



MARINE MAMMAL COMMISSION

26 September 2022

Eric Patterson, Ph.D.
National Marine Fisheries Service
Office of Protected Resources
Marine Mammal and Sea Turtles Division
1315 East-West Highway
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Dear Dr. Patterson:

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) Office of Protected Resources (OPR) draft revisions to the Guidelines for Preparing Stock Assessment Reports Pursuant to the Marine Mammal Protection Act; Draft Revisions to Procedural Directive (NMFS PD 02-204-01; 87 Fed. Reg. 52368). These guidelines are intended to: (1) provide a uniform framework for the consistent application of the MMPA throughout the country; (2) ensure that the values used to calculate PBR help meet the goals of the MMPA; (3) provide guidance for evaluating whether commercial fishery takes are insignificant and approaching a zero mortality and serious injury rate; and (4) ensure the federal government's approach to assessing stocks is clear and open to public review and comment.

The Commission appreciates NMFS's efforts to update and improve this directive and the opportunity to review the proposed revisions. In general, the Commission believes the proposed revisions are clear and appropriate, and provide an approach that will lead to consistency in preparing stock assessment reports pursuant to the MMPA.

Background

Section 117 of the Marine Mammal Protection Act (MMPA) requires that the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) develop Stock Assessment Reports (SARs) for all marine mammal stocks that occur in waters under U.S. jurisdiction and that those reports be based on the best scientific information available. Each SAR is to include information on how the stock was identified, a calculation of the stock's Potential Biological Removal (PBR), an assessment of whether incidental commercial fishery takes are "insignificant and approaching zero mortality and serious injury rate," and other information on the stock's status and trends relevant to assessing stocks and sources of human-caused mortality and serious injury. SARs are to be reviewed at least annually for "strategic stocks" and stocks for which significant new information is available, and at least once every three years for all other stocks.

In July 2020, OPR initiated a review of NMFS-PD 02-204-01. This effort focused on reviewing and revising the Guidelines to address several topics that were identified during the 2016 revision as warranting review, but those topics were not addressed at that time, as well as other topics identified since then.

Eight topics were identified as warranting review. They include possible changes to: (1) incorporate and reference NMFS PDS 02-204-03, which relates to Reviewing and Designating Stocks and Issuing Stock Assessment Reports under the Marine Mammal Protection Act, (2) update guidance for calculating minimum abundance (N_{\min}) in post-survey years, (3) update guidance for calculating N_{\min} to address sources of bias and ensure MMPA goals based on the PBR threshold are met, (4) update guidance related to designating stocks as strategic and relevant recovery factors, (5) improve language related to quantifying and including unobserved mortality and serious injury, (6) update guidance on the inclusion and incorporation of information on climate change, biologically important areas, and habitat issues, (7) clarify expectations regarding peer-review of information included in SARs, and (8) clarify data sources and criteria used for documenting human-caused mortality and serious injury.

Commission comments

The Commission is pleased that NMFS has recognized the need to coordinate this review with its forthcoming revisions to NMFS's Serious Injury Determination Policy: Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals (NMFS-PD 02-038-01) and the importance of consistency across the two policy directives. Consistency between the directives will help NMFS integrate accurate information on human-caused mortality and injury from all sources into the SARs. The Commission especially appreciates NMFS's efforts to include additional guidance on how undetected human-caused mortality and serious injury of marine mammals should be estimated and reported.

Proposed changes to the last paragraph of the objective statement (Section 2 of the directive) seek to clarify the role of Alaska Native Organizations (ANOs) in preparing and reviewing SARs for stocks taken by Alaska Natives for subsistence and the relationship between sections 117 and 119 of the MMPA. However, this discussion is not as clear as it should be. Among other things, it would be helpful if NMFS affirmatively stated that, in preparing draft SARs for stocks taken by Alaska Natives, it would consult with the appropriate ANOs to seek information relevant to preparing the SARs, including information used to calculate PBR and harvest data or other information used to make determinations as to whether or not a stock is strategic. It is worth noting that the cooperative agreements between NMFS and ANOs provide other platforms for sharing information to be included in the SARs and for discussing concerns about the implications of that information for co-management. On a related point, it would be appropriate to mention in section 3.7 that ANOs can play a useful role in quality assurance, particularly in cases where information included in the SARs originated with them.


The Commission welcomes the proposal in the updated guidance to include in each SAR a section on "Habitat Issues" that discusses "effects to prey or habitat, infectious disease, contaminants, climate change and variability, species vulnerability to climate changes, and environmental factors (e.g., sea surface temperature) that affect marine mammal survival or reproduction" whenever there is information to indicate that these habitat-related factors may be causing a decline or impeding the recovery of a stock. In particular, the Commission sees a pressing need to explore and refine methods for: 1) detecting and assessing impacts of climate change on marine mammal stocks, 2) making related adjustments to stock assessment study designs, 3) determining population-level health effects of climate change (Gulland et al. 2022), and

4) incorporating this information into the SARs. Although not specifically included in the list of topics to be included in the section on habitat issues, the Commission presumes that the habitat section will include information on harmful algal blooms, when appropriate. NMFS might want to clarify this in the directive given the significant impact that harmful algal blooms can have on marine mammal health and survival.

The Commission considers the expanded discussion of the role of the regional Scientific Review Groups (SRG) in the peer-review process to be helpful. SRG members provide an important service in helping to ensure the SARs are based on the best scientific information available, as required under the MMPA. The individual and collective expertise that SRG members bring to the review process is integral to stock assessment, and it is appropriate to recognize and acknowledge their role and responsibilities in that process.

The Commission appreciates the opportunity to review and provide comments on the proposed revisions to the guidelines for preparing marine mammal SARs. Please contact me if you have any questions regarding the Commission's comments.

Sincerely,



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

References

Gulland, F.M.D., J.D. Baker, M. Howe, E. LaBrecque, L. Leach, S.E. Moore, R.R. Reeves, and P.O. Thomas. 2022. A review of climate change effects on marine mammals in United States waters: Past predictions, observed impacts, current research and conservation imperatives. *Climate Change Ecology* 3: 100054. <https://doi.org/10.1016/j.ecochg.2022.100054>.