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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XA937

Guidelines for Assessing Marine Mammal Stocks

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

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS solicits public comments on draft revisions to the guidelines for preparing marine mammal stock assessment reports (SARs).

DATES: Comments must be received by [insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: The following draft revisions to the guidelines for preparing marine mammal stock assessment reports are contained in full in Appendix IV of the Guidelines for Assessing Marine Mammal Stocks: Report of the GAMMS III Workshop; the workshop report is available in electronic form via the Internet at <http://www.nmfs.noaa.gov/pr/sars/>. Copies of the workshop report may be requested from Shannon Bettridge, Office of Protected Resources, 301-427-8402, Shannon.Bettridge@noaa.gov.

You may submit comments, identified by [NOAA-NMFS-2012-0007], by any of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.

Mail: Send comments to: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Attn: GAMMS.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> 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.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Shannon Bettridge, Office of Protected Resources, 301-427-8402, Shannon.Bettridge@noaa.gov; Jeffrey Moore, 858-546-7000, jeff.e.moore@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 117 of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare stock assessments for each stock of marine mammals occurring in waters under the jurisdiction of the United States. These reports must contain information regarding the distribution and abundance of the stock, population growth rates and trends, estimates of annual human-caused mortality and serious injury from all sources, descriptions of the fisheries with which the stock interacts, and the status

of the stock. Initial stock assessment reports (SARs, or Reports) were completed in 1995.

NMFS convened a workshop in June 1994, including representatives from NMFS, FWS, and the Marine Mammal Commission (Commission), to prepare draft guidelines for preparing SARs. The report of this workshop (Barlow et al.,1995) included the guidelines for preparing SARs and a summary of the discussions upon which the guidelines were based. The draft guidelines were made available, along with the initial draft SARs, for public review and comment (59 FR 40527, August 9, 1994) and were finalized August 25, 1995 (60 FR 44308).

In 1996, NMFS convened a second workshop (referred to as the Guidelines for Assessing Marine Mammal Stocks, or “GAMMS,” workshop) to review the guidelines and to recommend changes to them, if appropriate. Workshop participants included representatives from NMFS, FWS, the Commission, and the three regional scientific review groups (SRGs). The report of that workshop (Wade and Angliss, 1997) summarized the discussion at the workshop and contained revised guidelines. The revised guidelines represented minor changes from the initial version. The revised guidelines were made available for public review and comment along with revised stock assessment reports on January 21, 1997 (62 FR 3005) and later finalized.

In September 2003, NMFS again convened a workshop (referred to as GAMMS II) to review guidelines for SARs and again recommend minor changes to the guidelines. Participants at the workshop included representatives of NMFS, FWS, the Commission, and the regional SRGs. Changes to the guidelines resulting from the 2003 workshop were directed primarily toward identifying population stocks and estimating PBR for declining stocks of marine mammals. The revised guidelines were made available for public review and comment on

November 18, 2004 (69 FR 67541), and the revisions were completed and finalized on June 20, 2005 (70 FR 35397).

In February 2011, NMFS convened another workshop (referred to as GAMMS III) to review guidelines for preparing SARs and again recommends changes to the guidelines. Participants at the workshop included representatives from NMFS, FWS, the Commission, and the three regional SRGs. NMFS solicits public comments on the draft revisions to the guidelines for preparing SARs, contained in Appendix IV of the GAMMS III workshop report. The GAMMS III workshop report is available at <http://www.nmfs.noaa.gov/pr/sars/>. Below are brief summaries of the recommended revisions to the guidelines based on the most recent workshop.

Revisions to Guidelines

The objectives of the GAMMS III workshop were to (1) consider methods for assessing stock status (i.e., how to apply the Potential Biological Removal framework, or PBR) when abundance data are outdated, nonexistent, or only partially available; (2) develop policies on stock identification and application of PBR to small stocks, transboundary stocks, and situations where stocks mix; and (3) develop consistent national approaches to a variety of other issues, including reporting mortality and serious injury (M&SI) information in assessments. Nine specific topics were discussed at the workshop. The deliberations of these nine topics resulted in a series of suggested modifications to the current Report guidelines (NMFS, 2005). The report of the GAMMS III workshop includes summaries of the presentations and discussions for each of the agenda topics, as well as suggested revisions to the guidance document for preparing Reports. Appendices of the workshop report provide a variety of supporting documents,

including the full suggested text revision of the Guidelines for Preparing the Stock Assessment Reports (Appendix IV).

PBR calculations with outdated abundance estimates: For an increasing number of marine mammal stocks, the most recent abundance estimates are more than 8 years old. Under existing guidelines (NMFS, 2005), these are considered to be outdated and thus not used to calculate PBR. The current practice is to consider the PBR for a stock “undetermined” after supporting survey information is more than eight years old, unless there is compelling evidence that the stock has not declined. However, "undetermined" PBR is confusing, does not support management decisions, and may be interpreted in such a way that there is no limit to the level of allowable mortality. The following revisions to calculate PBRs for stocks with old abundance information are: (1) During years 1-8 after the most recent abundance survey, “uncertainty projections” will be used, based on uniform distribution assumptions, to serially reduce the N_{\min} estimate by a small increment each year;. (2) After 8 years, and assuming no new estimate of abundance has become available, then a worst-case scenario is assumed (i.e., a plausible 10 percent decline per year since the most recent survey), and so a retroactive 10 percent decline per year is applied; and. (3) If data to estimate a population trend model are available, such a model can be used to influence the uncertainty projections during the first 8 years.

Improving stock identification: For most marine mammal species, few stock definition changes have been made since the initial SARs were written. Most stocks were defined at scales that were larger than major eco-regions, suggesting that the scale is likely too large. A recommended addition to the guidelines is the direction that each Report will state in the “Stock Definition and Geographic Range” section whether it is plausible the stock contains multiple

demographically independent populations that should be separate stocks, along with a brief rationale. If additional structure is plausible and human-caused mortality or serious injury is concentrated within a portion of the range of the stock, the Reports should identify the portion of the range in which the mortality or serious injury occurs.

Assessment of very small stocks: The PBR estimate for some stocks may be very small (just a few animals or even less than one). In such cases, low levels of observer coverage may introduce substantial small-sample bias in bycatch estimates. A draft revision to the guidelines is the inclusion of a table that provides recommendations for the amount of sampling effort (observer coverage and/or number of years of data pooling) required to limit small-sample bias, given a certain PBR level, in the Technical Details section of the SARs guidelines. Further, if suggested sampling goals (per the table) cannot be met, then mortality should be estimated and reported, but the estimates should be qualified in the SARs by stating they very well could be biased.

Assessment of small endangered stocks: Some endangered species, like Hawaiian monk seals, are declining with little to no direct human-caused mortality and the stock's dynamics therefore do not conform to the underlying model for calculating PBR. Thus, PBR estimates for some endangered species stocks have not been included, or have been considered "undetermined" in SARs. In such cases, if feasible, PBR should still be calculated and included in the SARs to comply with the MMPA, but a draft revision to the guidelines is that Report authors may depart from these guidelines if sound reasons are given in the SAR.

Apportioning PBR across feeding aggregations, allocating mortality for mixed stocks, and estimating PBR for transboundary stocks: In some cases, mortality and serious injury occur

in areas where more than one stock of marine mammals occur. The draft revised guidelines specify that when biological information is sufficient to identify the stock from which a dead or seriously injured animal came, the mortality or serious injury should be associated only with that stock. When one or more deaths or serious injuries cannot be assigned directly to a stock, then those deaths or serious injuries may be partitioned among stocks within the appropriate geographic area, provided there is sufficient information to support such partitioning (e.g., based on the relative abundances of stocks within the area). The Reports will contain a discussion of the potential for over or under-estimating stock-specific mortality and serious injury. In cases where mortalities and serious injuries cannot be assigned directly to a stock and available information is not sufficient to support partitioning those deaths and serious injuries among stocks, the draft revised guidelines state that the total unassigned mortality and serious injuries should be assigned to each stock within the appropriate geographic area. When deaths and serious injuries are assigned to each overlapping stock in this manner, the Reports will contain a discussion of the potential for over-estimating stock-specific mortality and serious injury.

NMFS strengthened the language in the draft guidelines regarding trans-boundary stocks, cautioning against extrapolating abundance estimates from one surveyed area to another unsurveyed area to estimate range-wide PBR. However, informed interpolation (e.g., based on habitat associations) may be used, as appropriate and supported by existing data, to fill gaps in survey coverage and estimate abundance and PBR over broader areas. If estimates of mortality or abundance from outside the U.S. EEZ cannot be determined, PBR calculations should be based on abundance in the EEZ and compared to mortality within the EEZ.

Clarifying reporting of mortality and serious injury incidental to commercial fishing:

Currently, SARs do not consistently summarize mortality and serious injury incidental to commercial fishing. The draft revised guidelines specify that SARs include a summary of all human-caused mortality and serious injury including information on all sources of mortality and serious injury. Additionally, a summary of mortality and serious injury incidental to U.S. commercial fisheries should be presented in a table, while mortality and serious injury from other sources (e.g., recreational fisheries, other sources of M&SI within the U.S. EEZ, foreign fisheries on the high seas) should be clearly distinguished from U.S. commercial fishery-related mortality. Finally, the draft revised guidelines contain the addition of a subsection entitled “Summary of the most important potential Human-caused Mortality and Serious Injury threats that are unquantified” in the SARs, and the SARs should also indicate if there are no known major sources of unquantifiable human-caused mortality and serious injury.

When stock declines are sufficient for a strategic designation: There is no formal process to periodically evaluate the depleted status of non-ESA listed marine mammal stocks, and the current Report guidelines (NMFS, 2005) do not provide any guidance for recommending that a stock be designated as depleted. Therefore, the draft revised guidelines include the following: “Stocks that have evidence suggesting at least a 50 percent decline, either based on previous abundance estimates or historical abundance estimated by back-calculation, should be noted in the Status of Stocks section as likely to be below OSP. The choice of 50 percent does not mean that OSP is at 50 percent of historical numbers, but rather that a population below this level would be below OSP with high probability. Similarly, a stock that has increased back to levels

pre-dating the known decline may be within OSP; however, additional analyses may determine a population is within OSP prior to reaching historical levels.”

Additionally, the draft revised guidelines include the following clarification: “A stock shall be designated as strategic if it is declining and has a greater than 50 percent probability of a continuing decline of at least 5 percent per year. Such a decline, if not stopped, would result in a 50 percent decline in 15 years and would likely lead to the stock being listed as threatened. The estimate of trend should be based on data spanning at least 8 years. Alternative thresholds for decline rates and duration, as well as alternative data criteria, may also be used if sufficient rationale is provided to indicate that the decline is likely to result in the stock being listed as threatened within the foreseeable future. Stocks that have been designated as strategic due to a population decline may be designated as non-strategic if the decline is stopped and the stock is not otherwise strategic.”

And finally, to the draft revised guidelines include the following direction regarding recovery factors for declining stocks: “A stock that is strategic because, based on the best available scientific information, it is declining and is likely to be listed as a threatened species under the ESA within the foreseeable future (sec. 3(19)(B) of the MMPA) should use a recovery factor between 0.1 and 0.5.”

Assessing stocks without abundance estimates or PBR: For many stocks, data are so sparse that it is not possible to produce an N_{\min} or therefore not possible to estimate PBR. When mortality and/or population abundance estimates are unavailable, the PBR approach cannot be used to assess populations, in spite of a statutory mandate to do so. The draft revised guidelines

include the addition to the Status of Stocks section the following sentence: “Likewise, trend monitoring can help inform the process of determining strategic status.”

Characterizing uncertainty in key SAR elements: It is difficult to infer the overall uncertainty for key parameters as they are currently reported in the SARs. The draft revised guidelines direct that in the Stock Definition and Geographic Range, Elements of the PBR Formula, Population Trend, Annual Human-Caused Mortality and Serious Injury and Status of the Stock sections, SAR authors are to provide a description of key uncertainties associated with parameters in these sections and evaluate the effects of these uncertainties in sufficient detail to support a synthesis of how accurately stock status could be assessed.

Including non-serious injuries and disturbance in SARs: A final draft revision to the guidelines is the addition that if there are no known habitat issues or other factors causing a decline or impeding recovery, this should be stated in the Status of Stocks section.

Dated: January 18, 2012.

James H. Lecky,
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