooperating agency and adopted the Final PEA on June 28, 2006. Under this PEA, NMFS issued Incidental Harassment Authorizations under Section 101(a)(5)(D) of the MMPA to oil and gas companies for the taking of marine mammals incidental to seismic surveys in 2006. This PEA analyzed the effects of four concurrent seismic surveys in the Beaufort Sea and four concurrent seismic surveys in the Chukchi Sea. At that time, NMFS indicated that increased activity and new available science would result in a need to prepare an EIS for future authorizations.

On April 6, 2007, NMFS and MMS published a Notice of Availability for a Draft Programmatic EIS (DPEIS) and a schedule of public hearings (72 FR 17117) to assess the impacts of MMS' issuance of permits and authorizations under the Outer Continental Shelf Lands Act (OCSLA) for the conduct of seismic surveys in the Chukchi and Beaufort Seas off Alaska and NMFS' authorizations under the MMPA to incidentally harass marine mammals while conducting those surveys. The proposed scope and effects of the seismic survey activities analyzed in the DPEIS were based on the best available information at the time. Since then, new information (e.g., scientific study results, changes in projections of level of activity) has become available that alters the scope, range of possible alternatives, and analyses in the DPEIS. Therefore, MMS and NMFS filed a Notice of Withdrawal of the DPEIS on October 28, 2009 (74 FR 55539) and announced our decision to begin a new NEPA process.

Objectives of the EIS

This NOI announces NMFS' intent, as lead agency, to prepare a new EIS to analyze the potential effects of both geophysical surveys and exploratory drilling, address cumulative effects over a longer time frame, consider a more reasonable range of alternatives consistent with our statutory mandates, and reanalyze the range of practicable mitigation and monitoring measures for protecting marine mammals and availability of marine mammals for subsistence uses. MMS will be a cooperating agency on this EIS.

Specifically, this EIS would:

(1) Assess the environmental impacts to the physical, biological, cultural, economic, and social resources from deep-penetration, two-dimensional (2D) and three-dimensional (3D) streamer and ocean bottom cable surveys (hereafter referred to as seismic surveys)

and shallow hazard and site clearance surveys;

(2) Assess the environmental impacts to the physical, biological, cultural, economic, and social resources from open water offshore exploratory drilling operations during the open water season in order for the industry to drill priority exploration drill sites on MMS OCS leases in the Chukchi and Beaufort Seas. Also, as part of this EIS, NMFS will analyze the effects of obtaining geotechnical data for pre-feasibility analyses of shallow sub-sea sediments as part of its proposed exploratory drilling operations; and

(3) Assess whether alternatives developed would allow for the implementation of a long-term planning process pursuant to section 101(a)(5)(A) of the MMPA through the development and implementation of regulations that would be in place for 5 year time periods.

For the purposes of complying with NEPA and to achieve greater administrative efficiency in its ITA program, NMFS has determined the need to prepare an EIS that will analyze a range of oil and gas exploratory actions and that will satisfy the requirements of the Council on Environmental Quality's NEPA regulations and the NOAA NEPA administrative order 216-6. The proposed EIS would cover known and reasonably foreseeable projects requiring ITAs in the U.S. Arctic regions for future years, until such time that a revision of the document is necessary. NMFS has determined, based on the following factors, that an EIS would serve a more beneficial use in terms of agency decisionmaking and would allow greater public participation in future decisions related to ITAs for the oil and gas industry:

- NMFS and MMS have received preliminary information from industry that suggests an additional increase in seismic survey applications beyond recent levels;
- NMFS has received applications for exploratory drilling and expects more in the future, the effects of which were not analyzed in the withdrawn DPEIS;
- Understanding that both drilling and seismic activities could be expected to continue in the immediate years, both agencies determined that a longer timeframe needed to be analyzed in order to most effectively and fully evaluate the potential for cumulative impacts; and
- NMFS prepares environmental analyses under NEPA to support the issuance of ITAs under sections 101(a)(5)(A) and (D) of the MMPA. Therefore, this EIS will also be used to

support future MMPA authorizations issued by NMFS for seismic and exploratory drilling activities in state and Federal waters in the U.S. Arctic Ocean in the Beaufort and Chukchi Seas.

Finally, the environmental analysis will assist NMFS and MMS in carrying out other statutory responsibilities relating to the agencies' role in authorizing seismic survey and exploratory drilling activities or incidental take of marine mammals (e.g., assessing environmental impacts on listed species under the Endangered Species Act [Section 7 consultation] and effects of the proposed action on essential fish habitat [EFH] under the Magnuson-Stevens Fishery Conservation and Management Act [EFH consultation]).

Overview of Proposed Activities

Seismic Activities

This EIS would analyze effects of seismic activities during the open water season in the Beaufort and Chukchi Seas. Seismic surveys are conducted to obtain data on geological formations from the sediment near-surface to several thousand meters deep (below the sediment surface). This information enables industry to accurately assess potential hydrocarbon reservoirs, helps to optimally locate exploration and development wells, maximizing extraction and production from a reservoir, and to locate shallow geologic hazards. It also allows MMS to fulfill its statutory responsibilities to ensure safe operations, support environmental impact analyses, protect benthic resources through avoidance measures, and perform other statutory responsibilities.

Seismic surveys are most often characterized by the type of data being collected. Seismic surveys may be described in very general terms by when the surveys occur (pre-lease, post-lease) because the timing can indicate the type of data likely to be collected. Surveys may be described by the acoustic sound source (air gun, water gun, sparker, pinger, etc.) or by the purpose for which the data is being collected (speculative shoot, exclusive shoot, site clearance).

Each seismic vessel may be accompanied by other support vessels for provision re-supply and crew change. In addition, fixed-wing aircraft may be used for marine mammal surveillance over-flights.

Drilling Activities

This EIS would also analyze effects of offshore exploratory drilling operations during the open water season in order

that oil companies can drill exploration targets on their OCS leases in the Beaufort and Chukchi Seas. Also, as part of this EIS, NMFS would analyze the effects of obtaining geotechnical data for pre-feasibility analyses of shallow sub-sea sediments as part of its proposed exploratory drilling operations by drilling a series of boreholes, each up to 400 feet (122 m) in depth.

Each drilling vessel is typically accompanied by up to two Arctic class ice management vessels which also serve duty as anchor tenders and other drill ship support tasks, as well as additional support vessels, oil spill response vessels, and aircraft. Additional support vessels will be used for provision re-supply and crew change. In addition, fixed-wing aircraft may be used for marine mammal surveillance over-flights, as well as for activities such as crew change and provision re-supply.

Scoping

Publication of this notice begins the official scoping period that will help clarify previously identified issues of concern and determine the range and structure of alternatives to be considered in the EIS. NMFS invites comments and input from the public, organizations and interest groups, local governments, and Federal and state agencies on issues surrounding the proposal. The scoping period will end on April 9, 2010; for consideration in the development of the EIS, all written statements and questions must be received by this date, via contact means identified above (see **ADDRESSES**).

NMFS will consider all comments received during the scoping period. All hardcopy submissions must be unbound and suitable for copying and electronic scanning. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size. NMFS requests that you include in your comments:

- (1) Your name and address;
- (2) Whether or not you would like a copy of the Draft EIS; and
- (3) Any background documents to support your comments as you feel necessary.

Instructions: All comments received are a part of the public record. 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.

This notice requests public participation in the scoping process, provides information on how to

participate, and identifies a set of preliminary alternatives to serve as a starting point for discussions. The public will have additional opportunities to comment on the Draft EIS and any applications received under the MMPA as part of this action. In particular, NMFS is soliciting information on:

- (1) Effects of oil and gas exploration on marine mammal behavior and use of habitat;
- (2) Effects of oil and gas exploration on availability of species for subsistence uses;
- (3) Available new science on the Arctic ecosystem; and
- (4) Available new technology for monitoring or obtaining seismic/drilling data.

The scoping comments will help inform NMFS' formulation of a range of reasonable alternatives considered in the EIS. The scope and structure of the alternatives evaluated will reflect the combined input from the public, industry, stakeholders, affected state and Federal agencies, and NMFS administrative and research offices. The range of reasonable alternatives that are analyzed in this EIS will be determined based on information gathered during scoping and will be consistent with the purpose and need of NMFS' and MMS' actions and with applicable law.

Issues and concerns associated with oil and gas related activities in the Arctic marine environment have been documented by the scientific community, government publications, at scientific symposia, through the scoping and public hearings/comments, and other NEPA analyses. In addition, public testimony and traditional knowledge from Alaskan Natives have provided valuable information about the potential impacts to marine mammals and on subsistence hunting of such species from seismic surveying and drilling operations. Based on information from these sources, the following prominent issues and concerns on which NMFS is seeking public comments have been identified and will be included in an alternatives framework and analysis of effects:

- Protection of subsistence resources and Inupiat culture and way of life
- Disturbance to bowhead whale migration patterns
- Impacts of seismic operations on marine fish reproduction, growth, and development
- Harassment and potential harm of wildlife, including marine mammals and marine birds, by vessel operations, movements, and noise
- Impacts on water quality

- Changes in the socioeconomic environment
 - Impacts to threatened and endangered species
 - Impacts to marine mammals, including disturbance and changes in behavior
 - Incorporation of traditional knowledge in the decision-making process
 - Effectiveness and feasibility of marine mammal monitoring and other mitigation and monitoring measures
- To provide a framework for public comments, the range of reasonable alternatives will include the Proposed Action and several other action alternatives, as well as a No Action alternative. The action alternatives analyzed will represent a range of levels of activities from unrestricted to no seismic or exploratory drilling and could address the following, although this list is not exhaustive:

Levels of Activity

- Number, scale/size, location, and duration of seismic activities
- Number, scale/size, location, and duration of drilling activities
- Number, scale/size, location, and duration of shallow hazard/site clearance activities
- Number, scale/size, location, and duration of associated support activities (vessel, aircraft, shore)
- The degree to which those activities can overlap in space and time

Mitigation

- Exclusion zones based on received levels of sounds;
- Exclusion zones based on presence of specific biological factors in combination with received levels of sound;
- Exclusion zones based on presence and timing of subsistence activities;
- Time/area closures for biological and subsistence reasons; and
- Limitations on certain combinations of activities in specific temporal/spatial circumstances.

The EIS will assess the direct and indirect effects of the alternative approaches to authorizing oil and gas seismic surveys under the OCSLA and the taking of marine mammals incidental to seismic surveys and exploratory drilling activities under the MMPA. The EIS will assess the effects on the marine mammal species and availability of those species for subsistence uses, as well as other components of the marine ecosystem and human environment. The EIS will assess the contribution of these activities to the cumulative effects on these resources, including effects from

past, present, and reasonably foreseeable future events and activities in the U.S. Arctic. Anyone having relevant information they believe NMFS should consider in its analysis should provide a description of that information along with complete citations for supporting documents.

For additional information on the withdrawn MMS and NMFS 2007 DPEIS, please visit the MMS website at: http://www.mms.gov/alaska/ref/EIS%20EA/draft_arctic_peis/draft_peis.htm.

Scoping Meetings Agenda

Public scoping meetings will be held at the following locations in February and March, 2010: Anchorage, Barrow, Kaktovik, Kotzebue, Nuiqsut, Point Hope, Point Lay, and Wainwright. Public scoping meetings will be held at the following dates, times, and locations:

- (1) February 18, 2010, 6 – 8 p.m., Northwest Arctic Borough Assembly Chambers, Kotzebue, Alaska;
- (2) February 19, 2010, 5 – 7 p.m., Point Hope Community Center, Point Hope, Alaska; and
- (3) February 22, 2010, 7 – 9 p.m., Point Lay Community Center, Point Lay, Alaska.

The final dates, times, and locations are not yet finalized for the public scoping meetings in Anchorage, Barrow, Kaktovik, Nuiqsut, and Wainwright; a supplement to this NOI will be published with the final meeting dates, times, and locations. Comments will be accepted at all public scoping meetings, as well as during the scoping period and can be submitted via the methods described earlier in this document (see **ADDRESSES**).

Special Accommodations

These meetings are accessible to people with disabilities. Requests for sign language interpretation or auxiliary aids should be directed to Sheyna Wisdom by telephone at (907) 261-6705 or by email at Sheyna_Wisdom@URSCorp.com at least 7 days before the scheduled meeting date.

Dated: February 2, 2010.

James H. Lecky,

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

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