



BILLING CODE: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF843

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Alaska Liquefied Natural Gas (LNG) Project in Cook Inlet

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

ACTION: Notice; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from the Alaska Gasline Development Corporation (AGDC) for authorization to take, by harassment, marine mammals incidental to constructing an integrated liquefied natural gas (LNG) project in Cook Inlet, Alaska, beginning November 2019 and continuing through October 2024. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is announcing our receipt of the AGDC's request for regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the AGDC's application and request.

DATES: Comments and information must be received no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. The mailbox address for providing email comments is *ITP.guan@noaa.gov*.

Instructions: NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, 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 www.nmfs.noaa.gov/pr/permits/incidental/construction.htm 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.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of the AGDC's application may be obtained online at:
www.nmfs.noaa.gov/pr/permits/incidental/energy_other.htm.

Background

Sections 101(a)(5)(A) and (D) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

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 taking 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.

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).

The use of sound sources such as those described in the application (*e.g.*, pile driving) may result in the take of marine mammals through disruption of behavioral patterns or may cause auditory injury of marine mammals. Therefore, incidental take authorization under the MMPA is warranted.

Summary of Request

On April 18, 2017, NMFS received an application from the AGDC requesting authorization to take a small number of humpback whale, beluga whale, killer whale, harbor porpoise, and harbor seal, by Level B harassment, incidental to noise exposure resulting from constructing LNG facilities in Cook Inlet, Alaska from 2019 to 2023. AGDC's request is for take of five species of marine mammals, by Level B harassment only. Neither AGDC nor NMFS expects injury, serious injury, or mortality to result from this activity. NMFS provided questions and comments to AGDC after receiving the initial application regarding the scope of the project

and impact analysis. AGDC submitted a modified request on February 23, 2018 and NMFS deemed the application adequate and complete on March 14, 2018.

Description of the Specified Activity

AGDC proposes to construct facilities to transport and offload LNG in Cook Inlet, AK, for export. The Project activities include:

- Construction of the proposed Marine Terminal in Cook Inlet, including construction of a temporary Material Offloading Facility (MOF) and a permanent Product Loading Facility (PLF).
- Construction of the Mainline across Cook Inlet, including the potential construction of a Mainline MOF on the west side of Cook Inlet.

Components of proposed construction activities in Cook Inlet that have the potential to expose marine mammals to received acoustic levels that could result in take include:

- Vibratory and impact pile driving associated with MOF and PLF construction.
- Anchor handling associated with pipelay across the Cook Inlet.

For pile driving over the project duration, a total of 130 48-inch (-in) and 201 60-in steel piles would be installed using impact hammers for the PLF construction. A total of 7 24-in and 28 48-in steel piles would be installed using impact hammers and 66 18-in and 35 60-in steel piles using vibratory hammers for the MOF construction. In addition, approximately 6,700 feet and 670 feet of sheet pile would be installed using a vibratory and impact hammer, respectively, for the MOF construction.

For anchor handling, a total of 5.75 and 13.25 hours of activities are assessed for mooring/pipe trenching and pipelaying in Seasons 3 and 4, respectively.

The LNG facility construction activities are anticipated to begin in late 2019 and take approximately four years to complete. However, the rule will cover a five-year period to encompass additional time should delays occur.

A suite of proposed mitigation and monitoring measures for marine mammals that could potentially be taken during in-water construction activities includes: (1) establishing and monitoring Level A and Level B zones with protected species observers (PSOs), (2) establishing a 100-m shutdown zone and implementing shutdown measures when an animal is detected to approaching the shutdown zone, and (3) limiting pile driving activities to daylight hours only.

Information Sought

Interested persons may submit information, suggestions, and comments concerning the AGDC's request (see ADDRESSES). NMFS will consider all information, suggestions, and comments related to the AGDC's request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by the AGDC's LNG facility construction in Cook Inlet.

Dated: April 6, 2018.

Donna S. Wieting,
Director, Office of Protected Resources,
National Marine Fisheries Service.

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