



# MARINE MAMMAL COMMISSION

24 January 2022

Dr. Zachary Schakner  
Protected Species Science Branch  
Office of Science and Technology  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, MD 20910-3226

ATTN: Stock Assessments, NOAA–NMFS–2021–0130

Dear Dr., Schakner:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the National Marine Fisheries Service (NMFS) 2021 draft stock assessment reports (SARs) for marine mammals occurring in U.S. waters (86 Fed. Reg. 58887). These reports provide valuable information needed to understand and address important marine mammal conservation issues. The Commission appreciates NMFS's efforts to update and improve these reports, as well as the opportunity to review them, provide comments, and recommend further improvements. The Commission is providing general comments on meeting the Marine Mammal Protection Act (MMPA) requirements pertaining to preparing SARs as well as comments specific to different regions and stocks.

## GENERAL COMMENTS

### Requirements of section 117

*Meeting basic requirements*—As described in the Commission's letters on the draft 2019 and 2020 SARs and several other Commission reviews<sup>1</sup>, the Commission continues to be concerned about NMFS's performance in meeting several of the requirements of Section 117 of the MMPA. That provision requires inclusion of a minimum population estimate ( $N_{\min}$ ), a key factor for effective management of marine mammal stocks using potential biological removal (PBR). Without an  $N_{\min}$  derived from recent<sup>2</sup> data, PBR cannot be calculated and is considered "unknown," which is useless for management purposes. Including the SARs revised in 2021, an  $N_{\min}$  estimate is lacking for 77 of the 252, or 31%, of identified stocks. The Commission understands that although COVID-19 has affected data collection again this past year, that has not yet influenced the numbers reported in the draft 2021 SARs. The primary hindrance to full assessment of all stocks continues to be an ongoing lack of resources, including lack of access to vessel and aerial platforms from which population surveys are conducted. The lack of current abundance data for over one third of the stocks

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<sup>1</sup> [Full 2016 report](#), [summary 2016 report](#), and [updated 2018 report](#)

<sup>2</sup> NMFS's Guidelines for Assessing Marine Mammal Stocks defines recent as within the last eight years.

recognized<sup>3</sup> by NMFS is a serious shortcoming in meeting statutory obligations. The Commission appreciates the efforts NMFS has made to address this shortcoming by setting priorities across regions, coordinating requests for vessel time, and maximizing the data collected during the surveys (e.g. Ballance et al. 2017). The Commission reiterates its previous recommendation that NMFS maintain efforts to prioritize and coordinate requests for the necessary survey resources across regions. In addition to these internal efforts, the Commission acknowledges and encourages NMFS's continued engagement and collaboration with other federal agencies that require basic information on marine mammal stocks, through programs like the Atlantic Marine Assessment Program for Protected Species<sup>4</sup> and similar programs in the Gulf of Mexico<sup>5</sup> and the Pacific<sup>6</sup>. Further, the Commission reiterates its recommendation that these marine assessment programs continue to include appropriate personnel, logistical capability, and vessel time to allow for photo-identification, biopsy sampling, satellite tagging, acoustic monitoring and other efforts to increase the value of the core line-transect survey data collected. Such work can assist in delineating stock structure, confirming at-sea identification of cryptic species, and furthering understanding of distribution, habitat use, and behavior, all of which are important for reaching the overall management goals of NMFS under the MMPA.

*Population trend analyses*—The 2016 Guidelines for Preparing Stock Assessment Reports Pursuant to the 1994 Amendments to the MMPA<sup>7</sup> state that a SAR will describe information on the current population trend of the stock and should provide a description of any key uncertainties and the effects of those uncertainties on the population trend. However, there is no guidance on what data are needed, how population trend analyses should be performed, and how key uncertainties should be addressed. This lack of guidance has led to reporting inconsistencies across regions and likely contributes to the lack of population trend analyses for 21 of the 2021 draft SARs. To address the reporting inconsistencies and lack of analyses, the Commission recommends that NMFS convene a workshop to develop guidelines for data requirements and best practices for population trend analyses pursuant to section 117 of the MMPA. The Commission would be keen to participate in such a workshop and provide support if resources allow. Further, the Commission recommends that invited participants include scientists from the NMFS Science Centers, Scientific Review Group members, and non-NMFS statisticians who might provide guidance and different perspectives.

### **Centralizing data on vessel strikes**

NMFS's process for distinguishing serious from non-serious injury requires reporting information on human-caused events that result in injury to the animal. This includes detailed documentation of strikes of marine mammals by vessels. These data are listed in technical memoranda, which typically include summaries of human-caused mortalities and injuries. Data are stored within different NMFS programs, offices, and databases, such that there is no single source to query for all vessel strike data. This impedes the compilation of accurate data summaries and make cross-regional comparisons of data challenging. Given that these data are being summarized separately by each region for reporting under the NMFS injury determination process, the Commission recommends

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<sup>3</sup> There are additional stocks, primarily in the Pacific Islands, for which information is lacking and SARs have yet to be created.

<sup>4</sup> <https://www.nefsc.noaa.gov/psb/AMAPPS/>

<sup>5</sup> <https://www.boem.gov/GOMMAPPS/>

<sup>6</sup> <https://swfsc.noaa.gov/textblock.aspx?Division=PRD&ParentMenuId=276&id=22316>

<sup>7</sup> [https://media.fisheries.noaa.gov/dam-](https://media.fisheries.noaa.gov/dam-migration/guidelines_for_preparing_stock_assessment_reports_2016_revision_gamms_iii_opr2.pdf)

[migration/guidelines\\_for\\_preparing\\_stock\\_assessment\\_reports\\_2016\\_revision\\_gamms\\_iii\\_opr2.pdf](https://media.fisheries.noaa.gov/dam-migration/guidelines_for_preparing_stock_assessment_reports_2016_revision_gamms_iii_opr2.pdf)

that NMFS develop a system for centralizing all data on vessel strikes of marine mammals into a single, queryable source. This resource would have regional, national, and global value in understanding and mitigating risk of vessel strikes.

## SPECIFIC COMMENTS

### Atlantic

*Improving reporting of serious injury data for gray seals*—The Commission is pleased to see more updated information on pinnipeds in the northeast region in recent years. However, the Commission previously recommended<sup>8</sup> improved reporting of human-caused serious injury data for gray seals, including cases in which the specific anthropogenic source of injury is uncertain. The Commission remains concerned that numerous known serious injuries<sup>9</sup> of gray seals are not being accounted for in estimates of total mortality and serious injury (M/SI). The 2021 draft SAR reports a PBR level of 1,458. Total reported annual M/SI in U.S. waters is 1,179 (1,169 of which were deaths caused by U.S. commercial fisheries). Thus, total U.S. annual M/SI is less than 300 animals below the PBR value. The draft 2021 SAR states “mean prevalence of live entangled gray seals ranged from roughly 1 to 4% at haul-out sites in Massachusetts and Isles of Shoals (Iruzun Martins *et al.* 2019).” This study reported live entangled seals from one flight per site per day to avoid double-counting individuals, and entanglements were only counted if they involved a tight constriction around the neck or body or a circumferential wound around the neck or body. Using this conservative prevalence of 1%-4% of seals entangled with an  $N_{\min}$  of 22,785 suggests a range for minimum number of entangled seals of 228 to 911. This strongly suggests that if serious entanglement injuries were accounted for, total M/SI could well exceed PBR. Therefore, the Commission recommends that NMFS use the best available science when calculating the total estimated annual M/SI to account for these entanglements. Further, the Commission encourages NMFS to work diligently to address this welfare issue and greatly reduce gray seal injuries and deaths in US fisheries.

*Use of “in review” citations in the stock assessment reports*—The Commission is concerned about the references made to publications that are “in review” to support information in 12 of the draft SARs, particularly when addressing annual human-caused serious injury and mortality. The Commission supports the use of the best available science and does not wish to delay publication of the updated SARs unnecessarily, but the information on which a draft SAR is based needs to be available to the public to enable informed review. Labelling a report as “in review” suggests that the underlying analysis has been completed and submitted for publication, but analyses could change prior to publication. As such, reliance on this information might be premature and generally should not be considered the best available science. Therefore, the Commission recommends that NMFS carefully consider whether it should base draft revisions to the SARs being considered for public comment on analyses that are still “in review”. At a minimum, NMFS should make every attempt to make the underlying reports/publications available to the public during the comment period.

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<sup>8</sup> MMC Comment 42 (86 Fed. Reg. 38999) on the draft 2020 western North Atlantic gray seal SAR

<sup>9</sup> “gear wrapped and constricting any body part or likely to become constricting as the animal moves or grows” constitutes a serious injury for pinnipeds per Table 3, P8a in NMFS’s process for injury determinations: <https://media.fisheries.noaa.gov/dam-migration/02-238-01.pdf>

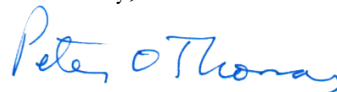
## Alaska

*Alaska Native subsistence takes*—Over the past decade, the Commission has repeatedly recommended that NMFS, in collaboration with its co-management partners, improve its monitoring and reporting of subsistence hunting in Alaska. While there have been improvements in the number of communities reporting take levels for some ice seals in the SARs in recent years, take levels are lacking for the majority of communities that hunt or may hunt ice seals and harbor seals. Therefore, the Commission continues to recommend that NMFS find ways to gather reliable information on the numbers of marine mammals taken for subsistence and handicraft purposes through partnerships with existing and emerging co-management partners and the state of Alaska. Further, the Commission encourages NMFS to continue to provide updated information in the SARs whenever it becomes available, even if it pertains only to a few villages or a subset of years. The Commission would welcome the opportunity to meet with NMFS to discuss progress, next steps, and to find ways to circumvent impediments to the inclusion of comprehensive data on take levels by Alaska Natives in future SARs.

Finally, we understand that the final 2020 SAR for the Eastern Bering Sea stock of beluga whales was withdrawn to allow for Tribal consultation. That SAR was not included in the draft reports for 2021. We await further word from NMFS on whether that SAR will be included in the final 2021 SARs for Alaska.

The Commission appreciates the opportunity to provide comments and recommendations on the 2021 draft SARs. Please contact me if you have any questions regarding the Commission's rationale or recommendations.

Sincerely,



Peter O. Thomas, Ph.D.,  
Executive Director

cc: James Powell, Chair Atlantic Scientific Review Group  
Megan Peterson Williams, Acting co-Chair Alaska Scientific Review Group  
Greg O'Corry-Crowe, Acting co-Chair Alaska Scientific Review Group  
John Calambokidis, Chair Pacific Scientific Review Group

## References

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- Martins M.C.I., L. Sette, E. Josephson, A. Bogomolni, K. Rose, S.M. Sharp, M. Niemyer, and M. Moore. 2019. Unoccupied aerial system assessment of entanglement in Northwest Atlantic gray seals (*Halichoerus grypus*). *Marine Mammal Science*, 35(4): 1613-1624.