

(Budapest, Aug. 2013);<sup>9</sup> Popov et al. (unpublished). Among other things, this new information addresses (i) the effects of low-frequency sound as well as EQL for pinnipeds, and (ii) the validity of EEH. Moreover, Southall et al. (2007) will be updated to address the results of recent research, and the proceedings of the August 2013 International Conference on the Effects of Noise on Aquatic Life will soon be published. If this work is available when NMFS prepares a second version of the Draft Guidance or before final guidance is issued, it should be considered and incorporated.<sup>10</sup>

### **C. New Acoustic Criteria Should Not Result in More Regulatory Burdens for Offshore Industries**

For many years, marine mammal incidental take authorizations for the oil and gas industry have been authorized by NMFS and FWS on a project-by-project basis (i.e., IHAs) or through the issuance of ITRs and related LOAs. The best available science and information demonstrates that these authorizations have resulted in no detectable adverse impacts to marine mammal populations. Although we support NMFS's development of new criteria that are consistent with the best available science, these new criteria should not be implemented in a manner that results in increased regulatory burdens because the best available information shows that offshore sound-producing operations, as currently regulated, have had no more than a negligible impact on marine mammal species and stocks. The Associations are concerned that the Draft Guidance will unnecessarily result in more difficulties with the permitting process, an increased number of shutdowns, longer survey duration, increased costs, and increased exposure to safety risks. We therefore ask that NMFS consider the record of offshore sound-producing activities in effectively minimizing and mitigating effects to marine mammals as it further refines the implementation processes for the proposed criteria.

## **IV. CONCLUSION**

We appreciate the effort that NMFS has devoted to the development of new acoustic criteria. We support this effort generally but, as detailed above, we have a number of concerns about the implementation processes and the lack of substantive support for some of the proposed criteria. We respectfully ask NMFS to address these concerns and issue a revised version of the Draft Guidance, as well as a draft implementation guide, for public review and comment. The Associations will continue to support a process that is comprehensive, transparent, consistent with the best available science, and fully informed by the public.

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<sup>9</sup> More information and citations regarding the work presented at this conference are provided in the "References" section of this comment letter.

<sup>10</sup> Sills et al. (2014) and Wensveen et al. (2014) are examples of emerging science that NMFS should consider in its development of acoustic criteria.

Should you have any questions, please contact the undersigned at 202.682.8584, or via e-mail at [radforda@api.org](mailto:radforda@api.org). Thank you for considering and responding to these comments.

Sincerely,



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Andy Radford  
American Petroleum Institute



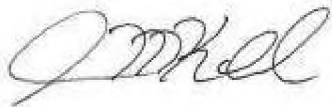
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