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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE841

Notice of Availability of a Final Environmental Impact Statement for 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 availability of a Final Environmental Impact Statement; request for comments.

SUMMARY: NMFS announces the availability of the “Final Environmental Impact Statement (FEIS) for the Effects of Oil and Gas Activities in the Arctic Ocean.” The purpose of the FEIS is to evaluate, in compliance with the National Environmental Policy Act (NEPA), the potential direct, indirect, and cumulative impacts of implementing the alternative approaches for authorizing take of marine mammals incidental to oil and gas activities in the Arctic Ocean pursuant to the Marine Mammal Protection Act (MMPA). The U.S. Department of the Interior’s Bureau of Ocean Energy Management (BOEM) was a cooperating agency on this FEIS, and as such, this FEIS also evaluates the potential direct, indirect, and cumulative impacts of implementing the alternative approaches for authorizing geological and geophysical (G&G) surveys and concurring on ancillary activities under the Outer Continental Shelf Lands Act (OCSLA) in the Arctic Ocean. The North Slope Borough (NSB) was also a cooperating agency on this FEIS. The Environmental Protection Agency and the U.S. Fish & Wildlife Service were consulting

agencies, and NMFS coordinated with the Alaska Eskimo Whaling Commission pursuant to our co-management agreement under the MMPA.

DATES: Federal, State, and local agencies, as well as other interested parties, are invited to review this FEIS. Comments must be received on or before November 21, 2016, to be considered for our Record of Decision. The Record of Decision will include information on the alternatives considered, the preferred alternative and why we chose it, and required mitigation and monitoring.

ADDRESSES: The FEIS is available for review online at:

<http://www.nmfs.noaa.gov/pr/permits/eis/arctic.htm>. You may submit comments on this document by:

- Email: *Candace.Nachman@noaa.gov*
- Fax: (301) 713-0376, Attn: Jolie Harrison
- Mail: NOAA, NMFS, Office of Protected Resources, 1315 East-West Highway, Room 13805, Silver Spring, MD 20910, Attn: Jolie Harrison

FOR FURTHER INFORMATION CONTACT: Candace Nachman, Office of Policy, NMFS at (301) 427-8031, or Jolie Harrison, Office of Protected Resources, NMFS at (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101 (a)(5)(A) and (D) of the MMPA (16 U.S.C. 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 or kill, or attempt to harass, hunt, capture, or kill.” 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.”

NMFS, as the lead federal agency, prepared this FEIS to evaluate a broad range of reasonably foreseeable levels of exploration activities and associated mitigation measures that may occur in the U.S. Beaufort and Chukchi Seas. The FEIS presents the potential impacts associated with the issuance of incidental take authorizations (ITAs) under section 101(a)(5) of the MMPA for seismic surveys, ancillary activities, and exploratory drilling. NMFS recognizes that the current level of oil and gas exploration activities is

lower than what previously occurred and what was projected when the scoping process for this EIS began in February 2010. However, NMFS still receives requests for MMPA ITAs in the U.S. Beaufort and Chukchi Seas, and this FEIS provides decision-makers and the public with an evaluation of the environmental, social, and economic effects of the proposed action and alternatives.

On December 30, 2011, NMFS published a Notice of Availability of the Draft EIS in the **Federal Register** (76 FR 82275). The 2011 Draft EIS includes an analysis of the proposed actions identified in the 2010 Notice of Intent (*i.e.*, NMFS' issuance of MMPA ITAs for take of marine mammals incidental to G&G surveys, ancillary activities, and exploratory drilling in the Chukchi and Beaufort Seas and BOEM's issuance of G&G permits and concurrence on ancillary activities in the Chukchi and Beaufort Seas), the anticipated environmental impacts, and measures to minimize the impacts associated with these activities. On March 29, 2013, NMFS published a Notice of Availability of a Supplemental Draft EIS in the **Federal Register** (78 FR 19212). The Supplemental Draft EIS included one new alternative not contained in the 2011 Draft EIS and a few other substantive changes. Please refer to the Notices of Availability for the Draft and Supplemental Draft EISs for that information.

Alternatives

NMFS evaluated a preferred alternative (Alternative 2) and five others in the FEIS. Each alternative includes an analysis of a suite of standard and additional mitigation measures that have been identified to help reduce impacts to marine mammals and to ensure no unmitigable adverse impact on the availability of marine mammals for subsistence uses. Each alternative also considers a reasonable range of oil and gas

exploration activities for which MMPA ITAs could be issued. Table 1 outlines the activity levels considered in each alternative. Activity levels noted are a maximum for each alternative.

Table 1. Levels of G&G, ancillary, and exploratory drilling activities proposed for consideration in the alternatives in the FEIS on the Effects of Oil and Gas Activities in the Arctic Ocean. Activity levels noted are a maximum, and any combination up to that amount could be allowed under each alternative.

	2D/3D Seismic Surveys	Site clearance and Shallow Hazards Surveys	On-ice Seismic Surveys	Exploratory Drilling
Alternative 1 (No Action)	0	0	0	0
Alternative 2— Preferred Alternative (Level 1)	4 in Beaufort 3 in Chukchi	3 in Beaufort 3 in Chukchi	1 in Beaufort 0 in Chukchi	1 in Beaufort 1 in Chukchi
Alternative 3 (Level 2)	6 in Beaufort 5 in Chukchi	5 in Beaufort 5 in Chukchi	1 in Beaufort 0 in Chukchi	2 in Beaufort 2 in Chukchi
Alternative 4 (Level 3)	6 in Beaufort 5 in Chukchi	5 in Beaufort 5 in Chukchi	1 in Beaufort 0 in Chukchi	4 in Beaufort 4 in Chukchi
Alternative 5 (Level 3 with required time/area closures)	6 in Beaufort 5 in Chukchi	5 in Beaufort 5 in Chukchi	1 in Beaufort 0 in Chukchi	4 in Beaufort 4 in Chukchi
Alternative 6 (any level with required use of alternative technologies)	6 in Beaufort 5 in Chukchi	5 in Beaufort 5 in Chukchi	1 in Beaufort 0 in Chukchi	Any level up to the maximum, as the technology only relates to seismic surveys

Alternatives 5 and 6 differ from Alternatives 2, 3, and 4 in the fact that each one considers required mitigation measures not contemplated in the other action alternatives. Certain time/area closures considered for mitigation on a case-by-case basis under the other action alternatives would be required under Alternative 5. The time/area closures would be for specific areas important to biological productivity, life history functions for specific species of concern, and subsistence activities. Activities would not be permitted to occur in any of the time/area closures during the specific identified periods. Additionally, buffer zones around these time/area closures could potentially be included.

In addition to contemplating the same suite of standard and additional mitigation measures analyzed in the other action alternatives, Alternative 6 also includes specific additional mitigation measures that focus on the use of alternative technologies that have the potential to augment or replace traditional airgun-based seismic exploration activities in the future.

Dated: October 17, 2016.

Donna S. Wieting,

Director,

Office of Protected Resources,

National Marine Fisheries Service.

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