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Appendix
NMFS Draft Acoustic Criteria Implementation Issues
Comments of API, IAGC, NOIA, and AOGA

1. Introduction

- 1.1. The draft acoustic criteria guidelines proposed by NMFS (the “Draft Guidance”) provide a significant change of approach and level of complexity in evaluating acoustic impacts on marine life. While much of the Draft Guidance primarily presents topics as research-related technical issues to inform the agency’s decisions regarding threshold levels, the document does highlight the importance and difficulty in operationalizing or implementing the proposed criteria in the context of applying for, issuing, and complying with incidental take authorizations pursuant to the MMPA, ESA and NMSA.
- 1.2. Overall, there is insufficient discussion in the Draft Guidance explaining how the proposed criteria would be implemented, how they will be measured by the regulated community in a meaningful way, how the permitting process may be affected, how monitoring requirements will change, or how common mitigation practices employed by the oil and gas industry for years and are proven to reduce sound impacts on marine mammals will be adequately considered.
- 1.3. The Draft Guidance provides little explanation of the anticipated impact of the new criteria on the offshore oil and gas industry. Unfortunately, the NMFS did not undertake or did not present information from any modeling exercises to show the practical effect of the proposed changes on either environmental protection or burden on industry. The Associations would encourage such an evaluation be conducted before the Criteria is finalized and/or an Implementation Guide is prepared.
- 1.4. Although we appreciate that comparison is made more difficult because the new criteria are based on different metrics, it is certainly possible for the agency to perform a rigorous analysis - perhaps using case studies or examples - of a “baseline” of how the agency now handles implementation versus how it will practically work in the future in the context of demonstrable risks to marine life from industry activities. Such a risk-based approach is encouraged.
- 1.5. Due to the lack of clarity around these practical issues, the Associations suggest that NMFS revisit these issues and (1) publish a revised Draft Acoustic Criteria document and (2) prepare a companion Acoustic Criteria Implementation Guide issued concurrently to bring greater certainty to both resource managers and the regulated community about the practical path forward. Both of these documents should be subject to public review and comment.
- 1.6. Industry is ready and willing to support and actively participate in discussions with agency officials and/or in workshops to facilitate greater input to development of the recommended Implementation Guide. Below, we offer preliminary input on a variety of implementation-related issues that should be addressed in this dialogue.