



FINAL ENVIRONMENTAL IMPACT STATEMENT FOR ISSUING ANNUAL QUOTAS TO THE ALASKA ESKIMO WHALING COMMISSION FOR A SUBSISTENCE HUNT ON BOWHEAD WHALES FOR THE YEARS 2008 THROUGH 2012

January 2008

Prepared by
U.S. Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service





UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
PROGRAM PLANNING AND INTEGRATION
Silver Spring, Maryland 20910

JAN 14 2008

Dear Reviewer:

In accordance with provisions of the National Environmental Policy Act (NEPA), we enclose for your review the Final Environmental Impact Statement (FEIS) For Issuing Annual Quotas to the Alaska Eskimo Whaling Commission for a Subsistence Hunt on Bowhead Whales for the Years 2008 through 2012.

This FEIS was prepared pursuant to NEPA to assess the environmental impacts associated with NOAA's issuance of an annual subsistence hunt quota. In May 2007, the International Whaling Commission reauthorized the subsistence hunt catch limit for another five years. NOAA's proposed action is to issue annual quotas to the AEWC subject to the terms and conditions of the co-management agreement between the Agency and the Commission. The purpose of this action is twofold: to manage the conservation and subsistence utilization of the Western Arctic stock of bowhead whales (as required by under the Marine Mammal Protection Act, the Whaling Convention Act, and other applicable laws) and to fulfill the Federal Government's trust responsibility to recognize the cultural and subsistence needs of Alaska Natives.

Additional copies of the FEIS may be obtained from the Responsible Program Manager identified below. The document is also accessible electronically through the NMFS Alaska Region's website at <http://www.fakr.noaa.gov/analyses/bowhead/eis/default.htm>.

A 30-day public comment period is being provided upon release of this FEIS. Please send comments to the Responsible Program Manager identified below by either mail or email. When submitting email comments include the following document identifier in the comment subject line: **Final Bowhead Whale EIS**. NOAA is not required to respond to comments received during the agency's 30 day review period as a result of the issuance of the FEIS. However, comments received by March 3, 2008 will be reviewed and considered for their impact on issuance of a Record of Decision (ROD). The ROD will be made available publicly on the Alaska Region's website following final agency action on or after March 14, 2008.

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Sincerely,

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Enclosure



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Final Environmental Impact Statement
for
Issuing Annual Quotas to the Alaska Eskimo Whaling Commission for a Subsistence Hunt on
Bowhead Whales for the Years 2008 through 2012

January 2008

Lead Agency: USDC National Oceanic and Atmospheric Administration
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Cooperating Agencies: Alaska Eskimo Whaling Commission

Abstract: The National Marine Fisheries Service (NMFS) proposes to authorize subsistence harvests of the Western Arctic stock of bowhead whales for the years 2008 through 2012, under the Whaling Convention Act, and a cooperative agreement with the Alaska Eskimo Whaling Commission (AEWC). Under the International Convention for the Regulation of Whaling, the International Whaling Commission (IWC) approves overall five-year subsistence catch limits for the Western Arctic stock of bowhead whales based upon the needs of Native hunters in Alaskan villages and in Russian villages along the Chukotka Peninsula. On an annual basis, NMFS can issue the AEWC the Alaskan share of this quota by regulation. The subsequent hunt is managed under the Whaling Convention Act, cooperatively by NMFS and the AEWC. The purpose of this action is twofold: to manage the conservation and subsistence utilization of the Western Arctic stock of bowhead whales (as required under the Marine Mammal Protection Act [MMPA], the Whaling Convention Act, and other applicable laws) and to fulfill the Federal Government's trust responsibility to recognize the cultural and subsistence needs of Alaska Natives. The IWC conducted its 59th Annual Meeting, May 28-31, 2007 in Anchorage, Alaska, and, based on the management advice of the IWC Scientific Committee, adopted a catch limit for 2008 through 2012 identical to that of the previous five-year period. Alternative 3 corresponds to the IWC action, and is the Agency's preferred alternative. Alternative 3 would authorize a maximum mortality of 82 bowheads in a single year, if the authorized carry-over of 15 unused strikes were to occur. The subsistence harvest is also subject to an overall limit of no more than 255 bowhead whales over the five-year period 2008 through 2012. This level of mortality is considered negligible in magnitude for the bowhead population, in light of current abundance and growth trends. The overall effects of human activities associated with subsistence whaling under Alternative 3 results in a minor impact rating for the Western Arctic bowhead whale stock.

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ACRONYMS AND ABBREVIATIONS

2-D	two-dimensional
3-D	three-dimensional
ABF	Alaska Board of Fisheries
ACIA	Arctic Climate Impact Assessment
ADCCED	Alaska Department of Commerce, Community, and Economic Development
ADF&G	Alaska Department of Fish and Game
AESC	Alaska Eskimo Whaling Commission
AMAP	Arctic Monitoring and Assessment Programme
ASRC	Arctic Slope Regional Corporation
AWI	Animal Welfare Institute
Cd	cadmium
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CI	Confidence Interval
cm	centimeters
CV	Coefficient of Variation
dB	decibels
dB re 1 μ Pa at 1 m	decibels re 1 microPascal at 1 meter
DDTs	Dichlorodiphenyltrichloroethanes
DEW-Line	Defensive Early Warning System
EA	Environmental Assessment
EEZ	Exclusive Economic Zone
EIS	Environmental Impact Statement
EO	Executive Order
EPA	Environmental Protection Agency
ESA	Endangered Species Act
FR	Federal Register
FMP	Fishery Management Plan
FONSI	Finding of No Significant Impact
ft	feet
G&G	Geological and Geophysical
HCHs	hexachlorocyclohexanes
Hg	mercury
Hz	hertz
IBLA	Interior Board of Land Appeals
ICRW	International Convention for the Regulation of Whaling
IHLC	Inupiat History, Language and Culture Commission
in ³	cubic inches
IPCC	Intergovernmental Panel on Climate Change
ISS	Ice/Sea Segments
IWC	International Whaling Commission
K	carrying capacity
kHz	kilohertz
km	kilometers

ACRONYMS AND ABBREVIATIONS (CONTINUED)

m	meters
mi.	miles
MMC	Marine Mammal Commission
MMPA	Marine Mammal Protection Act
MMS	Minerals Management Service
MSY	Maximum Sustainable Yield
N(#)	number of whales estimated to have passed within # km of visual range based on visual surveys from shore
n. mi.	nautical miles
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NPFMC	North Pacific Fishery Management Council
NOAA	National Oceanic and Atmospheric Administration
NRC	National Research Council
NRDC	National Resources Defense Council
NSB	North Slope Borough
OCs	Organochlorines
OCS	Outer Continental Shelf
OCSLA	Outer Continental Shelf Lands Act
OSP	optimum sustainable population
P(#)	proportion of whales estimated to have passed within #km range based on acoustic data and aerial surveys
PAHs	polycyclic aromatic hydrocarbons
PBR	potential biological removal
PCBs	polychlorinated biphenyls
POP	Platforms of Opportunity Program
psi	pounds per square inch
Q	A catch control rule developed by the IWC Scientific Committee
REDOIL	Resisting Environmental Destruction on Indigenous Lands
RFFAs	reasonably foreseeable future actions
ROD	Record of Decision
ROI	rate of increase
RY	replacement yield
Se	selenium
SEIS	Supplemental EIS
SLA	Strike Limit Algorithm
st. mi.	statute miles
TEK	traditional ecological knowledge
TOX	toxaphene
U.S.	United States
U.S.C.	United States Code
USFWS	United States Fish and Wildlife Service
WCA	Whaling Convention Act
WF	Whaleman Foundation
Y-K	Yukon-Kuskokwim

EXECUTIVE SUMMARY

ES.1 Description of the Proposed Action

The National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) proposes to authorize subsistence harvests of the Western Arctic stock of bowhead whales for the years 2008 through 2012, under the Whaling Convention Act (WCA), and a cooperative agreement with the Alaska Eskimo Whaling Commission (AEWC). Under the International Convention for the Regulation of Whaling (ICRW), the International Whaling Commission (IWC) approves overall five-year subsistence catch limits for the Western Arctic stock of bowhead whales based upon the needs of Native hunters in Alaskan villages and in Russian villages along the Chukotka Peninsula. On an annual basis, NMFS can issue the AEWC the Alaskan share of this quota by regulation. The subsequent hunt is managed under the WCA, cooperatively by NMFS and the AEWC.

The purpose of this action is twofold: to manage the conservation and subsistence utilization of the Western Arctic stock of bowhead whales (as required under the Marine Mammal Protection Act [MMPA], the WCA, and other applicable laws) and to fulfill the Federal Government's trust responsibility to recognize the cultural and subsistence needs of Alaska Natives.

The IWC conducted its 59th Annual Meeting, May 28-31, 2007 in Anchorage, Alaska, and, based on the management advice of the IWC Scientific Committee, adopted a catch limit for 2008 through 2012 identical to that of the previous five-year period. Alternative 3 corresponds to the IWC action, and is the preferred alternative, as noted below. For additional information on the legal context and regulatory history of the proposed action, see Sections 1.1 and 1.2.

The proposed action continues implementation of IWC subsistence catch limits which have been in effect since 1977. The IWC, NMFS, and the AEWC have cooperated in conserving and managing the subsistence harvest of bowhead whales for 30 years. The Western Arctic bowhead whale stock has been the subject of extensive research by scientists of NMFS and the North Slope Borough, so a considerable body of knowledge has been developed. In general, relatively few public and agency comments were received during the scoping period and during the period for comments on the Draft Environmental Impact Statement (EIS). For a summary see Section 1.3. Among the issues raised in agency and public comments are the following:

- compliance with National Environmental Policy Act (NEPA) requirements, including the adequacy of the alternatives analyzed;
- the biological and social effects of subsistence whaling;
- the analysis of cumulative effects from climate change and oil and gas exploration and development;
- the need for the proposed level of subsistence whaling allocations; and
- humane methods of take.

ES.2 Status of the Western Arctic Stock of Bowhead Whales

The Western Arctic bowhead whale is listed as "endangered" under the Endangered Species Act (ESA) and designated as "depleted" under the MMPA. However, the stock has been increasing in recent years. The current estimate of 10,545 whales is between 46% and 101% of the estimated

pre-exploitation abundance (10,400-23,000). Some analyses suggest that the population may be approaching carrying capacity, though there is no sign of slowing in the population growth rate. The average annual level of human-caused mortality and serious injury is estimated to be 41 whales, which exceeds neither the Potential Biological Removal (PRB) level (95 whales), as discussed in Section 1.1.3 and Section 3.2 nor the IWC's annual catch limit (67 strikes per year, and not to exceed 255 whales landed for five years).

ES.3 Subsistence Hunting of Bowhead Whales

Most of the Western Arctic bowhead whales migrate annually from wintering areas in the northern Bering Sea, through the Chukchi Sea in the spring, and into the Beaufort Sea where they spend the summer. In the autumn they return to the Bering Sea to overwinter. Ten Alaskan coastal villages along this migratory route participate in traditional subsistence hunts of these whales: Gambell, Savoonga, Little Diomed, and Wales (on the Bering Sea coast); Kivalina, Point Hope, Wainwright, and Barrow (on the coast of the Chukchi Sea); and Nuiqsut and Kaktovik (on the coast of the Beaufort Sea).

The bowhead whale hunt constitutes an important subsistence activity for these communities, providing substantial quantities of food, as well as reinforcing the traditional skills and social structure of local Alaska Native culture. Such hunts have been regulated by a quota system under the authority of the IWC since 1977, with Alaska Native subsistence hunters from northern Alaskan communities taking less than one percent of the stock of bowhead whales per year.

Additional information on the cultural traditions of Alaska Native bowhead whaling is found in Section 3.5, while Section 3.6 describes the co-management role of the AEWC.

ES.4 Alternatives

This EIS is prepared pursuant to NEPA, (42 United States Code [U.S.C.] 4321 et seq.). Rather than the more limited review of an Environmental Assessment (EA), the fuller analysis of an EIS is provided here to provide greater transparency and opportunity for public review of NMFS's administration of the bowhead subsistence whaling program. The EIS considers four alternatives for this proposed action. Additional information on the alternatives is found in Section 2.

Under the IWC provisions, the limits on aboriginal subsistence whaling consist of two components. No more than 255 bowhead whales may be landed during the period 2008 through 2012. In addition, no more than 67 bowhead whales may be struck per year, with provision for a carry-over of up to 15 unused strikes from one year to the subsequent year, as detailed below in Alternative 3. The term "strike limit" is used to refer to this limitation on the number of whales that may be struck, and the term "unused strike" refers to an unused portion of the limit on the number of whales that may be struck. The strike limit is larger than the landed limit, to take into account that in some cases, whalers may strike or harpoon a whale and then not be able to land the whale.

For the three action alternatives (Alternative 2, Alternative 3, and Alternative 4), bowhead subsistence quotas are set annually by NMFS through regulations. The regulations are good for one year, so they must be re-issued every year. NMFS meets annually with the AEWC to review

the stock status and results of the previous year's hunt. If it is determined that a hunt can proceed, NMFS issues regulations setting the quota for the year.

ES.5 Alternative 1 (No Action) – Do not grant the AEWC a quota.

Under this alternative, NMFS would not issue the AEWC a subsistence whaling quota for cultural and nutritional purposes. This could occur if NMFS chose not to issue an annual quota because of environmental concerns.

ES.6 Alternative 2 – Grant the AEWC an annual strike quota of 67 bowhead whales, not to exceed a total of 255 landed whales over the five years 2008 through 2012, with no unused strikes added to the annual quota.

Under this alternative, NMFS would (through annual regulations) grant the AEWC an annual strike quota of 67 bowhead whales, subject to a total of 255 landed whales over the five years 2008 through 2012. A 'strike' is defined as hitting a whale with a lance, harpoon, or explosive device while 'landing' means bringing a whale or any parts thereof onto the ice or land in the course of a whaling operation (50 Code of Federal Regulations [CFR] 230.2). The quota for 255 landed whales represents the United States (U.S.) portion of the total allocation of 280 landed whales granted by the IWC to aboriginal whalers. The actual allocation of strikes between Alaska Eskimos and Russian Chukotkan Natives is determined on an annual basis through a bilateral agreement between the U.S. and Russian governments. Under this alternative, no unused strikes from a previous year would be added to the quota for a subsequent year, notwithstanding the IWC's approval of a carry-over of unused strikes in the bowhead subsistence quota.

ES.7 Alternative 3 (Preferred Alternative) – Grant the AEWC an annual strike quota of 67 bowhead whales, not to exceed a total of 255 landed whales over the five years 2008 through 2012, with no more than 15 unused strikes from the previous year added to the annual strike quota. This alternative would continue management as in the recent past, and as adopted in action by the IWC in late May 2007.

Under this alternative (the proposed action), NMFS would (through annual regulations) grant the AEWC an annual strike quota of 67 bowhead whales (plus carry-over), not to exceed a total of 255 landed whales over the five years 2008 through 2012. This alternative differs from Alternative 2, by allowing 15 unused strikes from a previous year to be added to the quota for a subsequent year, consistent with the IWC catch limit. A carry-over of up to 15 unused strikes was approved by the IWC, and allows for variability in hunting conditions from one year to the next within limits that conserve the Western Arctic bowhead stock.

ES.8 Alternative 4 – Grant the AEWC an annual strike quota of 67 bowhead whales, not to exceed a total of 255 landed whales over the five years 2008 through 2012, where, for unused strikes, up to 50% of the annual strike limit is added to the strike quota for a subsequent year.

Under this alternative, NMFS would (through annual regulations) grant the AEWC an annual strike quota of 67 bowhead whales per year (plus carry-over), not to exceed a total of 255 landed whales over the five years 2008 through 2012. This alternative differs from Alternative 3 by

allowing up to 50% of the unused annual strike limit from a previous year, (i.e., up to 33 whales struck) to be added to the quota for a subsequent year.

ES.9 Summary of Effects

In the sections that follow, the analysis of the biological effects of the alternatives on the Western Arctic bowhead whale stock focuses on the strike quota (i.e., 67 per year, with carry-over in some alternatives), rather than a quota for landed whales (255 for the period 2008 through 2012). There are no definitive data on the fate of whales struck and not landed, also referred to as struck and lost. Some of the struck and lost whales are likely to die as a result of the strike. As a precautionary measure, the analysis here estimates maximum mortality, and thus assumes for analytic purposes that all whale strikes result in mortality.

ES.9.1 Alternative 1–Direct and Indirect Effects on the Western Arctic Bowhead Whale Stock

Alternative 1 would eliminate the quota for subsistence taking of bowhead whales and result in the elimination of authorized subsistence whaling activities and harvest. No bowhead whales would be taken in subsistence harvests. The magnitude, extent, and duration of direct mortality under this alternative are therefore considered negligible to the population of bowheads. Human activities associated with subsistence whaling would be sharply reduced under this alternative, so that the amount of noise and disturbance from subsistence whaling would also be considered negligible. For additional information on the effects of this alternative, see Section 4.4.

ES.9.2 Alternative 2–Direct and Indirect Effects on the Western Arctic Bowhead Whale Stock

Under Alternative 2 the maximum annual mortality would be 67 bowhead whales, based on a strike limit of 67, and assuming that every strike may result in mortality. The subsistence harvest is further subject to a limit that no more than 255 bowhead whales may be landed during the five-year period. Under this alternative, total maximum mortality would be 335 (5x67) whales. Given the current abundance and growth trends, a total annual mortality of 67 bowhead whales under this alternative is unlikely to cause the population to decline or slow its rate of recovery. The magnitude, geographic extent, and duration of this level of mortality are therefore considered negligible for the bowhead population. Human activities associated with subsistence whaling under Alternative 2 would vary from year to year and place to place depending on whale movements, weather, ice characteristics, and social factors. Effects of human activities are localized and coincide with the presence of whales during their spring and autumn migrations. Disturbance to the Western Arctic bowhead whale stock from subsistence whaling activities under Alternative 2 would be localized and short-term and would be considered a minor impact level to the stock. For additional information on the effects of this alternative, see Section 4.4.

ES.9.3 Alternative 3–Direct and Indirect Effects on the Western Arctic Bowhead Whale Stock

Alternative 3 would authorize a maximum mortality of 82 bowheads in a single year, if the authorized maximum carry-over of 15 unused strikes were to occur. The subsistence harvest is also subject to the limit that no more than 255 bowhead whales may be landed over the five-year

period 2008 through 2012. Over the five-year period the total maximum mortality could be 350 whales (5x67, plus 15 carried over) or an average of 70 bowhead whales per year. This level of mortality is considered negligible in magnitude for the bowhead population, in light of current abundance and growth trends. The extent and duration of the effects under this alternative are the same as those for Alternative 2, so the overall impact is rated as negligible. The effects of human activities associated with subsistence whaling under Alternative 3 would be similar to those described for Alternative 2, with disturbance at a minor impact level for the Western Arctic bowhead whale stock. For additional information on the effects of this alternative, see Section 4.4.

ES.9.4 Alternative 4—Direct and Indirect Effects on the Western Arctic Bowhead Whale Stock

Alternative 4 would authorize a maximum mortality of 100 bowheads in a single year, if the maximum carry-over of 33 unused strikes were to occur. The subsistence harvest is also subject to the limit that no more than 255 bowhead whales may be landed over the five-year period 2008 through 2012. Assuming that each strike were to result in mortality, over the five-year period the total mortality could be 368 whales (5x67, plus 33 carried over strikes), or an average of 74 bowheads per year. This level of mortality is still considered negligible in magnitude at the current population level for bowheads, in light of current abundance and growth trends. The extent and duration of the effects under this alternative are the same as those for Alternative 2, so the overall impact is rated negligible. While the direct biological impact may be rated as negligible, the carry-over provision of this alternative would exceed that authorized by the IWC in the May 2007 meeting. The effects of human activities associated with subsistence whaling under Alternative 4 would be similar to those described for Alternative 2, with disturbance at a minor impact level for the Western Arctic bowhead whale stock. For additional information on the effects of this alternative, see Section 4.4.

ES.9.5 Effects of the Alternatives on Individual Whales

In addition to the effects of harvest on the Western Arctic bowhead whale stock, there are indirect disturbance effects on individual bowhead whales, not subject to the harvest. These impacts will be negligible in magnitude, extent, and duration under Alternative 1, since under this alternative no subsistence whaling would occur. Under Alternatives 2, 3, and 4, subsistence whaling would occur, and as described in the effects analysis in Section 4.4, the magnitude, extent and duration of the associated disturbance effects would be minor for the individual bowhead whales not subject to harvest. For additional information on the effects of the alternatives on individual whales, see Section 4.5.

ES.9.6 Effects of the Alternatives on Other Wildlife

In the absence of bowhead whaling under Alternative 1, subsistence hunting would be redirected to other species (especially seals, walrus, and caribou), resulting in minor, localized effects in terms of mortality. For species that often congregate in numbers, like walrus and caribou, disturbance could affect numerous animals for each hunting event, and the effects would be considered moderate. For species that are primarily dispersed, like seals and polar bears, few animals would be disturbed and the effects would be considered minor. Alternatives 2, 3, and 4

would have no more than negligible or minor effects on other wildlife species. For additional information see Section 4.7.

ES.9.7 Socio-cultural Effects of the Alternatives

Alternative 1 would result in major adverse impacts to the communities that rely heavily on subsistence hunts of bowheads for nutritional and cultural sustenance. This alternative would raise Environmental Justice concerns, since it would result in disproportionate adverse impacts to the predominantly minority and low income populations of the AEWEC member communities. Alternative 1 would also likely be viewed as a failure on the part of NMFS to exercise its trust responsibility with respect to Alaska Eskimos and, possibly, to Native Americans in general. Alternatives 2, 3, and 4 would provide for continuation of subsistence bowhead whaling, with many beneficial effects of major magnitude, extent, and duration. For further information see Section 4.8.

ES.9.8 Cumulative Effects of the Alternatives

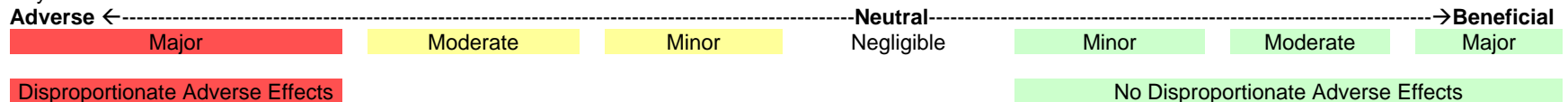
This EIS analyzes the cumulative effects of the alternatives when taken together with impacts from other activities and phenomena, such as oil exploration and climate change. The analysis of cumulative effects on the Western Arctic bowhead whale stock, found in Section 4.6, concludes that none of the alternatives, when ongoing mitigation measures are taken into consideration, would result in major adverse impacts on the bowhead whale population. None of the alternatives, when combined with other reasonably foreseeable activities, would result in major adverse effects on other wildlife species (Section 4.7). As for socio-cultural effects, only Alternative 1 (No Action) would result in major adverse effects, and this hold true when the cumulative effects of other activities are take into consideration (Section 4.8).

The following tables reproduced from Chapter 4 of this EIS summarize the direct, indirect, and cumulative effects under each alternative for all resources where environmental consequences were evaluated.

Table ES-1
Bowhead Whale Subsistence Harvest EIS Effects at a Glance

Effect Type	Alternative 1 No Action	Alternative 2 Allocate 67 Strikes, No Carry-over	Alternative 3 Allocate 67 Strikes, Carry-over up to 15	Alternative 4 Allocate 67 Strikes, Carry-over up to 50% (34)
Effect Type	Alternative 1 No Action	Alternative 2 Allocate 67 Strikes, No Carry-over	Alternative 3 Allocate 67 Strikes, Carry-over up to 15	Alternative 4 Allocate 67 Strikes, Carry-over up to 50% (34)
Direct and Indirect Effects on Whale Population - Mortality (Section 4.4)	Negligible	Negligible	Negligible	Negligible
Direct and Indirect Effects Whale Population - Disturbance (Section 4.4)	Negligible	Minor Adverse	Minor Adverse	Minor Adverse
Direct and Indirect Effects on Individual Whales (Section 4.5)	Disturbance - Negligible	Disturbance - Minor Adverse	Disturbance - Minor Adverse	Disturbance - Minor Adverse
Cumulative Effects on Whale Stock (Section 4.6)	Mortality - Negligible Disturbance - Minor Adverse	Mortality - Negligible Disturbance - Minor Adverse	Mortality - Negligible Disturbance - Minor Adverse	Mortality - Negligible Disturbance - Minor Adverse
Effects on other Wildlife (Section 4.7)	Minor Adverse to Moderate Adverse	Negligible to Minor Adverse	Negligible to Minor Adverse	Negligible to Minor Adverse
Effects on Subsistence Patterns (Section 4.8.1)	Major Adverse	Major Beneficial	Major Beneficial	Major Beneficial
Effects on Health (Section 4.8.2)	Major Adverse	Major Beneficial	Major Beneficial	Major Beneficial
Effects on Public Safety (Section 4.8.2)	Minor Beneficial	Minor Adverse	Minor Adverse	Minor Adverse
Effects on Other Tribes (Section 4.8.3)	Moderate Adverse to Major Adverse	Negligible	Negligible	Negligible
Effects on the General Public (Section 4.8.4)	Anti-whaling public – Moderate Beneficial	Anti-whaling public – Minor Adverse	Anti-whaling public – Minor Adverse	Anti-whaling public – Minor Adverse
	Pro-indigenous rights public – Moderate Adverse	Pro-indigenous rights public – Minor Beneficial	Pro-indigenous rights public – Minor Beneficial	Pro-indigenous rights public – Minor Beneficial
Effects on Environmental Justice (Section 4.8.5)	Major Disproportionate Adverse Effects	No Disproportionate Adverse Effects	No Disproportionate Adverse Effects	No Disproportionate Adverse Effects

Key:



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Table ES-2
Summary of Direct, Indirect, and Cumulative Effects on Bowhead Whales

Effect		Alternative 1 No Action: Do Not Grant AEWC a Quota	Alternative 2 Grant AEWC Annual Quotas (67 Strikes) with No Unused Strikes Carried Over	Alternative 3 (Preferred Alternative) Grant AEWC Annual Quotas (67 Strikes) with No More Than 15 Unused Strikes Carried Over Any One Year	Alternative 4 Grant AEWC Annual Quotas (67 Strikes) with Up to 50% of Unused Strikes Carried Over Any One Year
Direct and Indirect Effects	Mortality	Because this alternative would result in no authorized subsistence whaling, no direct or indirect mortality is likely. The magnitude, extent and duration of effects are considered negligible to the population of bowheads.	This alternative would authorize a continuing level of direct subsistence harvests comparable to the previous five years. Given the current level of bowhead abundance, the magnitude, extent, and duration of direct mortality under this alternative is considered negligible to the population of bowheads.	Bowhead whales - (Same as Alternative 2)	Bowhead whales - (Same as Alternative 2)
	Disturbance	The noise and disturbance to bowheads under this alternative, with no subsistence whaling, would be considered negligible in magnitude, extent, and duration.	For the bowhead population, the direct and indirect effects of noise and disturbance under this alternative would be minor in magnitude, extent, and duration.	Bowhead whales - (Same as Alternative 2)	Bowhead whales - (Same as Alternative 2)
Cumulative Effects		For bowhead whales, this alternative would contribute a negligible amount of mortality and disturbance to the cumulative effects on bowheads. Overall cumulative effects, taking into account other human activities and natural factors in the project area, are considered negligible in magnitude, extent, and duration in regard to mortality. In regard to disturbance, the cumulative effects are considered minor in magnitude, extent, and duration, at the population level.	For bowhead whales, this alternative would contribute a negligible amount of mortality and disturbance to the cumulative effects on bowheads. Overall cumulative effects, taking into account other human activities and natural factors in the project area, are considered negligible in magnitude, extent, and duration in regard to mortality. In regard to disturbance, the cumulative effects are considered minor in magnitude, extent, and duration, at the population level.	Bowhead whales - (Same as Alternative 2)	Bowhead whales - (Same as Alternative 2)

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Table ES-3
Summary of Direct, Indirect, and Cumulative Effects – Other Wildlife

Effect		Alternative 1 No Action: Do Not Grant AEWc a Quota	Alternative 2 Grant AEWc Annual Quotas (67 Strikes) with No Unused Strikes Carried Over	Alternative 3 (Preferred Alternative) Grant AEWc Annual Quotas (67 Strikes) with No More Than 15 Unused Strikes Carried Over Any One Year	Alternative 4 Grant AEWc Annual Quotas (67 Strikes) with Up to 50% of Unused Strikes Carried Over Any One Year
Direct and Indirect Effects	Mortality	For other species (especially seals, walrus, and caribou), hunting pressure would increase to compensate in part for the loss of whale harvest and could lead to reductions in game populations around the whaling villages. In magnitude, extent, and duration, these effects are considered minor to moderate, depending on the importance of the species as a subsistence resource.	For ice-dependant species, this alternative would have negligible to minor direct and indirect effects, depending on the species. For other wildlife species (including threatened or endangered species), this alternative would have negligible to minor direct and indirect effects, depending on the species.	Ice-dependent species – (Same as Alternative 2) Other wildlife species (including threatened and endangered species) – (Same as Alternative 2)	Ice-dependent species – (Same as Alternative 2) Other wildlife species (including threatened and endangered species) – (Same as Alternative 2)
	Disturbance	Increased hunting efforts on subsistence species other than bowheads would cause noise and disturbance to other wildlife in many areas around the whaling communities and would be considered minor to moderate, depending on the social structure of the species (aggregated or dispersed).	For ice-dependant species, this alternative would have negligible to minor direct/indirect effects, depending on the species. For other wildlife (including threatened or endangered species), this alternative would have negligible to minor direct/indirect effects, depending on the species.	Ice-dependent species – (Same as Alternative 2) Other wildlife species (including threatened and endangered species) – (Same as Alternative 2)	Ice-dependent species – (Same as Alternative 2) Other wildlife species (including threatened and endangered species) – (Same as Alternative 2)
Cumulative Effects		To partially compensate for the loss of bowhead hunting under Alternative 1, increased harvest of other species would contribute to the adverse effects of climate change on ice-dependent species and add to the difficulty of managing other game populations, especially with the uncertainty of how climate change will affect different species.	For ice-dependent species, cumulative effects are likely to be dominated by the effects of climate change and the contribution of the alternatives is considered negligible to minor. For other wildlife species (including threatened and endangered species) – cumulative effects are likely to be dominated by conservation issues independent of whaling activities. The contribution of the alternatives to the cumulative effects on these species is considered negligible.	Ice-dependent species – (Same as Alternative 2) Other wildlife species (including threatened and endangered species) – (Same as Alternative 2)	Ice-dependent species – (Same as Alternative 2) Other wildlife species (including threatened and endangered species) – (Same as Alternative 2)

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Table ES-4
Summary of Direct, Indirect, and Cumulative Effects – Socio-cultural

Effect		Alternative 1 No Action: Do Not Grant AEWc a Quota	Alternative 2 Grant AEWc Annual Quotas (67 Strikes) with No Unused Strikes Carried Over	Alternative 3 (Preferred Alternative) Grant AEWc Annual Quotas (67 Strikes) with No More Than 15 Unused Strikes Carried Over Any One Year	Alternative 4 Grant AEWc Annual Quotas (67 Strikes) with Up to 50% of Unused Strikes Carried Over Any One Year
Direct and Indirect Effects	Effects on Subsistence	<p>Direct effects include:</p> <ul style="list-style-type: none"> loss of an annual average of one million pounds of bowhead <i>maktak</i> and meat, a highly valued food, diminished social cohesion occasioned by the shared work among whaling crews and others cooperating in the year round work of preparation for whaling, disruption in the bonds established through food sharing, and diminished opportunity for young people to continue to learn the knowledge, practice, and beliefs associated with this central cultural institution. <p>Indirect effects include:</p> <ul style="list-style-type: none"> redirection of subsistence harvest effort to other subsistence resources, and greater recourse to purchased food, with adverse nutritional and economic implications, would result. <p>These direct and indirect effects are adverse and of major magnitude and extent, but of unknown duration.</p>	<p>Direct effects include continuation of existing subsistence practices such as:</p> <ul style="list-style-type: none"> the subsistence food contribution of bowhead whales, the cooperative work and food sharing practices, and the crucial cultural learning opportunities for young people. <p>Indirect effects include:</p> <ul style="list-style-type: none"> continuation of the current levels of diversity in subsistence resource uses, and continuing levels of reliance on subsistence foods, supplemented by purchased foods. <p>These direct and indirect effects are positive and major in magnitude, extent, and duration.</p>	(Same as Alternative 2)	(Same as Alternative 2)
	Effects on public health and safety	<p>Direct and indirect effects include:</p> <ul style="list-style-type: none"> elimination of exposure to very low levels of contaminants in bowhead whale foods, adverse effects on diet and health as nutritious bowhead foods are replaced to some extent by less nutritious purchased foods, and elimination of exposure to the safety risks associated with whaling, but increased exposure to risks in hunting of other subsistence resources, such as seals and walrus. <p>These direct and indirect effects of this alternative on health are adverse and major in magnitude and extent, but of unknown duration. The effects on safety would be minor.</p>	<p>Direct and indirect effects include:</p> <ul style="list-style-type: none"> continued high levels of reliance on nutritious bowhead whale foods, and continued exposure to the current levels of risk inherent in bowhead whaling and other subsistence pursuits. <p>Taken together, the highly beneficial nutritional effects outweigh the infrequent and therefore minor safety risks. This alternative has positive effects of major magnitude, extent, and duration.</p>	(Same as Alternative 2)	(Same as Alternative 2)
Cumulative Effects		<p>Given the important nutritional and cultural role of bowhead whale foods, under this alternative, in magnitude, extent, and duration, the cumulative effects on subsistence practices and nutrition and health would be adverse and major. This alternative would make a major contribution to overall cumulative adverse effects on subsistence practices, when considered alongside other activities in the project area.</p> <p>Cumulative effects of climate change are increasing the risks associated with weather, open water, and unstable, unpredictable ice. Subsistence harvest effort redirected to other resources would involve similar risks on the ice and open water, though not through the use of harpoon guns and large block and tackle equipment. This alternative makes a minor contribution to the cumulative adverse effects on public safety which overall would be minor to moderate.</p>	<p>For spring whaling, the cumulative effects of other activities, notably those associated with oil and gas exploration and development would be rated as adverse and minor. For fall whaling, the likely magnitude of impacts from these activities is less certain, because it turns on the timing, location, and extent of oil and gas related activities and on the effectiveness of mitigative measures. Taking into account magnitude and likelihood, these impacts would be adverse and could be moderate, based on the effectiveness of current mitigation measures for oil and gas activities.</p> <p>The beneficial contribution of the proposed activities to cumulative effects, in authorizing the subsistence whale hunt, would be a greater proportion of overall cumulative effects than the contribution of noise from oil and gas exploration and development. Overall, cumulative effects on subsistence patterns would be positive and minor to moderate.</p>	(Same as Alternative 2)	(Same as Alternative 2)

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1.0 PURPOSE AND NEED

1.1 Introduction

1.1.1 Summary of the Proposed Action

The National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) proposes to issue annual quotas to the Alaska Eskimo Whaling Commission (AEWC) to allow continuation of its subsistence hunt for bowhead whales from the Western Arctic stock¹ for the five years 2008 through 2012. The purpose of NMFS's proposed action is to fulfill its federal trust responsibilities by recognizing the nutritional and cultural needs of Alaskan Natives, to the fullest extent possible consistent with applicable law, and to ensure that any aboriginal subsistence hunt of whales does not adversely affect the conservation of the Western Arctic bowhead whale stock.

This Environmental Impact Statement (EIS), prepared pursuant to the National Environmental Policy Act (NEPA, 42 USC 4321 et seq.), considers four alternatives for issuing the AEWC a share of catch limits approved by the International Whaling Commission (IWC). The proposed action would comply with NMFS's responsibilities under Section 101(b) of the Marine Mammal Protection Act (MMPA) and under the Whaling Convention Act (WCA).

1.1.2 Location of Action

The project area is the entire geographic range of the Western Arctic bowhead stock. The users of the bowhead resource affected by the proposed action are the residents of Alaska villages currently participating in subsistence hunts of Western Arctic bowhead whales. These include Gambell, Savoonga, Little Diomed, and Wales (located along the coast of the Bering Sea); Kivalina, Pt. Hope, Wainwright and Barrow (along the coast of the Chukchi Sea); and Nuiqsut and Kaktovik (on the coast of the Beaufort Sea). The IWC approved catch limit is also shared with Russian subsistence hunters in villages along the Chukotka Peninsula (Figure 1.1.2-1).

1.1.3 Summary of Western Arctic Bowhead Whale Status

The current understanding is that the majority of the Western Arctic bowhead whale population migrates annually from wintering areas in the northern Bering Sea, through the Chukchi Sea in the spring (March through June), to the Beaufort Sea where they spend much of the summer (mid-May through September). In the autumn (September through November) they return to the Bering Sea to overwinter (November through March) (Braham et al., 1980; Moore and Reeves, 1993). Because the bowhead whale species is listed as "endangered" under the Endangered Species Act (ESA), the Western Arctic population is classified as a strategic stock under the MMPA and therefore also designated as "depleted" under the MMPA. The Western Arctic bowhead whale stock has been increasing in recent years; the current estimate of 10,545 is between 46% and 101% of the pre-exploitation abundance estimated at 10,400-23,000 by Woodby and Botkin (1993). Some analyses suggest the population may be approaching carrying capacity though there is no sign of slowing in the population growth rate (Brandon and Wade, 2006).

¹ Also referred to as the Bering-Chukchi-Beaufort Seas stock and the Bering Sea stock.

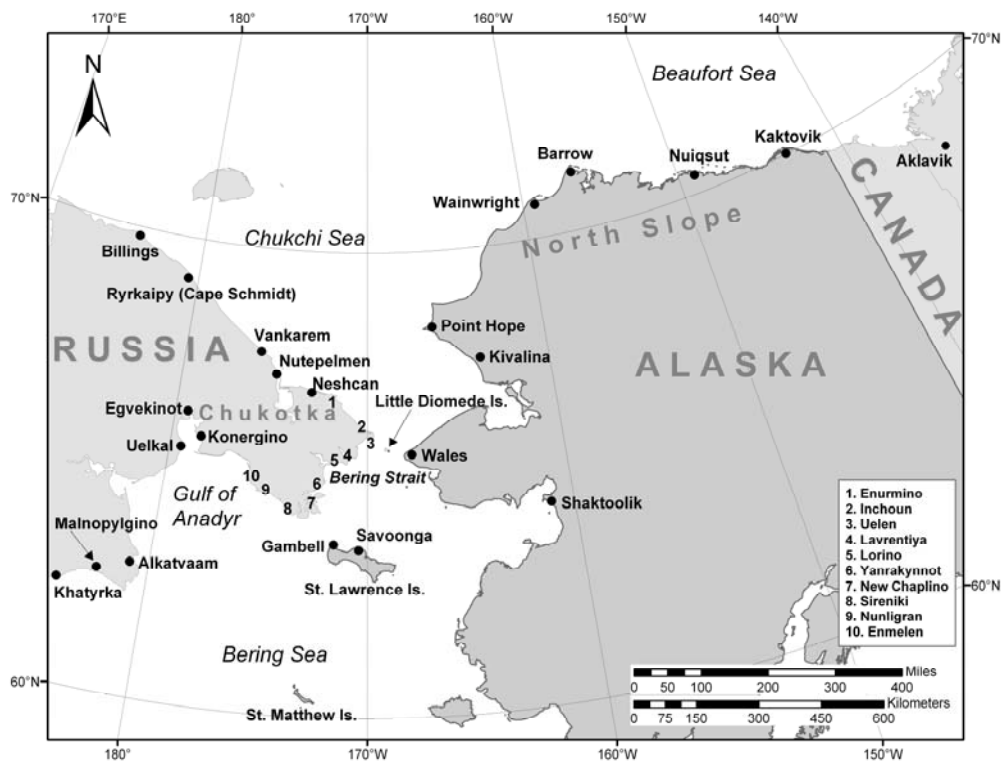


Figure 1.1.2-1 Historic and Current Bowhead Whaling Villages in Alaska, Canada, and Russia.

The estimated annual mortality rate incidental to commercial fisheries (0.2 whales per year) is not known to exceed 10% of the potential biological removal (PBR). PBR for the Western Arctic bowhead stock is 95 therefore, 10% of PBR is 9.5 animals and this level of mortality can be considered insignificant. The average annual level of intentional human-caused mortality and serious injury (41 animals) is not known to exceed the PBR (95) or the IWC annual strike limit (67) (Angliss and Outlaw, 2005). Criteria developed for recovery of large whales in general (Angliss et al., 2002) and bowhead whales in particular (Shelden et al., 2001) will be used in the next five-year evaluation of stock status.

On February 22, 2000, NMFS received a petition from the Center for Biological Diversity and Marine Biodiversity Protection Center to designate critical habitat for the Western Arctic bowhead stock under the ESA. Petitioners asserted that the nearshore areas from the United States (U.S.)-Canada border to Barrow, Alaska should be considered critical habitat. On May 22, 2001, NMFS found the petition to have merit and initiated a formal review (66 Federal Register [FR] 28141). On August 30, 2002 (67 FR 55767), NMFS announced its decision to not designate critical habitat for this population. NMFS decided not to designate critical habitat because: (1) the decline and reason for listing the species was over exploitation by commercial whaling, and habitat issues were not a factor in the decline; (2) there was no indication that habitat degradation is having any negative impact on the increasing population; (3) the population is abundant and increasing; and (4) existing laws and practices adequately protect the species and its habitat (67 FR at 55767).

1.1.4 Eskimo Tradition of Subsistence Hunt of Bowhead Whales

Inupiat and Siberian Yupik Eskimos have hunted bowhead whales continuously for over 2,000 years (Stoker and Krupnik, 1993). Hunting bowhead whales in Alaska remains a communal activity that supplies important meat and *maktak*² for the entire community, as well as for feasts and during annual celebrations. Formalized patterns of hunting, sharing, and consumption characterize the modern bowhead harvest. In addition, whaling captains are highly respected for their traditional knowledge of ice, weather, and whale behavior, which is necessary to hunt successfully, for their generosity in supporting their whaling crews, and for their stewardship of traditions of sharing and distributing *maktak* throughout the community. Of all subsistence activities in these communities, the bowhead whale hunt represents one of the greatest concentrations of community-wide effort and time. It is highly productive, accounting for a substantial percentage of the food consumed in the AEWC communities. As the principal activity through which traditional skills for survival in the Arctic are passed to younger generations, the bowhead hunt provides ongoing reinforcement of the traditional social structure. Thus, the bowhead subsistence hunt is a large part of the cultural tradition of these communities and their modern cultural identity (Worl, 1979; Braund et al., 1997).

Subsistence whaling has been regulated by a catch limit under the authority of the IWC since 1977. Alaska Native subsistence hunters from northern Alaskan communities (Figure 1.1.2-1) take less than 1% of the stock of bowhead whales per year (Philo et al., 1993). After 1977, the number of whales landed ranged between 8 and 55 per year and whales struck and lost ranged from 5 to 28 per year (AEWC and North Slope Borough [NSB], 2007).

1.2 Legal Framework

The following section describes the legal framework that will guide agency decisions related to this project, including federal trust responsibility, governance of aboriginal subsistence whaling quotas under the WCA, species protection and conservation under the MMPA and ESA, and environmental review under NEPA.

1.2.1 Federal Trust Responsibility

NMFS, as an agent of the federal government, has a trust responsibility to Indian tribes. The concept of “trust responsibility” is derived from the special relationship between the federal government and Indians. Based upon provisions of the U.S. Constitution authorizing Congress to regulate commerce “among the several states, and with the Indian Tribes” (U.S. Constitution, Article I, Section 8, clause 3), the trust responsibility was first delineated by Supreme Court Chief Justice John Marshall in *Cherokee Nation v. Georgia*, 30 U.S. 1 (5 Pet.) (1831). Later, in *Seminole Nation v. United States*, 316 U.S. 286 (1942), the Court noted that the U.S. has charged itself with moral obligations of the highest responsibility and trust toward Indian tribes. The scope of the federal trust relationship is broad and incumbent upon all federal agencies. The U.S. government has an obligation to protect tribal land, assets, and resources as well as a duty to carry out the mandates of federal law with respect to American Indian and Alaska Native tribes. This unique relationship and its foundation in the Constitution provide the basis for legislation,

² *Maktak* is whale skin and a layer of blubber that is used for food.

treaties, and Executive Orders (EO) that grant unique rights or privileges to Native Americans (*Morton v. Mancari*, 417 U.S. 535, 551-53 [1974]).

In furtherance of this trust responsibility and to demonstrate respect for sovereign tribal governments, the principles described above were incorporated into Secretarial Order No. 3206, dated June 5, 1997, and signed by the Secretaries of Commerce and Interior. This Order, entitled "American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act," directs both departments to carry out their responsibilities under the ESA in a manner that brings into accord the federal trust responsibility to tribes, tribal sovereignty, and statutory missions of the departments, so as to avoid or minimize the potential for conflict and confrontation. However, this Secretarial Order did not extend to Alaska Natives; and hence, on January 19, 2001, the Secretary of Commerce and the Secretary of the Interior signed Secretarial Order No. 3225, entitled "Endangered Species Act and Subsistence Uses in Alaska" (Supplement to Secretarial Order 3206), to extend to Alaska Natives the principles articulated in Order No. 3206.

On May 14, 1994, EO 13084 was issued, requiring each federal agency to establish meaningful consultation and collaboration with Indian tribal governments (including Alaska Natives) in formulating policies that significantly or uniquely affect their communities. Entitled "Consultation and Coordination with Indian Tribal Governments," the order requires agency policy-making to be guided by principles of respect for tribal treaty rights and responsibilities that arise from the unique legal relationship between the federal government and the Indian tribal governments. Furthermore, on issues relating to treaty rights, EO 13084 directs each agency to explore and, where appropriate, use consensual mechanisms for developing regulations.

On November 6, 2000, EO 13175 replaced EO 13084. The order carries the same title and strengths as the previous order about the government-to-government relationship between the U.S. government and Indian tribes. EO 13175 requires that all executive departments and agencies consult with Indian tribes and respect tribal sovereignty in developing policy on issues that affect Indian communities.

1.2.2 International Convention for the Regulation of Whaling

The International Convention for the Regulation of Whaling (ICRW) is an international treaty that was signed on December 2, 1946, to "provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry" (ICRW, December 2, 1946, 161 United Nations Treaty Series 72). The U.S. was an original signatory to the ICRW in 1946. A main focus of the ICRW was the establishment of the IWC. The IWC is an international organization, administered by a Secretary and staff. IWC membership consists of one Commissioner from each Contracting Government (i.e., government of a nation that signed the ICRW). Under Article V.1 of the ICRW, the IWC's charge is to adopt regulations with respect to the conservation and utilization of whale resources by periodically amending the provisions of the Schedule, a document that is an integral part of the ICRW. IWC regulations adopted in the Schedule may establish protected and unprotected species; open and close seasons and waters; implement size limits, time, method, and intensity of whaling; and specify gear, methods of measurement, catch returns, and other statistical and biological records, and methods of inspection (Article V.1) for whale stocks. The IWC seeks to reach its decisions by consensus. Voting procedures apply when consensus is not possible.

According to Article III.2 of the ICRW and the Rules of Procedure, to amend the Schedule and adopt whaling regulations requires a three-fourths majority of all who voted yes or no (each Contracting Government has one vote). Criteria in Article V.2 of the ICRW specify that amendments to the Schedule shall meet the following criteria:

- a. Be necessary to carry out the objectives and purposes of the ICRW and provide for the conservation, development, and optimum utilization of whale resources;
- b. Be based on scientific findings;
- c. Not involve restrictions on the number or nationality of factory ships or land stations, nor allocate specific quotas to any factory ship(s) or land station(s); and
- d. Take into consideration the interests of the consumers of whale products and the whaling industry.

The IWC established a Scientific Committee, consisting of approximately 200 of the world's leading whale biologists, to provide advice on the status of whale stocks to inform the development of IWC whaling regulations. The Scientific Committee considers particular subject matter based on the scientific needs of the IWC. These needs are broadly expressed in the ICRW text, which directs the IWC to: "encourage, recommend, or, if necessary, organize studies and investigations relating to whales and whaling; collect and analyze statistical information concerning the current condition and trend of the whale stocks and the effects of whaling activities thereon; and study, appraise, and disseminate information concerning methods of maintaining and increasing the populations of whale stocks" (Article IV.1).

The IWC recognizes a distinction between whaling for commercial purposes and whaling by aborigines for subsistence purposes. Aboriginal provisions were incorporated into predecessor treaties to the ICRW and have been a part of the whaling regime under the ICRW since the time of the first Schedule (note that 'aborigines' refers to indigenous groups for purposes of this EIS). The IWC governs aboriginal whaling internationally by setting overall catch limits on stocks. To initiate the process, Contracting Governments acting on behalf of aborigines in their respective nations make a proposal to the IWC based on cultural and nutritional needs (i.e., they submit a needs statement). At the 1994 Annual Meeting, the IWC adopted Resolution 1994-4 to reaffirm the following three broad objectives as general guidelines for evaluating such proposals from Contracting Governments:

1. To ensure that the risks of extinction to individual stocks are not seriously increased by subsistence whaling;
2. To enable aboriginal people to harvest whales in perpetuity at levels appropriate to their cultural and nutritional requirements, subject to the other objectives; and
3. To maintain the status of whale stocks at or above the level giving the highest net recruitment and to ensure that stocks below that level are moved towards it, so far as the environment permits.

Since 1997, the IWC has set catch limits for aboriginal subsistence whaling generally in five-year increments, subject to annual review. These catch limits are contained in paragraph 13 of the Schedule. Catch limits for Western Arctic bowhead whales have been expressed in two components: a limit on the number of whales landed, and a slightly higher limit on the number of whales that may be struck. The term "strike limit" is often used to refer to this limitation on the number of whales that may be struck. This approach takes into account the fact that not all

whales struck are landed and ensures an upper limit on total strikes for conservation management. The WCA defines aboriginal subsistence whaling as whaling authorized by paragraph 13 of the Schedule annexed to and constituting a part of the ICRW (50 Code of Federal Regulations [CFR] 230.2). Aboriginal subsistence whaling is not otherwise defined in the Schedule, but the following definition of subsistence use was adopted by consensus at the 2004 Annual Meeting of the IWC:

1. The personal consumption of whale products for food, fuel, shelter, clothing, tools, or transportation by participants in the whale harvest.
2. The barter, trade, or sharing of whale products in their harvested form with relatives of the participants in the harvest, with others in the local community or with persons in locations other than the local community with whom local residents share familial, social, cultural, or economic ties. A generalized currency is involved in this barter and tra[d]e, but the predominant portion of the products from each whale are ordinarily directly consumed or utilized in their harvested form within the local community.
3. The making and selling of handicraft articles from whale products, when the whale is harvested for the purposes defined in (1) and (2) above.

General principles governing aboriginal subsistence whaling are contained in paragraph 13(a) of the Schedule, and catch limits are set under paragraph 13(b) of the Schedule. Paragraph 13(a) of the current Schedule includes the prohibition on the "strick[ing], tak[ing] or kill[ing] calves or any whale accompanied by a calf," applicable to Western Arctic bowhead whales, and the requirement that "all aboriginal whaling shall be conducted under national legislation that accords with paragraph 13 of the Schedule" (IWC 2005a:13(a)(4)&(5)). Native peoples engaging in subsistence hunts do so under permit issued by their governments. In the case of Alaska Eskimo and Russian Native subsistence hunts, the U.S. and the Russian Federation make a joint request to the IWC for a subsistence hunt for bowhead whales, based, in part, on the needs of their respective Native communities (Appendix 8.1). Once the IWC approves a request for an aboriginal subsistence whaling quota (Appendix 8.1) and sets catch limits for each whale stock in five-year increments, the WCA provides the mechanism for the U.S. to implement these quotas.

1.2.3 Whaling Convention Act

The Whaling Convention Act (WCA) was enacted to implement the domestic obligations of the U.S. government under the ICRW. IWC Schedule provisions to which the U.S. has not objected shall become effective with respect to all persons and vessels subject to the jurisdiction of the U.S. in accordance with the terms of the Schedule provisions and Article V of the ICRW (WCA § 916k). Under Section 916b of the WCA, the Secretary of State (with concurrence by the Secretary of Commerce) is vested with the power of presenting or withdrawing objections to regulations of the IWC on behalf of the U.S. as a Contracting Government.

The Secretary of Commerce holds general powers, which have been delegated to NMFS, to administer and enforce whaling³ in the U.S., including issuance of necessary regulations to carry out that authority (WCA §§ 916d, 916k). The regulations (located at 50 CFR Part 230) prohibit

³ Under Section 102(f) of the MMPA, commercial whaling is expressly banned in waters subject to the jurisdiction of the United States.

whaling, except for aboriginal subsistence whaling authorized by the IWC (50 CFR 230.1). NMFS publishes aboriginal whaling quotas set in accordance with paragraph 13 of the Schedule in the Federal Register, together with any relevant restrictions, and incorporates them into cooperative agreements with the appropriate Native American whaling organization, (entities recognized by this agency as representing and governing the relevant Native American whalers for the purposes of cooperative management of aboriginal subsistence whaling) (50 CFR 230.6(a)). Publication of the quota is contingent upon agency completion of a NEPA review. Any quotas published are allocated to each whaling village or tribal whaling captain by the appropriate Native American whaling organization.

The WCA regulations track the IWC provisions that prohibit whaling of any calf or whale accompanied by a calf (50 CFR 230.4(c)); they also prohibit any person from selling or offering for sale whale products from whales taken in aboriginal subsistence hunts, except that “authentic articles of Native handicrafts” may be sold or offered for sale (50 CFR 230.4(f)) (defined under the MMPA as items composed wholly or in some significant respect of natural materials) (MMPA § 101(6)(2)). Regulations also require that whaling not be conducted in a wasteful manner (50 CFR 230.4(k), MMPA § 101(b)(3)).

The WCA and its implementing regulations require licensing and reporting of aboriginal whale harvests (WCA § 916d; 50 CFR 230.5, 230.8). No one may engage in aboriginal subsistence whaling unless the person is a whaling captain or a crew member under the whaling captain's control (50 CFR 230.4(a)). The license may be suspended if the whaling captain fails to comply with WCA regulations (50 CFR 230.5(b)). No person may receive money for participation in aboriginal subsistence whaling (50 CFR 230.4(e)). The whaling captain and Native American whaling organization are also responsible for reporting to NMFS, among other things, the number, dates, and locations of strikes, attempted strikes, or landings of whales, including certain data from landed whales (50 CFR 230.8). For the bowhead quota, these provisions are also laid out in the Cooperative Agreement between NOAA and the AEWC (Appendix 8.2).

1.2.4 NOAA-AEWC Cooperative Agreement

The AEWC was formed in 1977 to represent the bowhead subsistence hunting communities of Alaska in an effort to convince the U.S. government to take action to preserve the Eskimos' subsistence hunt of bowhead whales. The purposes of the AEWC are to ensure that the hunting is conducted in a traditional, non-wasteful manner; to communicate to the outside world the cultural significance of bowhead whaling for the North Slope Inupiat and St. Lawrence Island Yupik; and to promote scientific research on bowhead whales to ensure their continued existence without unnecessary disruption to the whaling communities. During the initial years of controversy, the AEWC adopted its first Management Plan (May 1977), asserting the management and enforcement authority of the AEWC, requiring registration of whaling captains, specifying the traditional methods of whaling to be permitted, and requiring reporting of harvests and strikes by whaling captains (Langdon, 1984:45). With the signing of a cooperative agreement in 1981, the foundations for cooperation between NOAA and AEWC were established, and this framework has endured to the present. The AEWC also agreed to cooperate with the U.S. in scientific research efforts and to develop a management plan to be followed by all bowhead whale subsistence hunters to help improve the efficiency of the subsistence hunt.

NOAA and the AEWEC have agreed to work together through a Cooperative Agreement, but they bring different sources of authority to the cooperative effort. The underlying authority of the AEWEC is based on the formal cultural traditions of leadership by whaling captains. In addition, the tribal governments of the participating villages, including the Inupiat Community of the Arctic Slope, have delegated to AEWEC the tribal authority to manage the subsistence whaling of tribal members (Langdon, 1984:51). The members of the AEWEC are the registered bowhead subsistence captains and their crew members from the northern Alaskan communities. There are two classes of members: voting members and non-voting members from communities identified above in Section 1.1.2. Voting members are the registered bowhead subsistence captains in each community. The crew members are non-voting members. The AEWEC is directed by a board of elected Commissioners, one from each of the participating communities. This Board has authority over all of the Commission's affairs (AEWEC By-Laws, 1982 and as amended and restated October 14, 1992). Federal authority for bowhead management is governed by statute. Management of the Eskimo subsistence bowhead whale hunt is shared through the Cooperative Agreement between the AEWEC and NOAA (Appendix 8.2). (Note that NMFS serves as the representative of NOAA, its parent agency, in the administration of subsistence whaling in Alaska.)

The purposes of the NOAA-AEWEC Cooperative Agreement are to:

- protect the Western Arctic population of bowhead whale and the Eskimo culture;
- promote scientific investigation of the bowhead whale; and
- effectuate the other purposes of the WCA, the MMPA, and the ESA, as these acts relate to the aboriginal subsistence hunts for whales.

To achieve these purposes, the agreement provides for cooperation between members of the AEWEC and NOAA in management of the subsistence bowhead whale hunt. The agreement also provides for an exclusive enforcement mechanism applied to any violation by the registered member whaling captains or their crews. For actions of AEWEC members as they relate to aboriginal subsistence bowhead hunts, the AEWEC is the first line of enforcement for the MMPA, the ESA, the WCA, the ICRW and its Schedule, the AEWEC management plan; or the agreement itself (Appendix 8.2 and Chapter 3 Section 3.6). To support the scientific and administrative functions of the AEWEC, NOAA has provided funds through annual grants, reaching as much as \$400,000 per year in the early part of this decade (NOAA, 2007).

Although the AEWEC, the IWC, and NOAA had significantly different perspectives on the population status of the bowhead population at the outset, the rise of cooperative management in this case is highly distinctive in the degree to which the AEWEC and the NSB committed to a major peer-reviewed program of scientific research to improve understanding of the bowhead population status and dynamics in order to persuade the IWC to increase the subsistence quota (Langdon, 1984; Freeman, 1989). As improved census methods brought larger population estimates throughout the 1980s, the IWC raised the subsistence catch limits. The AEWEC members felt this research vindicated their traditional knowledge perspective that the bowhead population was much larger than the alarming estimates of the late 1970s.

1.2.5 Marine Mammal Protection Act and Endangered Species Act

The Marine Mammal Protection Act (MMPA) was enacted to protect and conserve marine mammals and their habitats. Section 2 of the MMPA contains the general purposes and policies of the act through congressional findings (16 United States Code [U.S.C.] 1361). Concerned that certain marine mammal species and population stocks were in danger of extinction or depletion, Congress established protections to encourage development of those stocks to the greatest extent feasible, commensurate with sound policies of resource management. Therefore, Congress specified that the primary objective of marine resource management under the MMPA is to maintain the health and stability of the marine ecosystem. Section 2 indicates that stocks should not be permitted to diminish beyond the point at which they cease to be a significant functioning element of the ecosystem, and they should not be permitted to diminish below their optimum sustainable population (OSP).

To achieve Section 2 general purposes and policies, Congress established a moratorium on the taking and importing of marine mammals in Section 101(a) (16 U.S.C. 1371(a)). Under the MMPA, 'take' means to "harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal" (16 U.S.C. 1362(13)). Except for certain military readiness or scientific activities, the term 'harassment' means "any act of pursuit, torment, or annoyance which, (1) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (2) 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]" (16 U.S.C. 1362(18)(A)).

This moratorium is not absolute. In particular, the MMPA allows the take of marine mammals by Alaska Natives for subsistence purposes, provided that such activities are not accomplished in a wasteful manner (16 U.S.C. 1371(b)). Inedible by-products such as baleen, bone, and ivory may be fabricated into Native handicrafts for sale, under these regulations. In addition, Section 113 of the MMPA specifically states that the provisions of the MMPA are in addition to, and not in contravention of, existing international treaties, conventions, or agreements (e.g., the ICRW) (16 U.S.C. 1383(a)).

The Endangered Species Act (ESA) is the principal federal law that guides the conservation of endangered or threatened species. Similar to the MMPA, the ESA expressly provides for Alaska Native subsistence activities (16 U.S.C. 1539(e)). Under Section 7 of the ESA, NMFS consults with itself and with the U.S. Fish and Wildlife Service (USFWS) on the effects of its proposed actions on endangered and threatened species.

1.2.6 National Environmental Policy Act

The National Environmental Policy Act (NEPA) was enacted to create and carry out a national policy designed to encourage harmony between humankind and the environment. While NEPA neither compels particular results nor imposes substantive environmental duties upon federal agencies (*Robertson v. Methow Valley Citizens Council*, 490 U.S. 332 (1989)), it does require that federal agencies follow certain procedures when making decisions about any proposed federal actions that may affect the environment. These procedures ensure that an agency has the best possible information with which to make an informed decision with regard to environmental

effects of any proposed action. They also ensure that the public is fully apprised of any associated environmental risks. Regulations promulgated by the Council on Environmental Quality (CEQ) (40 CFR 1500-1508) contain specific guidance for complying with NEPA.

Under the CEQ regulations, federal agencies must prepare an environmental assessment (EA) to determine whether a proposed action is likely to have a significant impact or effect on the quality of the human environment, or an EIS, which involves a longer public process and does not need to conclude with a finding of no significant impact (FONSI). Proposed alternatives are analyzed both in terms of context and intensity of the action. If information in an EA indicates that the environmental effects are not significant, the agency issues a FONSI to conclude the NEPA review. This was the case in 2003 when NMFS published a final EA and FONSI in support of the 2003 through 2007 bowhead whale quota allocations to AEWC (NMFS, 2003).

For the next five-year quota block, NMFS has decided to prepare an EIS rather than an EA. This decision was not based on any new determination that significant effects occur as a result of the bowhead subsistence hunt, but rather to take advantage of the EIS's longer process and to provide greater transparency and opportunity for public review of its administration of the bowhead subsistence whaling program. An EIS provides a more detailed statement of the environmental impacts of the action, possible alternatives, and measures to mitigate adverse effects of the proposed actions. The EIS achieves NEPA's policy goals by ensuring that agencies take a hard look at environmental consequences and by guaranteeing broad public dissemination of relevant information. Although the MMPA and NEPA requirements overlap in some respects, the scope of NEPA goes beyond that of the MMPA by considering the impacts of the proposed federal action on non-marine mammal resources such as human health and cultural resources.

An EIS culminates in a Record of Decision (ROD). The ROD will document the alternative selected for implementation as well as any conditions this agency imposes, and it will summarize the impacts expected to result from the action.

1.3 Public Involvement and Scoping Process

NEPA is often referred to as a "procedural statute." The law requires opportunities for public review and submission of comments. In preparing an EIS, the public process begins with scoping, which is the agency's first step in planning its analysis. The lead agency will typically consult with expert staff in determining the proper way to describe the proposed action, its alternative actions, and the environmental issues it feels are important to analyze in the document. The agency will also alert the public and affected stakeholders to its decision to prepare an EIS and solicit input into the scope of the document. With this information, the agency will prepare a draft EIS and make that document available for a minimum 45-day public review. Public meetings during the review period may be scheduled, depending on the level of interest in the proposed action by the public. Once the public review period on the draft EIS is completed, the agency will review comments received and respond to those comments and make revisions to the draft EIS to answer questions, provide increased clarity, and if need be, conduct additional analysis where previous analysis was found lacking. Once completed, the agency publishes a final EIS document and, after a minimum 30-day review period, issues its ROD.

The scoping process for this EIS involved a number of activities that included both internal and public scoping. These activities are described in the following paragraphs.

Internal Scoping

During the internal scoping phase, NMFS identified a preliminary list of resources to address in the EIS, along with four preliminary alternatives (including the no-action alternative) to serve as starting points for discussion. These alternatives and issues were previously analyzed in the 2003 EA. This effort was conducted to help the public provide more meaningful comment on resource issues and alternatives to the proposed action during the public scoping period with the intention of reevaluating resources and alternatives, if needed, following receipt and review of public comment.

Public Scoping

On October 18, 2006, NMFS issued a Notice of Intent to prepare an EIS for issuing a bowhead whale subsistence quota to the AEWC for the years 2008 through 2017 (71 FR 61460). NMFS requested comments on the proposed issuance of annual quota over a ten-year period, requested information on the affected environment, and requested comments on the issues to be analyzed in the document. NMFS also sent a public news release to local Alaska newspapers and statewide public radio. In addition, NMFS sent letters to all federally recognized tribal governments located in the affected geographic area, soliciting their comments. Comments from the public were accepted through December 15, 2006.

During the scoping period, comments were received from two federal agencies, the Environmental Protection Agency (EPA) and the Marine Mammal Commission (MMC). In addition, the Animal Welfare Institute (AWI) submitted comments, written on behalf of themselves and the Whaleman Foundation (WF). The AWI letter included as an attachment a December 2005 submission to the Inter-American Commission on Human Rights from Ms. Sheila Watt-Cloutier on behalf of the Inuit of the Arctic regions of the U.S. and Canada, concerning alleged violations resulting from actions by the U.S. with regard to global warming.

The NMFS allocation of a bowhead whale subsistence harvest quota is a recurring regulatory action of over two decades' standing. As a result, many stakeholders are familiar with the action, and this may explain why a limited number of public comments were received. The issues raised in the scoping comments are incorporated and addressed in the preparation of this EIS. The following paragraphs summarize these comments, drawing attention to those that augmented the issues already identified for analysis by NMFS.

The scoping comments from federal agencies focused for the most part on NEPA procedural questions. The MMC recommended that formulation of alternatives be deferred until the IWC had concluded its action in May 2007. The EPA letter emphasized the importance of meeting NEPA requirements for the components of the EIS, including a careful description of the purpose and need, an adequate range of alternatives, and a thorough cumulative effects analysis. In addition, attention was directed to requirements under the ESA, and under EOs concerning consultation with federally recognized tribes and analysis of environmental justice. EPA policy suggestions concerning cooperating agency status for affected Alaska Native tribes were highlighted. Finally, EPA also suggested analysis of habitat capacities, including areas used by bowhead whales for migration and seasonal concentration.

The scoping comments from AWI (and WF) included NEPA procedural concerns and a variety of topics for analysis in the EIS. AWI asserted that as a matter of NEPA procedure, the U.S. cannot submit a request for revised catch limits to the IWC until the EIS process is complete. However, U.S. negotiating positions at the IWC are not subject to NEPA. Rather, the federal action, for which the EIS must be completed, is NMFS's issuance of a quota to the AEWC, not the U.S.' request for a quota from the IWC. Of particular note in the recommended topics for analysis, the AWI submission emphasized the variety of cumulative effects potentially arising from climate change both to the whale population and to the Inuit communities. AWI also requested analysis of habitat health and an assessment of impacts from military sonar activity. Concerning subsistence harvest practices, AWI requested analysis of the accuracy of harvest reporting and of the basis for identification of the subsistence need. Finally, in suggesting discussion of the national and international legal framework for subsistence bowhead whaling, AWI stated that if NMFS is prepared to authorize a subsistence harvest in the event that the IWC did not renew the catch limit, it must include analysis of the impacts of such an action on the effectiveness of the ICRW and, as a result, on whale populations.

Public Review of the Draft EIS

The Draft EIS was released for public review on August 3, 2007. The public review period ended on October 12, 2007. Printed copies and/or compact disc copies of the document were provided for interested agencies, non-governmental organizations, and individuals who requested them (See Appendix 8.5).

NMFS received substantive written comments from the MMC, AWI, AEWC, and the EPA. The MMC, AEWC, and EPA generally expressed support for analysis and findings of the EIS, and supported adoption of the preferred alternative. The AWI letter posed criticisms on a number of topics, similar to those submitted during the scoping period.

Key issues raised in public comments included:

- compliance with NEPA requirements, including the adequacy of the alternatives analyzed;
- the biological and social effects of subsistence whaling;
- the analysis of cumulative effects from climate change and oil and gas exploration and development;
- the need for the proposed level of subsistence whaling allocations; and
- humane methods of take.

Substantive comments were addressed in responses to comments and used to make additions and modifying text to the Final EIS as appropriate. Appendix 8.6 details the public comments on the Draft EIS and provides responses to each comment.

2.0 ALTERNATIVES, INCLUDING THE PROPOSED ACTION

Under the WCA, NMFS can issue an annual bowhead whale quota based on IWC Schedule provisions pertaining to the aboriginal subsistence harvest of Western Arctic bowhead whales. The subsequent hunt is managed cooperatively by NMFS and the AEWC.

The IWC conducted its 59th Annual Meeting May 28-31, 2007 in Anchorage, Alaska, and based on the management advice of the IWC Scientific Committee, adopted a catch limit for 2008 through 2012 identical to that of the previous five-year period. Alternative 3 corresponds to the IWC action, and is the preferred alternative as noted below.

In the IWC Schedule, the limits on aboriginal subsistence whaling of Western Arctic bowheads consist of two components. No more than 255 bowhead whales may be landed during the period 2008 through 2012. In addition, no more than 67 bowhead whales may be struck per year, with provisions for a carry-over of up to 15 unused strikes from one year to the subsequent year, as detailed below in Alternative 3. The term “strike limit” is used to refer to the limitation on the number of whales that may be struck, and the term “unused strikes” refers to an unused portion of the limit on the number of whales that may be struck.

2.1 Alternative 1 (No Action) – Do not grant the AEWC a quota

Under this alternative, NMFS would not issue the AEWC a subsistence whaling quota for cultural and nutritional purposes. This could occur if NMFS chose not to issue an annual quota based on environmental concerns.

2.2 Alternative 2 – Grant the AEWC an annual strike quota of 67 bowhead whales, not to exceed a total of 255 landed whales over five years 2008 through 2012, with no unused strikes added to the annual quota.

Under this alternative, NMFS would (through annual regulations⁴) grant the AEWC an annual strike quota of 67 bowhead whales, subject to a total of 255 landed whales over the five years 2008 through 2012. The quota for 255 landed whales represents the U.S. portion of the total quota of 280 landed whales granted by the IWC to aboriginal whalers. The actual allocation of strikes between Alaska Eskimos and Russian Chukotkan Natives is determined on an annual basis through a bilateral agreement between the U.S. and Russian Governments (Appendix 8.3)⁵. Under this alternative, no unused strikes from a previous year would be added to the quota for a subsequent year, notwithstanding the IWC’s approval of a carry-over of unused strikes in the bowhead subsistence quota.

⁴ The actual quota issuance to the AEWC would be made on an annual basis by NMFS. See 50 CFR 230.6.

⁵ The current agreement was signed in 2002. It is expected that following the actions of the May 2007 IWC meeting in renewing the bowhead aboriginal subsistence harvest allocation, the U.S. and the Russian Federation will sign a new agreement in spring 2008.

2.3 Alternative 3 (Preferred Alternative) – Grant the AEWC an annual strike quota of 67 bowhead whales, not to exceed a total of 255 landed whales over the five years 2008 through 2012, with no more than 15 previously unused strikes from the previous year are added to the annual strike quota. This alternative would continue management as in the recent past and as quoted by the IWC in late May 2007.

Under this alternative (the proposed action), NMFS would (through annual regulations) grant the AEWC an annual strike quota of 67 bowhead whales (plus carry-over), not to exceed a total of 255 landed whales over the five years 2008 through 2012. This alternative differs from Alternative 2, by allowing up to 15 unused strikes from a previous year to be added to the quota for a subsequent year, consistent with the IWC catch limit. A policy to permit carry-over of 15 unused strikes was approved by the IWC. A carry-over allows for variability in hunting conditions from one year to the next within limits that conserve the Western Arctic bowhead stock.

2.4 Alternative 4 – Grant the AEWC an annual strike quota of 67 bowhead whales, not to exceed a total of 255 landed whales over the five years 2008 through 2012, where, for unused strikes, up to 50% of the annual strike limit is added to the strike quota for a subsequent year.

Under this alternative, NMFS would (through annual regulations) grant the AEWC an annual strike quota of 67 bowhead whales per year (plus carry-over), not to exceed a total of 255 landed whales over the five years 2008 through 2012. This alternative differs from Alternative 3 by allowing up to 50% of the unused annual strike limit from a previous year (i.e., up to 33 whales struck) to be added to the quota for a subsequent year.

2.5 Alternatives Considered but Not Carried Forward

Alternatives considered but discarded included alternatives that both substantially decreased and increased the annual and five-year bowhead whale subsistence quotas for Alaska Eskimos. A substantially decreased quota would not meet Alaska Eskimo-documented need for bowheads. A substantially increased quota may exceed Eskimo subsistence needs and has not been requested. One option under Alternative 1 would be to compensate the AEWC for not exercising its subsistence rights. While it may be appropriate for the AEWC to receive compensation for economic harm due to a prohibition of a commercial activity, in this case the AEWC is requesting a quota for cultural and nutritional subsistence purposes, something that cannot be compensated financially. Such alternatives were rejected because they do not meet the first objective of the proposed action, which is to meet the documented cultural and nutritional needs for bowhead whales by Alaska Eskimos. While the No Action Alternative does not meet this first objective, NMFS has included it in accordance with NEPA.

Another alternative considered but not carried forward was to analyze issuance of annual whaling quota over a ten-year period rather than a five-year period. As introduced in the Notice of Intent to prepare this EIS, NMFS indicated that it was going to assess a longer time period. The rationale for this was to avoid preparing another EIS in five years' time (to coincide with the next IWC decision on bowhead subsistence catch limits) unless significant changes to the environment warranted such an analysis. NEPA does not require that EAs or EISs be renewed in a specified timeframe; rather it only requires a new document be prepared or updated when

significant changes to the federal action or to the human environment occur. Based on internal discussions, the agency has determined that while pursuing a longer time frame for its NEPA analysis has some merit from an analytical and administrative point-of-view, introducing such a concept now could be confusing to the AEWG and the public because it would be inconsistent with the IWC's five-year catch limits and its current decision-making process.

2.6 Environmentally Preferred Alternative

NEPA requires that an agency identify the environmentally preferred alternative when preparing the ROD for an EIS. The CEQ has advised that such an alternative is to be based only on the physical and biological impacts of the proposed action on the resources in question, and not the social or economic impacts of the action. In this EIS, Alternative 1 (No Action) would not authorize annual subsistence bowhead whaling by Alaska Eskimos and no bowhead whales would be taken. Therefore, Alternative 1 is identified as the environmentally preferred alternative based on impacts to bowhead whales. See *Section 4 Environmental Consequences* for a full analysis of predicted impacts of this alternative on the complete human environment.

2.7 Preferred Alternative

The agency has identified Alternative 3 as its preferred alternative because it meets the purpose and need of this action; it achieves the socio-cultural benefits of the subsistence hunt at minimal environmental cost; and it keeps the harvest level and strike limit at current levels. Alternative 3 would also correspond to the action taken by the IWC during its 59th Annual Meeting May 28-31, 2007 in Anchorage, Alaska, when based on the management advice of the IWC Scientific Committee, it adopted a catch limit for 2008 through 2012 identical to that of the previous five-year period.

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3.0 AFFECTED ENVIRONMENT

3.1 Geographic Location

The Western Arctic stock of bowhead whales occurs in the Bering, Chukchi, and Beaufort Seas. The Bering Sea is in the northernmost region of the Pacific Ocean, bordered on the north and west by the Russian Federation, on the east by mainland Alaska, and on the south by the Aleutian Islands. The Bering Sea is connected to the Arctic Ocean, which includes the Chukchi Sea on the northern side of the Bering Strait and the Beaufort Sea to the east of the Chukchi Sea.

3.2 The Western Arctic Stock of Bowhead Whale

Bowhead whales are distributed in seasonally ice-covered waters of the Arctic and near-Arctic, generally north of 54°N and south of 75°N in the Western Arctic Basin (Moore and Reeves, 1993). For management purposes, five bowhead whale stocks are currently recognized by the IWC (IWC, 1992). These stocks occur in the Okhotsk Sea (Russian waters), Davis Strait and Hudson Bay (Greenland and Canadian waters), in the eastern North Atlantic (the Spitsbergen stock near Svalbard) and in the Bering-Chukchi-Beaufort Seas (Figure 3.2-1). The latter is the Western Arctic stock, the largest remnant population and only stock found within U. S. waters (Rugh et al., 2003).

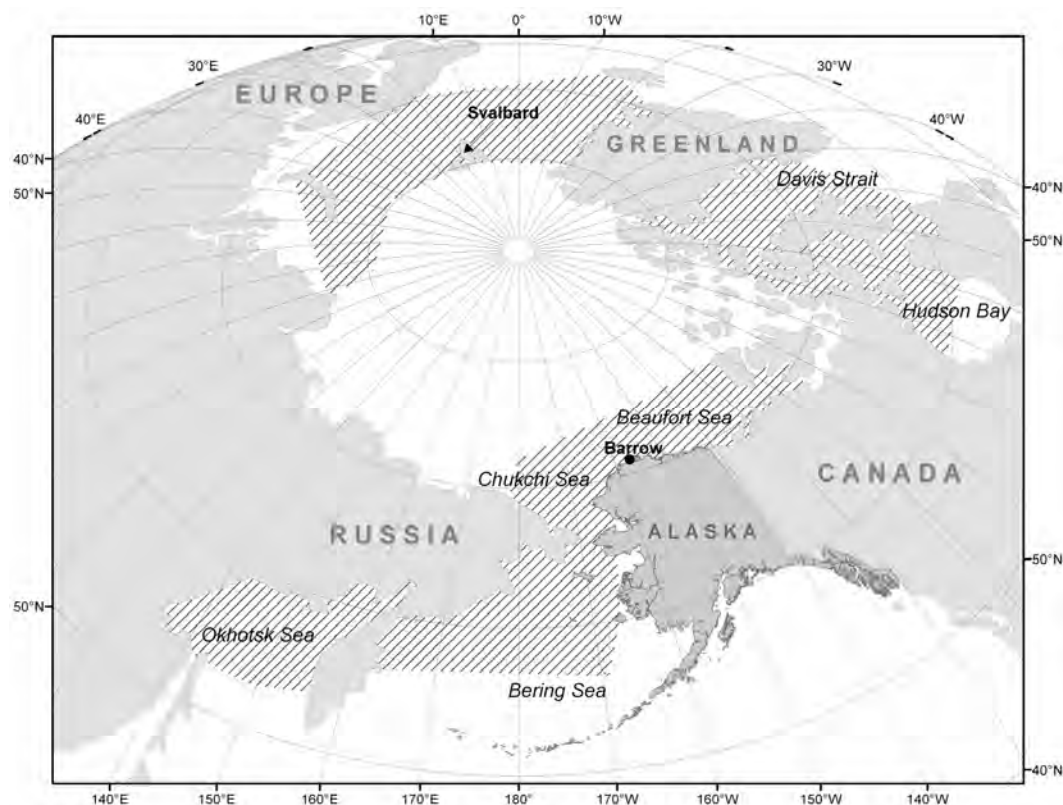


Figure 3.2-1 Circumpolar area occupied by the five bowhead whale stocks.

3.2.1 Current Abundance, Trends, Genetics, and Status

Abundance and Trends. All stocks of bowhead whales were severely depleted during intense commercial whaling prior to the twentieth century, and most of these stocks have not shown significant evidence of recovery even though a century has passed since commercial whaling stopped (Woodby and Botkin, 1993). Only the Western Arctic stock has recovered significantly (Zeh et al., 1993). In order to assess the size of this stock, NMFS began a study of abundance in 1976 by conducting visual counts of whales during the spring while they were migrating past ice-based sites north of Point Barrow, Alaska (Krogman, 1980). The traditional ecological knowledge (TEK) of Eskimo whalers pointed out shortcomings in the visual counts such as a lack of correction factors for whales that continued to migrate past the census site under the ice of closed leads or that migrate farther offshore (Huntington, 2000). The census counts have been conducted under the direction of the North Slope Borough Department of Wildlife Management since the mid-1980s (Dronenberg et al., 1986; George et al., 1988). These counts are corrected for whales missed by the observers, in particular through the use of acoustic arrays that detect the location of vocalizing whales (Zeh et al., 1993; George et al., 2004a). These counts continue to be the primary source of abundance information for this stock (George et al., 2004a).

The most recent ice-based counts occurred April 5, to June 7, 2001 near Barrow, Alaska (George et al., 2004a). Observers recorded 3,295 unique individuals and an additional 532 whales that may have been observed before during the 1,130 hours of watch effort. This count included 121 calves (3.7% of the unique whales). Passive acoustic surveillance was conducted almost continuously from April 16 to May 31, 2001 resulting in 27,023 locations of vocalizing bowhead whales. The estimated number of whales within 4 kilometers (km) of the perch ($N[4]$) was 9,025 ($SE = 1,068$). The estimated proportion of the whales within 4 km of the perch ($P[4]$) was 0.862 ($SE = 0.044$, computed by a moving blocks bootstrap). Combining these, the abundance estimate ($N[4]/P[4]$) for 2001 was 10,470 ($SE = 1,351$) with a 95% confidence interval of 8,100-13,500. The estimated annual rate of increase (ROI) of the population from 1978 to 2001 was 3.4% (95% CI 1.7%-5%) (Figure 3.2.1-1).

Zeh and Punt (2004) reviewed and revised abundance estimates from 1978 to 2001 (Angliss and Outlaw, 2006: Table 41) increasing the 2001 estimate slightly from 10,470 to 10,545 bowhead whales. The current estimate of 10,545 (Zeh and Punt, 2004) is between 46% and 101% of the abundance prior to the onset of commercial whaling in the mid-nineteenth century estimated at 10,400-23,000 (Woodby and Botkin, 1993; see also Bockstoce et al., 2005). Some analyses suggest the population may be approaching carrying capacity though there is no sign of slowing in the population growth rate (Brandon and Wade, 2006).

Genetics. Rooney et al. (2001) analyzed patterns of genetic variability among bowhead whales. Samples were taken from whales from the northern coast of Alaska, and from whales landed on St. Lawrence Island in the Bering Sea. The results of the research indicated that there was no genetic bottleneck (an evolutionary event that occurs when a population is reduced to a level insufficient to maintain diversity) in the Western Arctic stock and that the level of genetic variability has remained relatively high (nucleotide diversity = 1.63%) in spite of the depletion of the stock by commercial whalers in the 1800s. The stock reached its lowest abundance around 1914, when commercial whaling ceased; it is estimated that at that time there were 1,000 to 3,000 bowhead whales in the stock (Woodby and Botkin, 1993).

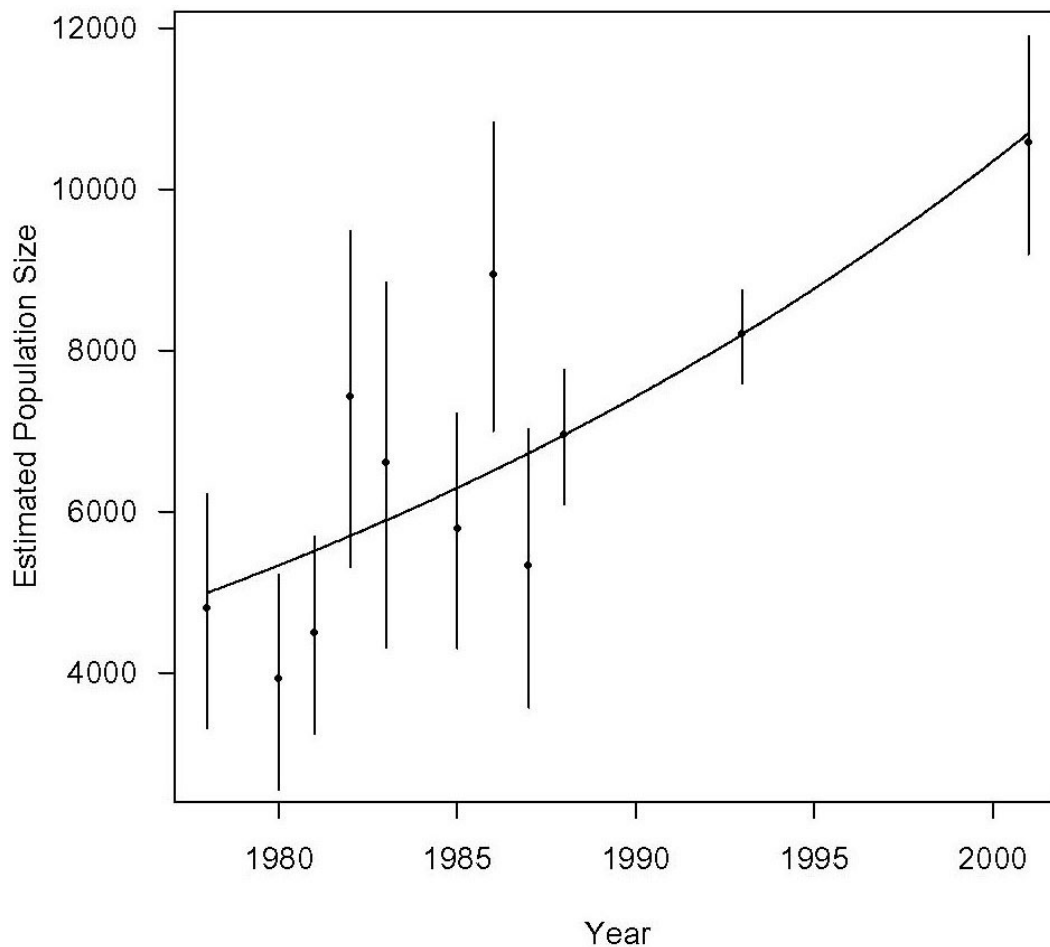


Figure 3.2.1-1 Abundance and trends of the Western Arctic bowhead whale population, 1978-2001 (from George et al., 2004a).

Comparisons between the Western Arctic stock and the Okhotsk Sea stock showed a much greater haplotypic diversity⁶ (0.93) in the Western Arctic samples than in the Okhotsk Sea samples (0.61). Analyses of microsatellite and sequence data revealed significant genetic differences between the two populations, indicating that the populations represent discrete gene pools (LeDuc et al., 2005). These differences indicate that the two populations should be considered genetically and demographically separate for management purposes; gene flow between them is negligible at most. The results also seem to parallel those for gray whales (LeDuc et al., 2002), another North Pacific species with a large eastern population showing high diversity and a small western population with considerably lower diversity.

⁶ Haplotypic diversity is a measure of the genetic variation between individuals or populations and is one way to describe the degree of relatedness between them. Most organisms have two sets of chromosomes (diploidy), one set inherited from each parent. Thus different versions of each gene (alleles) may be present (Aa, Bb, Cc, etc.). The haplotype describes the genes on one set (ABC). Populations may have several haplotypes, or combinations of different alleles (ABC, ABc, AbC, etc). Comparison of haplotypes between populations is typically done by examining mitochondrial DNA (mtDNA), which is inherited from one parent only (mother), counting the number of differences in the nucleotide base pairs between them. This is used to calculate haplotypic diversity (h). High values, as in this case, indicate that the populations may be genetically distinct.

Taylor et al. (2007) examined the plausibility of multiple bowhead whale stocks in the Western Arctic population. They synthesised four lines of evidence that related to understanding stock structure: (1) movement and distribution, (2) basic biology, (3) history of commercial whaling, and (4) interpretation of genetic patterns. The paper reviewed 30 years of research plus contributions from traditional ecological knowledge. In terms of bowhead biology, bowhead whales have adapted to living in an arctic ecosystem where ice coverage and food resources vary through time. Taylor et al. (2007) concluded that this varying environment makes both the evolutionary reason for multiple breeding stocks within the Bering Sea and the biological feasibility of maintaining separation within a relatively small pelagic area unlikely. There is variability in the timing that individual bowhead whales migrate, in the timing of the peak of the migration itself, and in the location of both summering and wintering grounds. The variation is a result of both changing environmental conditions and changes in the whales' age and reproductive state. Furthermore, the available area for any potential segregation of feeding or breeding groups is well within the ability of individual whales to travel in a few days time. No evidence was found that a small discrete stock, like the Okhotsk Sea stock, is present and killed in any numbers during the spring or autumn migration of Western Arctic bowhead whales. No data were found to support risk to a separate feeding group. Other insights using genetic data were weak, but nearly all results were consistent with a single stock that is out of equilibrium following commercial depletion. Bowhead whales being out of genetic equilibrium was supported by differences found between age cohorts, both in empirical data and simulated data. The only significant genetic findings worth further consideration were differences involving St. Lawrence Island. However, the comparisons that were significant involved small sample sizes and could just as well result from genetic patterns found between different age cohorts. At the 2007 IWC meeting in Anchorage, Alaska, the IWC Scientific Committee Sub-committee on Bowhead, Right and Gray Whales concluded after a three year investigation of the stock structure of the Bering-Chukchi-Beaufort population of bowhead whales (as summarized in Taylor et al. (2007)) that the available evidence best supports a single-stock hypothesis for Western Arctic bowhead whales (IWC 2007:7).

Status and Management. Since 1931, bowhead whales have been protected from commercial whaling internationally, first under the League of Nations Convention, and since 1949 by the ICRW. Under the IWC, an important feature of the Convention is the emphasis it places on scientific advice. The Convention requires that amendments to the Schedule 'shall be based on scientific findings.' To this end, the Commission has established a Scientific Committee. The Scientific Committee comprises up to 200 of the world's leading whale biologists. Many are nominated by member governments. In addition, in recent years it has invited other scientists to supplement its expertise in various areas. The size of the Committee, as well as the subject matter it addresses, has increased considerably over time. In 1954, it comprised 11 scientists from 7 member nations. At the IWC annual meeting in Anchorage, Alaska in 2007 it comprised over 220 participants (including some 59 invited participants); 32 member nations were represented. The U.S. delegation is the largest with over half of its scientific representation coming from NMFS.

The IWC Schedule establishes the following principles for aboriginal subsistence harvests: (1) for stocks above the Maximum Sustainable Yield (MSY) level, aboriginal subsistence catches shall be permitted so long as total removals do not exceed 90% of MSY; (2) for stocks below MSY level, but above a certain minimum level, aboriginal subsistence catches shall be permitted so long as they are set to allow stocks to increase to the MSY level; (3) catches will be kept

under review; and (4) for bowheads, it is forbidden to strike, take, or kill calves or any whale accompanied by a calf. In addition, the IWC Scientific Committee advises the IWC on a range of rates of increase to the MSY level. To achieve the goals of these principles, the IWC assesses aboriginal whale harvests under various catch control rules. The most important of these rules is replacement yield (RY), which estimates the number of animals that can be killed and leave the population the same size at the end of the year as at the beginning of the year. Another catch control rule, designated Q, was developed to give an appropriate catch limit across any population level to meet these principles (Wade and Givens, 1997). The catch control rule Q allows the proportion of net production allocated to recovery to increase as a population becomes more depleted and decrease for a population above MSY and approaching carrying capacity (K). For populations above the MSY level, Q is capped at 90% of MSY, as required by IWC Schedule sub-paragraph 13(a).

The 1998 stock assessment of bowhead whales (IWC, 1999) reported that the RY value ranged between 108 and 123 animals and the Q value ranged between 102 and 120 animals. The IWC Scientific Committee reported that the population “appears to be near MSY, and would very likely increase under catches of up to 108 animals” (IWC, 1999). The 2004 stock assessment of bowhead whales (IWC, 2005a) reported that the population was close to K with a high probability of being above the MSY level based on the most recent abundance estimate from the 2001 bowhead whale census. Therefore, the use of Q (estimated to range between 137 and 324 animals, capped at 90% of MSY) was more appropriate than RY. After further analyses, the best estimate of Q was determined to be 257 bowhead whales (range: 155-412 animals; Brandon and Wade, 2006). The annual number of whales landed and struck has always fallen well below this number (Figure 3.2.1-2).

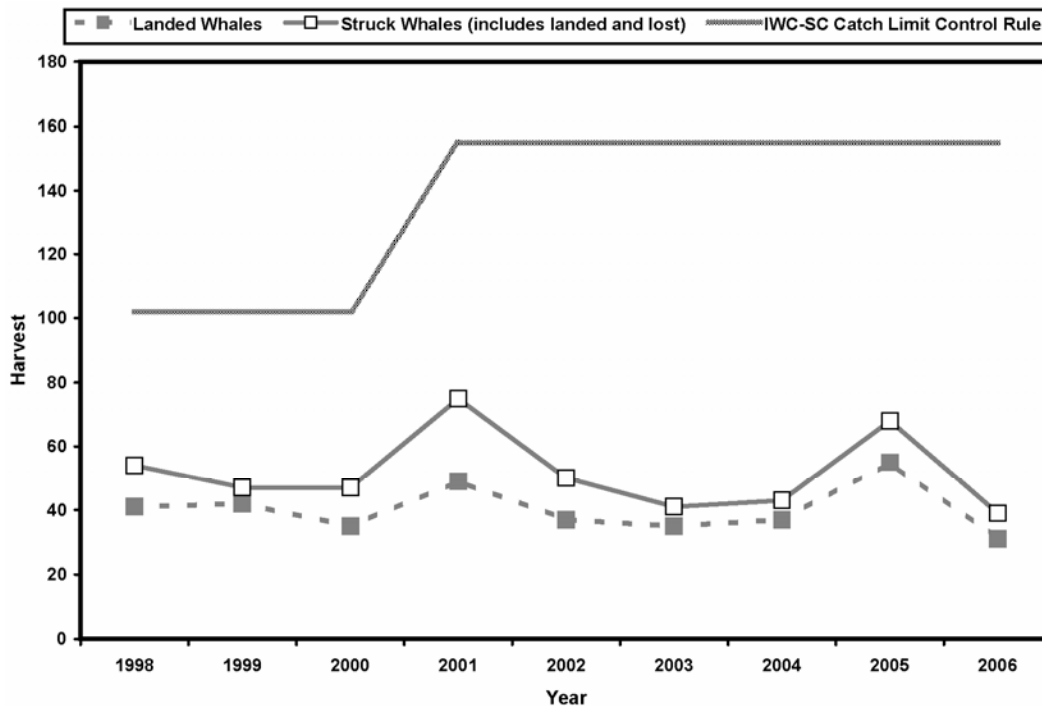


Figure 3.2.1-2 Annual number of Western Arctic bowhead whales landed and struck by Eskimo villages in Alaska, 1998-2006, compared to the IWC-SC catch limit control rule for the population Q1998-2001 = 102 whales (lower bound) and Q2002-2006 = 155 whales (lower bound).

Eskimos have been taking bowhead whales for at least 2,000 years (Marquette and Bockstoce, 1980; Stoker and Krupnik, 1993), and subsistence takes have been regulated by a quota system under the authority of the IWC since 1977. Alaska Native subsistence hunters take approximately 0.1-0.5% of the stock per year (Philo et al., 1993). Yet with a subsistence take that averages between 40 to 50 strikes per year, the Western Arctic stock has continued to grow at 3.4% annually, adding roughly 356 bowhead whales to the population in 2001 ($0.034 \times 10,470$ whales).

The Western Arctic stock of bowhead whales remains listed as endangered under the ESA. Because of the ESA listing, the stock is classified as a depleted and a strategic stock under the MMPA. However, the Western Arctic bowhead whale population is healthy and growing under a managed hunt and has recovered to historic abundance levels. NMFS will use criteria developed for the recovery of large whales in general (Angliss et al., 2002) and bowhead whales in particular (Shelden et al., 2001) in the next five-year ESA status review to determine if a change in listing status is needed (Gerber et al., 2007).

3.2.2 Migration and Distribution

General Migration Pattern. The Western Arctic stock is widely distributed in the central and western Bering Sea in winter (November to April), generally associated with the marginal ice front and found near the polynyas of St. Matthew and St. Lawrence Islands and the Gulf of Anadyr (Bogoslovskaya et al., 1982; Brueggeman, 1982; Braham et al., 1984; Ljungblad et al., 1986; Brueggeman et al., 1987; Bessonov et al., 1990; Moore and Reeves, 1993; Mel'nikov et al. 1998) (Figure 3.2.2-1). From April through June, these whales migrate north and east, following leads in the sea ice in the eastern Chukchi Sea until they pass Point Barrow, where they travel

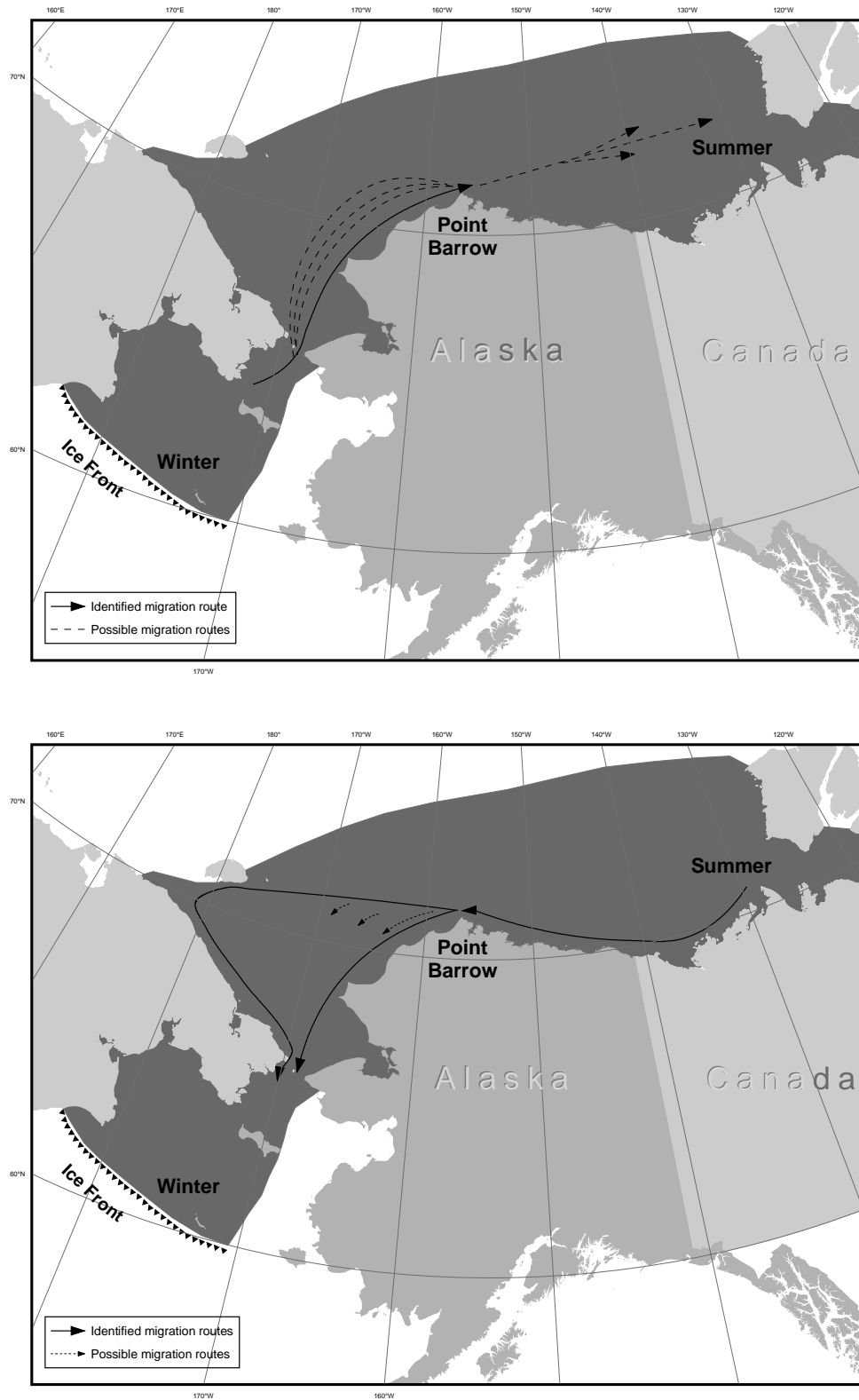


Figure 3.2.2-1 Western Arctic bowhead whale distribution and migratory patterns during the spring (a) and autumn (b) (from Angliss and Outlaw, 2005).

east towards the southeastern Beaufort Sea (Braham et al., 1980; Braham et al., 1984; Marko and Fraker, 1981). Most of the summer (June through September), bowhead whales are found in the Beaufort Sea (Hazard and Cubbage, 1982; Richardson, 1987; McLaren and Richardson, 1985; Richardson et al., 1986a, 1987a,b; Moore and Clarke, 1991), predominantly over outer continental shelf and slope habitats (Moore et al., 2000a). Spatial distribution seems to vary between years (Richardson et al., 1987b; Davis et al., 1983; Thomson et al., 1986), affected in part by surface temperature or turbidity fronts and anomalies (Borstad, 1985; Thomson et al., 1986).

During the autumn (early September to mid-October), bowhead whales migrate across inner shelf waters (Moore et al., 2000a), moving west out of the Beaufort Sea, as evidenced during aerial surveys (Richardson, 1987; Ljungblad et al., 1987; Moore et al., 1989a; Moore and Clarke, 1991), radio-tracking (Wartzok et al., 1990) and satellite-tracking (Mate et al., 2000; Krutzikowsky and Mate, 2000) (Figure 3.2.2-1). From mid-September to mid-October bowheads are seen in the northeast Chukchi Sea, some as far north as 72°N (Moore et al., 1986; Moore and Clarke, 1992). Whales migrate into the Chukchi Sea, with some whales turning southwest along the axis of Barrow Canyon (Moore and Reeves, 1993), while others head toward Wrangel Island (Mate et al., 2000; Krutzikowsky and Mate, 2000). When they reach the Siberian coast, they follow it southeast to the Bering Strait (Bogoslovskaya et al., 1982; Zelensky et al., 1995). Autumn migrants begin arriving on the northern coast of the Chukotka Peninsula in mid-September (Mel'nikov et al., 1998), October (Mel'nikov et al., 1997), or November (Mel'nikov and Bobkov, 1994), with large inter-year differences in the timing of the autumn migration through the Chukchi Sea (Mel'nikov et al., 1998). Whales continue to arrive along the Chukotka coast even in December (Mel'nikov et al., 1998). There appears to be a split in the migration across the Chukchi Sea, with some whales crossing from Point Barrow westward toward Wrangel Island (Mate et al., 2000), and others heading more directly from Point Barrow to the Bering Strait (Moore and Reeves, 1993; Mel'nikov et al., 1998). By late October and November, many whales arrive in the Bering Sea (Kibal'chich et al., 1986; Bessonov et al., 1990), where they spend the winter.

Bowheads in the Bering or Chukchi Seas in the Summer. Very few bowhead whales are found in the Bering or Chukchi Seas in summer (Dahlheim, et al., 1980; Miller et al., 1986); however, there have been enough sightings to indicate that not all bowhead whales migrate to the Beaufort Sea (Mel'nikov et al., 1998). Many have been seen in summer in the northeastern Chukchi Sea (Moore, 1992), and small groups have been observed traveling northwest along the Chukchi Peninsula in May (Bogoslovskaya et al., 1982; Bessonov et al., 1990; Ainana et al., 1995; Zelensky et al., 1995), June (Mel'nikov and Bobkov, 1993) and July (Mel'nikov et al., 1998). Studies conducted in 1994 have shown the presence of bowhead whales throughout the summer along the southeastern portion of the Chukchi Peninsula (Ainana et al., 1995) and the easternmost portion of the peninsula (Zelensky et al., 1995). Moore et al. (1995) suggested that bowheads seen in the Chukchi Sea in early October could have migrated from the Beaufort Sea three weeks earlier, as whales seen in the Alaskan Beaufort Sea in August and early September were often swimming in a westerly direction (Moore et al., 1989b).

Segregation by Size and Sex. During the spring migration, temporal segregation by size and sex class occurs in three overlapping pulses, the first consisting of sub-adults, the second of larger whales, and the third composed of even larger whales and cows with calves (Nerini et al., 1987; Rugh, 1990; Angliss et al., 1995; Suydam and George, 2004). Along the Chukchi Peninsula,

Russian Chukotkan Natives noted the appearance of large numbers of mothers with calves in late-March and early April followed by immature and adult animals (Bogoslovskaya et al., 1982). In the Beaufort Sea in summer, aggregations have usually consisted of only juveniles or of large whales that may include calves (Richardson, 1987; Davis et al., 1986). In 1983, Cabbage and Calambokidis (1987) found a significant inverse correlation between longitude and size class; encounter rates for larger whales increased moving west to east in the Beaufort Sea. Onshore and offshore distributions varied annually, suggesting that “sex- or age-class segregation patterns are temporally and spatially fluid and cannot be defined rigidly for any region or period” (Moore and Reeves, 1993). Segregation by size also occurs during the autumn migration (Braham, 1995; Suydam and George, 2004). George et al. (1995) showed a clear trend in progressively smaller whales harvested between August and November. Along the Chukchi Peninsula, the autumn migration splits into two pulses (Bogoslovskaya et al., 1982; Mel’nikov and Bobkov, 1993, 1994), though segregation by size or sex class was not confirmed as the cause.

3.2.3 Commercial Whaling

Bowheads were first commercially hunted in the Bering Sea in 1848, and in the following year more than 40 vessels took part in the hunt. Total catches were quite variable during the early years of commercial whaling. After low catches in 1853 and 1854, the fleet abandoned the Bering Strait and arctic grounds for the Okhotsk Sea grounds in 1855, 1856, and 1857. As hunting continued and the population was reduced, the whalers went farther and farther north and east. After decimating the Okhotsk Sea population, the fleet returned to the Bering Strait in 1858, remaining there and farther north for the next half-century. In 1889, steamships reached the summer feeding grounds off the Mackenzie River Delta, Canada, which remained the major focus of the industry until 1914, about the time that commercial whaling collapsed (Bockstoe and Botkin, 1980).

3.2.4 Subsistence Hunts

Eskimos have been taking bowhead whales for at least 2,000 years (Stoker and Krupnik, 1993). Although early historical records were not kept, it is estimated that Alaska Eskimos may have taken 20 whales a year (Ellis, 1991), and this level was not detrimental to the bowhead population:

Subsistence hunting is not a new contributor to cumulative effects on this population. There is no indication that, prior to commercial whaling, subsistence whaling caused significant adverse effects at the population level. However, modern technology has changed the potential for any lethal hunting of this whale to cause population-level adverse effects if unregulated (Minerals Management Service [MMS], 2006a:201).

Partly as a result of concerns about sustainability, subsistence takes have been regulated by a catch limits under the authority of the IWC since 1977. The annual number of bowheads landed by Alaska Natives has ranged from 8 (in 1982) to 55 (in 2005) from the time records were first kept in 1973, while bowheads struck and lost have ranged from 5 (in 1999) to 82 (in 1977) (Figure 3.2.4-1). Hunters from the western Canadian Arctic community of Aklavik (Figure 1.1.2-1) killed one whale in 1991 and one in 1996 (kills that were not approved by the IWC). As

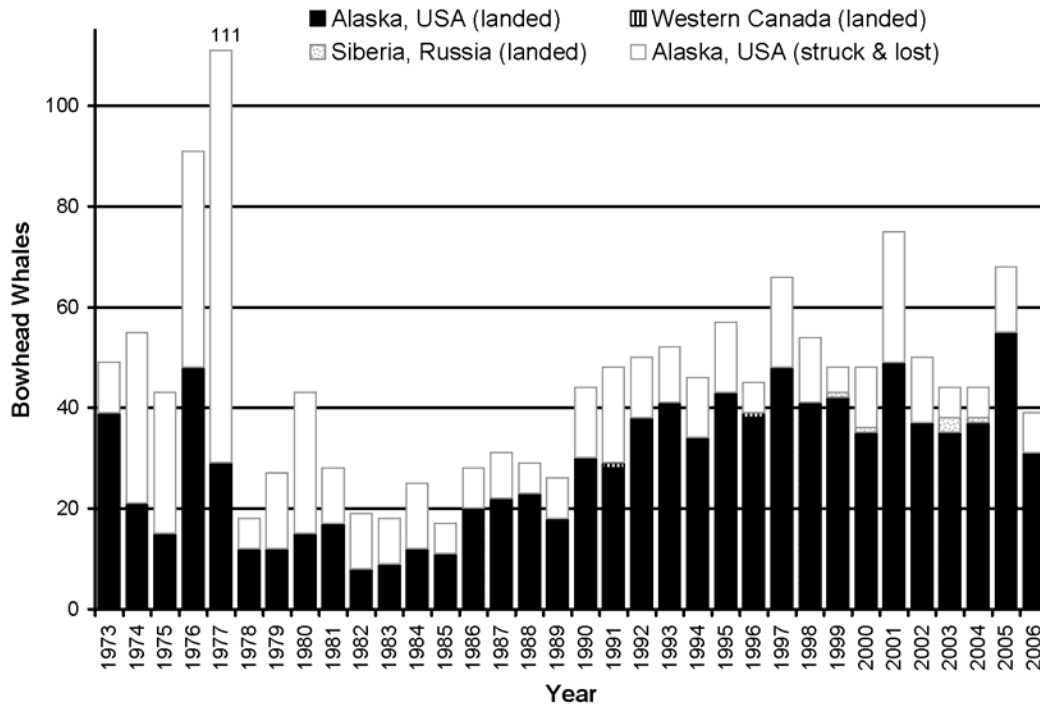


Figure 3.2.4-1 Number of bowhead whales landed, and struck and lost by subsistence hunters in the U.S., Canada and Russia, 1974-2006.

part of the shared quota with the Russian Federation, one animal was killed by Russian subsistence hunters in each of 1999 and 2000, three in 2003 (Borodin, 2004) and one in 2004 (Borodin, 2005) (Figure 3.2.4-1). Descriptions of the Alaska hunts and their management are provided in Sections 3.4 and 3.5, respectively.

3.2.5 Natural Mortality

Little is known about naturally occurring diseases and death in bowhead whales (e.g., Heidel and Albert, 1994). Studies of harvested bowhead whales have discovered bacterial, mycotic, and viral infections but not at a level that might contribute to mortality and morbidity (Philo et al., 1993). Skin lesions, found on all harvested bowhead whales, were not malignant or contagious. However, potentially pathogenic microorganisms inhabit these lesions and may contribute to epidermal necrosis and the spread of disease (Shotts et al., 1990). Exposure of these roughened areas of skin to environmental contaminants, such as petroleum products, could have significant effects (Albert, 1981; Shotts et al., 1990); Bratton et al. (1993), however, concluded that such encounters were not likely to be hazardous.

Evidence of ice entrapment and predation by killer whales, *Orcinus orca*, has been documented in almost every bowhead whale stock. The percentage of whales entrapped in ice is considered to be small, given that this species is so strongly ice-associated (Tomilin, 1957; Mitchell and Reeves, 1982; Nerini et al., 1984; Philo et al., 1993). The ice may also provide some protection from killer whale attacks. The frequency of attacks is unknown and killer whale distribution in northern waters has not been well documented (George et al., 1994). Of 195 whales examined during the Alaskan subsistence harvest (1976-92), eight had been wounded by killer whales (George et al., 1994). Seven of the eight bowhead whales were greater than 13 meters (m) in

length, suggesting either that scars are accumulated over time or that young animals survive a killer whale attack. Overall, the frequency of attacks on bowhead whales in the Bering Sea stock appears to be low (George et al., 1994). However, from the available data, it is not possible to assess the level of predation on bowhead whales by killer whales, particularly in terms of size-class selection and encounter rates.

3.2.6 Contaminants

A number of contaminants persist in the Arctic marine environment including polychlorinated biphenyls (PCBs), Dichlorodiphenyltrichloroethanes (DDTs), organochlorines and chlordanes. However, very limited data are available on baseline hydrocarbon concentrations in prey or tissues of bowhead whales or on the “normal” biochemical and histologic (microscopic) determinants used to assess oil related exposure and impacts. Organochlorines (OCs) are ubiquitous, persistent contaminants and are lipophilic (fat loving) and tend to bioaccumulate in lipid-rich tissues (i.e., blubber). Recent analyses were presented at a bowhead health and physiology workshop held in Barrow, Alaska, in 2002 (Willetto et al., 2002). Similar to other mysticetes, bowhead whale samples showed that among different blubber strata there may be differences in vertical distribution of organochlorines as well as lipid content. OC concentration levels varied from the Bering-Chukchi-Beaufort Seas suggesting that contaminant levels varied along the migratory range of the bowhead whale (Hoekstra et al., 2002a). The OC levels consistently fluctuated with seasonal migration between the Beaufort and Bering Seas over a 3.5-year period indicating that active feeding must be occurring in both areas to alter contaminant levels and profiles in tissues (discussed in Willetto et al., 2002).

Approximately 350 high quality blubber samples from bowhead whales were analyzed for lipid content, and the proportion of neutral lipids (i.e., triglycerides, non-esterified free fatty acids) that are key factors affecting the accumulation of lipophilic OCs (discussed by Ylitalo in Willetto et al., 2002). Lipid concentrations of bowhead blubber ranged from 25 – 83%, primarily triglycerides (94 – 100%). The mean lipid concentrations were significantly different among the three collection years (1998, 1999, 2000) and by season (autumn versus spring) (discussed by Zeh in Willetto et al., 2002). Blubber and liver samples were analyzed for selected OCs (toxaphene [TOX], PCBs, DDT, hexachlorocyclohexanes (HCHs), chlordanes, chlorobenzenes) to investigate bioaccumulation and biotransformation (Hoekstra et al., 2002a,b). In general, concentrations of OCs significantly increased with body length in male bowhead whales (Hoekstra et al., 2002a). Concentrations also increased with body length (i.e., age) in female whales but only up to the length of 13 m. Adult females (> 13 m) had generally lower concentrations than juvenile whales, which was attributed to the transfer of OCs from mother to young during gestation and lactation.

Geographic differences in contaminant exposure and accumulation (contamination varied by region) were reflected in OC concentrations in blubber of the bowhead whale, which was very likely a result of feeding in the respective regions, i.e., the Bering and Beaufort Seas (Hoekstra et al., 2002a). Age, gender, and concentration levels influence PCB biotransformation (Hoekstra et al., 2002b). The sum of PCB concentrations in bowhead whales was relatively low compared to levels found in other cetaceans. Heavy metal concentrations (i.e., cadmium [Cd], mercury [Hg], selenium [Se]) increased with age and tended to be high in Arctic marine mammals; however, Hg and Se were comparably very low in bowhead whales (Woshner et al., 2001, 2002; O'Hara et

al., 2006). In summary, contaminant levels for bowhead whales varied by gender, length (i.e., age), and season, but were relatively low compared to other marine mammals.

3.2.7 Fishery Interactions

The NMFS National Observer Program has no records of bowhead whale mortality incidental to commercial fisheries in Alaska (Angliss and Outlaw, 2005). However, several cases of rope or net entanglement have been reported from whales taken in the subsistence hunt (Philo et al., 1993), including those summarized in Table 3.2.7-1. Further, preliminary counts of similar observations based on reexamination of bowhead harvest records indicate that entanglements or scarring attributed to ropes may include over 20 cases (J.C. George, Department of Wildlife Management, NSB, personal communication). Some bowhead whales have had interactions with crab pot gear, one in 1993 and one in 1999. The average rate of entanglement in crab pot gear for 1999-2003 was 0.2 whales per year (Angliss and Outlaw, 2005).

Table 3.2.7-1
Evidence of Bowhead Whales Interacting with Ropes, Fishing Gear and Vessels, 1978-2004

Year	Number of Whales	Location	Description
1978	1	Wainwright	6 scars on caudal peduncle
1986	1	Kaktovik	Scars on caudal peduncle and anterior margin of flukes
1989	1	Barrow	12 scars on ridges of caudal peduncle
1989	1	south of Gambell	Rope wrapped around head, through mouth and baleen
1989*	1	Barrow	Rope ~32m long trailing from mouth
1990	1	Barrow	Scars on caudal peduncle; 2 ropes trailing from mouth.
1991*	1	Barrow	Apparent rope scar from mouth, across back
1993**	1	Barrow	Large female with crab pot line wrapped around flukes
1998**	1	NW of Kotzebue; near Red Dog Mine dock	Stranded - dead with line on it
1999**	1	Barrow	Whale entangled in confirmed crab gear. Line wrapped through gape of mouth, flipper, and peduncle. Severe injuries.
2003**	1	Near Ugashik	Stranded with rope tied around the peduncle; entangled?
2004**	1	Kaktovik	Boat propeller marks

Philo et al., 1993; * D. Rugh, NMFS, personal communication; ** J.C. George, NSB, personal communication

3.2.8 Offshore Activities, Petroleum Extraction

Oil and gas exploration and development are increasingly active in the Chukchi and Beaufort Sea in portions of the Western Arctic bowhead whale stock habitat. Extensive information about the effects of oil and gas activities on bowhead whales is discussed in four documents: (1) a Biological Opinion prepared by NMFS for the MMS pursuant to Section 7 of the ESA on Oil and Gas Leasing and Exploration Activities in the Beaufort Sea, Alaska (NMFS, 2006); (2) EIS prepared pursuant to the NEPA for the Beaufort Sea Planning Area, Oil and Gas Lease Sale, Sales 186, 195, and 202 (MMS, 2002a); (3) an EA prepared by the MMS for proposed Outer Continental Shelf (OCS) Lease Sale 202 - Beaufort Sea Planning Area (MMS, 2006a); and (4) Final Programmatic EA Arctic Ocean OCS Seismic Surveys 2006 (MMS, 2006b). Additional information is presented on the MMS Alaska OCS Region website: www.mms.gov/alaska.

There have been ten federal oil and gas lease sales within the Alaskan Beaufort Sea beginning with the Joint State of Alaska (State)-Federal Sale held in December 1979. The most recent federal sale was Beaufort Sea Sale 202, held on April 18, 2007. The MMS five-year lease plan

for 2007-2012 has additional sales scheduled in 2009 and 2011. Prior to 2000, no permanent facilities, or oil production, existed on the Beaufort Sea OCS outside of state waters. There are presently two offshore production facilities within state waters in the Beaufort Sea: Northstar and Endicott.

The potential effects of those projects and leasing and development of the OCS have been considered in the biological opinions regarding oil and gas leasing and exploration activities and oil production facilities (NMFS, 1999, 2001a, 2006). These oil and gas activities introduce noise into the marine environment that may disturb bowhead whales. Multiple marine geophysical (seismic) projects are planned for the Beaufort and Chukchi Seas in 2007. There are also plans to drill several exploration wells near Camden Bay in 2007 using two drill ships, each requiring support vessels, including ice breakers. Additional information on recent and planned oil and gas exploration and development activity is found in Sections 4.6.1.1 and 4.6.1.2.

Noise has been shown to cause avoidance behavior in migrating bowhead whales. Seismic activities and the use of ice breakers to support OCS activities present the highest probability for avoidance of any of the activities associated with oil exploration (NMFS, 2006). Studies have shown noise from ice breakers may be detected by acoustic instruments at distances exceeding 50 km (NMFS, 2003). It is reasonable therefore, to assume that bowheads could also detect this noise at this distance. The distance at which bowheads may react to noise is poorly described, but may exceed 20 km for marine seismic surveys as described below. Elevated sound levels in the marine environment could alter the hearing ability of whales, causing temporary or permanent threshold shifts if the sound levels are sufficiently high and the bowheads are in close proximity to the noise source. At present, researchers have insufficient information on the hearing ability and sensitivities of bowhead whales to adequately describe this potential. Information suggests most continuous and impulsive underwater noise levels would be at levels or durations below those expected to injure hearing mechanisms. Nonetheless, marine seismic activities may present concerns with respect to hearing.

Seismic Surveys. Seismic surveys in Alaska are scheduled in the summer and fall and are accomplished by sending sound waves down into the substratum (through the use of airguns) and receiving information about its oil-bearing potential based on the speed and strength of the returning echoes (National Research Council [NRC], 2003). Three types of offshore seismic surveys occur on the North Slope: marine streamer three-dimensional (3-D) and two-dimensional (2-D) surveys, ocean-bottom-cable seismic surveys, and high-resolution site-clearance surveys. Marine streamer 3-D and 2-D surveys involve a marine vessel that tows source arrays (airguns to generate acoustic energy) and passive-listening receiver equipment (called "streamers") to obtain geophysical data (MMS, 2006b). Streamers consist of long cables with multiple hydrophones that receive the echoes from the source energy as it bounces off the various substrata of the ocean floor. Airguns are the acoustic source for 3-D and 2-D seismic surveys.

Airgun arrays for both 3-D and 2-D seismic surveys emit pulsed rather than continuous sounds (MMS, 2006b). Airgun output usually is specified in terms of zero-to-peak or peak-to-peak levels (MMS, 2006b; Richardson et al., 1995a). Peak-to-peak values are about 6 decibels (dB) higher than zero-to-peak values (Richardson et al., 1995a). Airgun sizes are quoted as chamber volumes in cubic inches, and individual guns may vary in size from a few tens to a few hundreds of cubic inches (MMS, 2006b). The sound-source level (zero-to-peak) associated with both 3-D and 2-D seismic surveys ranges between 233 and 240 decibels re 1 microPascal at 1 meter (dB re

1 μ Pa at 1 m)⁷ (MMS, 2006b). Seismic sounds vary, but a typical 2-D/3-D seismic survey with multiple guns would emit energy at about 10-120 hertz (Hz), and pulses can contain energy up to 500-1,000 Hz (Richardson et al., 1995). Goold and Fish (1998) recorded a pulse range of 200 Hz-22 kilohertz (kHz) from a 2-D survey using a 2,120-cubic-inch-array. While most of the energy is directed downward (toward the ocean bottom) and the short duration of each pulse limits the total energy, the sound can propagate horizontally for several kilometers (Greene and Richardson, 1988; Hall et al., 1994). In waters 25-50 m deep, sound produced by airguns can be detected 50-75 km away, and these detection ranges can exceed 100 km in deeper water (Richardson et al., 1995a).

While high noise levels may affect whale hearing, or impact whales' use of sound to communicate or navigate, studies conducted on seismic research in the Beaufort Sea show that such effects on bowhead whales appear to be temporary, below exposure levels likely to cause injury or death, and therefore unlikely to prevent the survival and recovery of this species, provided these activities are properly authorized and mitigated. The deflection of bowheads from known migratory routes, however, does affect bowhead whale hunters. According to TEK, hunters were unable to find whales or bearded seals during seismic activities (B. Rexford, former chairman, Alaska Eskimo Whaling Commission, personal communication; H. Aishanna, Kaktovik Whaling Captain, personal communication, Kaktovik Whaling Captains Association, personal communication).

Site-Clearance Survey Activities. High-resolution seismic surveys primarily are used by the oil and gas industry to locate shallow hazards; obtain engineering data for placement of structures (e.g., proposed platform locations and pipeline routes); and detect geohazards, archaeological resources, and certain types of benthic communities (MMS, 2006b). All involved ships are designed to be quiet, as the higher frequencies used in high-resolution work are easily masked by the vessel noise if special attention is not paid to keeping the ships quiet. Airgun volumes for high-resolution surveys typically are 90-150 in³, and the output of a 90 in³ airgun ranges from 229-233 dB re 1 μ Pa at 1 m (MMS, 2006b). Airgun pressures typically are 2,000 pounds per square inch (psi), although they can be used at 3,000 psi for more output (MMS, 2006b). Marine geophysical research or other activities involving seismic airguns may introduce significant levels of noise into the marine environment and have been demonstrated to alter the behavior of bowhead whales. Research on the effects of offshore seismic exploration in the Beaufort Sea, supported by the testimony of Inupiat hunters based on their experience, has shown that bowhead whales avoid these operations when within 20 km of the source and may begin to deflect at distances up to 35 km (Richardson et al., 1999).

Drilling. After seismic surveys indicate that commercially feasible quantities of oil or gas are present, exploratory drilling begins. Underwater noise levels from drill sites on natural or manmade islands are low, and inaudible at ranges beyond a few kilometers (Richardson et al., 1995a). Noise is transmitted very poorly from the drillrig machinery through land into the water

⁷ Sound is typically measured in decibels, which measure the reduction of a sound's intensity over distance. Because sound travels differently through different media, the measurement of sound must also take into account a medium's impedance (or resistance) to sound pressure to be meaningful. A standard reference point for sound pressure in water (through which sound waves propagate more efficiently than through air) is one microPascal (1 μ Pa), a measure of pressure. In underwater acoustics, the *source level* of a sound represents the intensity of a sound at a certain distance, usually one meter, from the source, referenced to one microPascal; this is the meaning of the scientific phrase dB re 1 μ Pa at 1 m. The *received level* is the intensity of the sound at the listener's actual distance from the source; this is the value represented by the scientific phrase dB re 1 μ Pa rms (rms = root mean square, a statistical measure of the average amplitude of the variable intensity of a sound wave).

(Richardson et al., 1995a). Drilling noise from icebound islands is generally confined to low frequencies and has a low source level. It would be audible at range 10 km only during unusually quiet periods; the usual audible range would be approximately 2 km (Richardson et al., 1995a). Davies (1997) concludes that bowheads avoided an active drilling rig at a distance of 20 km.

Under open water conditions, drilling sounds from islands may be detectable somewhat farther away, but the levels are still relatively low (Richardson et al., 1995a). Drilling noise from caisson-retained islands is much stronger than natural or manmade islands (Richardson et al., 1995a). At least during open water conditions, noise is conducted more directly into the water at caisson-retained islands than at island drill sites. Noise levels are generally higher near drill ships than near semisubmersibles or caissons. The drill ship hull is well coupled to the water and semisubmersibles lack a large hull area. Machinery on semisubmersibles is mounted on decks raised above the sea on risers supported by submerged floating chambers. Sound and vibration paths to the water are through either the air or the risers, in contrast to the direct paths through the hull of a drill ship (Richardson et al., 1995a).

Acoustic research for the Northstar project, one of the activities covered under prior Biological Opinions, estimated that the numbers of bowhead whales that may have been deflected more than 2 km offshore due to that noise source ranged from 0 to 49 during 2001-2004. In any year in which offshore seismic activities occur in the Beaufort Sea, many bowheads may be “taken” by harassment. NMFS estimated the level of seismic “takes” between 1,275 and 2,550 in 2000. However, considerable variability is associated with any such estimate; NMFS would not expect this number of bowhead whales to be harassed year after year. No estimation of bowhead whale takes due to noise from the Endicott project is available (NMFS, 2001a). However, Endicott is near shore and in relatively shallow waters, through which noise propagation into areas used by bowhead whales would be greatly attenuated. Bowhead whales are not likely to be affected by noise from the Endicott project due to its distance from the bowhead's autumn migration route and the limited distance that noise travels from gravel structures into the marine environment.

In summary, more sound is radiated underwater during drilling operations from drill ships than from semisubmersibles. In contrast, noise from drilling on islands radiates very poorly to water, making such operations relatively quiet. Noise levels from drilling platforms and certain types of caissons have not been well documented, but are apparently intermediate between those from vessels and islands (Richardson et al., 1995a). By far, the noisiest exploratory activity is seismic surveys.

Development. Once an economically viable discovery is made, development begins. This phase involves additional drilling, and the subsequent construction of roads; airstrips; and waste disposal, seawater treatment, gas handling, power generation, storage, maintenance, and residential facilities (NRC, 2003). Greene (1983) measured noise under shorefast ice during winter construction of an artificial island near Prudhoe Bay. Roads were built on the sea ice and trucks hauled gravel to a site in water 12 m deep. At distances less than 3.6 km, there was no evidence of noise components above 1,000 Hz, and little energy below 1,000 Hz (Richardson et al., 1995a). Construction-related sounds did not propagate well in shallow water under the ice during winter (Richardson et al., 1995a).

Oil Spills. MMS investigated the probability of spilled oil contacting bowhead whales (MMS, 2002a). Specific offshore areas, termed Ice/Sea Segments were identified and modeled for

probability of contact and overlay the migratory corridor of bowheads. Using data from the MMS oil spill analysis for Sale 170, and assuming an oil spill of 1,000 barrels or more occurred at any of several offshore release areas during the summer season, the chance of that oil contacting these regions within 30 days during the summer season ranged from 5-82%. Therefore, there is high variability from the effects of an oil spill impacting Ice/Sea Segment areas.

If an oil spill were concentrated in open water leads, it is possible that a bowhead whale could inhale enough vapors from a fresh spill to affect its health. The effects of oil contacting skin are largely speculative, but may include pre-disposing whales to infection. It has been suggested that if oil gets onto the eyes of bowhead whales it would enter the large conjunctival sac (Zhu, 1996) and move inward 4 to 5 inches (10 to 13 centimeters [cm]) and get behind most of the eye (T. Albert, NSB, personal communication). The consequences of this event are uncertain, but some adverse effects are expected. Bowhead whales may ingest oil encountered on the surface of the sea during feeding, resulting in fouling of their baleen plates. Albert (1981) suggests that broken off baleen filaments and tar balls are of concern because of the structure of the bowhead's stomach and could cause a blockage within a narrow passage of the digestive system.

Engelhardt (1987) stated that bowhead whales are particularly vulnerable to effects from oil spills due to their use of ice edges and leads where spilled oil tends to accumulate. The impacts of oil exposure to the bowhead whale population would also depend upon how many animals contacted oil. If oil found its way into leads or ice-free areas frequented by migrating bowheads, a significant proportion of the population could be affected. The NSB believes there are some scenarios, such as an oil spill in a spring lead system near Barrow, which could affect a large portion of the population. The likelihood of this is debatable, depending on how oil development proceeds in the Chukchi Sea (Craig George, North Slope Borough, personal communication, December 20, 2007).

While it is exceedingly difficult to predict the various aspects of an oil spill that would impact bowhead whales, it is reasonable to state that the numbers of whales that might be affected would be expected to be very small in terms of the current abundance. However, bowhead whales would be placed at particular risk in the event of a large oil spill occurring while the whales were migrating north through the Chukchi Sea, or east through the Beaufort Sea, traveling through the spring lead and polynya system. The numbers of whales affected may be much higher, however, as we must assume that the entire stock needs to make this migration to get to summering grounds. Whether such a spill would affect a significant portion of this population is uncertain.

Adult whales exposed to spilled oil likely would experience temporary, or perhaps permanent, nonlethal effects. Prolonged exposure to freshly spilled oil could kill some whales, but the numbers are estimated to be small due to a low chance of such contact (MMS, 2006f). However, there are no data available that definitely link a large oil spill with a significant population-level effect on a species of large cetacean.

While data from previous spills in other locations worldwide are broadly informative, there is uncertainty about the potential for population level effects or other potential outcomes should a large or very large spill occur in instances where whales are aggregated and/or constrained in

their option for alternative routes (for example, in the spring lead and polynya system due to ice conditions) or are aggregated in a feeding area, especially if aggregations contained large numbers of females and calves. The potential for a population level effect may exist if large numbers of females and calves, especially newborn or very young calves, were to be contacted by large amounts of freshly spilled oil. The uncertainty arises because:

- of the unique ecology of the bowhead whale;
- existing information about the effects of oil on very large cetaceans is inconclusive and, thus, it is not possible to confidently estimate the likelihood that serious injury to individuals of bowhead whales could or would occur with oil exposure;
- there is lack of agreement over the interpretation of post-Exxon Valdez oil-spill cetacean studies;
- there are not data sufficient to determine the vulnerability of newborn or other baleen calves to freshly spilled crude oil;
- it is very difficult, if not impossible, to obtain many of the kinds of data that have been gathered on some other marine mammals to assess acute or chronic adverse sublethal effects from an oil spill (or other affecters) on large cetaceans; and
- there is no other situation comparable to that which could exist if a large or very large oil spill occurred in, or moved into, the spring lead and polynya system, especially if this occurred when there were large numbers of females with newborn calves, occurred when calving was occurring, or occurred when hundreds of individuals were in the leads and polynya on their northward migration.

Most whales exposed to spilled oil could be expected to experience temporary, nonlethal effects from skin contact with oil, inhalation of hydrocarbon vapors, ingestion of oil-contaminated prey items, baleen fouling, reduction in food resources, or temporary displacement from some feeding areas. A few individuals may be killed as a result of exposure to freshly spilled oil. However, the combined probability of a spill occurring and also contacting bowhead habitat during periods when whales are present is considered to be low, and the percentage of the bowhead whale stock so affected is expected to be very small. Contaminated food sources and displacement from feeding areas also may occur as a result of an oil spill, but NMFS has concluded it is unlikely that the availability of food sources for bowheads would be affected given the abundance of plankton resources in the Beaufort Sea (Bratton et al., 1993; NMFS, 2001a).

3.3 Other Wildlife

A wide variety of marine mammals, birds, and other marine organisms occurs in the area where Alaskan Natives hunt for bowhead whales. These species are identified and discussed briefly below. Additional information about each marine mammal species can be found in Angliss and Outlaw (2005).

3.3.1 Other Marine Mammals

Under the MMPA, marine mammals are protected by a prohibition on take; however, Section 101(b) of the MMPA generally provides that the provisions of the MMPA do not apply to subsistence hunting of marine mammals by Alaskan Natives. The ESA contains a similar provision with respect to endangered or threatened species. Many Alaskan villages hunt a variety of marine mammals including the bearded seal, ringed seal, spotted seal, ribbon seal, beluga

whale, bowhead whale, polar bear, and walrus (MMS, 2002a). A discussion of the current status and trends of all marine mammals that inhabit the area where Alaska Eskimos hunt for bowhead whales follows.

Spotted Seal. Spotted seals (*Phoca largha*) are distributed along the continental shelf of the Beaufort, Chukchi, Bering, and Okhotsk Seas south to the northern Yellow Sea and western Sea of Japan (Shaughnessy and Fay, 1977). Of eight known breeding areas, three occur in the Bering Sea. Satellite tagging studies indicate that spotted seals summering along the Chukchi Sea coast migrate south in October and pass through the Bering Strait in November (Lowry et al., 1998), moving south into the Bering Sea with the ice edge through December (Lowry et al., 2000). Preferred habitat for spotted seals in Alaska during January-April is the transition zone of pack ice between the southern fringe of ice and the heavier southward-drifting pack ice (Burns et al., 1981a; Lowry et al., 2000). Pups are born in the pack ice during March-April; during April-May, spotted seals inhabit the southern margin of the ice edge (Braham et al., 1984), and move to coastal habitats after the ice retreats (Fay, 1974; Shaughnessy and Fay, 1977). During August-October, spotted seals inhabit coastal and estuarine habitats in the northern Bering and Chukchi Sea (Braham et al., 1984; Lowry et al., 2000). Availability of food and freedom from disturbance seem to be important criteria for selection of coastal haulout sites (Lowry, 1982).

A reliable estimate of spotted seal population abundance, abundance trends, and stock structure is currently not available (Rugh et al., 1997; Angliss and Outlaw, 2005). Burns (1973) estimated 200,000 to 250,000 animals in the Bering Sea stock, including Russian waters, based on the distribution of "family" groups (mother and pup, with attending male) on ice during the mating season. However, comprehensive systematic surveys were not conducted to obtain these estimates. Spotted seals are an important species for Alaskan subsistence hunters, primarily in the Bering Strait and Yukon-Kuskokwim regions, with estimated annual harvests ranging from 850-3,600 seals taken during 1966-1976 (Lowry, 1984). From September 1985 to June 1986, the combined harvest from five Alaska villages was 986 animals (Quakenbush, 1988). The mean annual subsistence take of spotted seals in the northern part of Bristol Bay from 1993-1995 was 244. As of August 2000, the subsistence harvest database indicated that the estimated number of spotted seals harvested for subsistence use per year was 5,265 animals (Angliss and Outlaw, 2005).

Bearded Seal. Bearded seals (*Erignathus barbatus*) are circumpolar in their distribution, extending from the Arctic Ocean south to Hokkaido in the western Pacific. In Alaskan waters, bearded seals occur on the continental shelves of the Bering, Chukchi, and Beaufort Seas (Burns, 1981a; Johnson et al., 1966; Ognev, 1935). The majority of bearded seals move south with the seasonally advancing sea ice in winter (Burns, 1967). Pups are born in the pack ice from March through mid-May (Burns, 1967). In summer, many of the seals that winter in the Bering Sea move north through Bering Strait during April - June, and are distributed along the ice edge in the Chukchi Sea during the summer (Burns, 1967, 1981a). Some seals, particularly juveniles, may spend the summer in open-water areas of the Bering and Chukchi Seas (Burns, 1981a).

Reliable estimates of abundance, abundance trends, and stock structure are not available. Early estimates of the Bering-Chukchi Sea stock range from 250,000 to 300,000 animals (Popov, 1976; Burns, 1981a; Burns et al., 1981a). Bearded seals are an important species for Alaskan subsistence hunters, with estimated annual harvests of 6,788 (Angliss and Outlaw, 2005).

Ribbon Seal. Ribbon seals (*Phoca fasciata*) inhabit the North Pacific Ocean and adjacent fringes of the Arctic Ocean, most commonly in the Okhotsk and Bering Seas (Burns, 1981b). During the breeding season, ribbon seals are found only in the pack ice of the Okhotsk and Bering Seas (Kelly, 1988a). In Alaska waters, ribbon seals are found in the open sea, on the pack ice, and only rarely on shorefast ice (Kelly, 1988a). Ribbon seals in Alaska range northward from Bristol Bay in the Bering Sea into the Chukchi and western Beaufort Seas (Burns, 1970, 1981b; Braham et al., 1984; Moore and Barrowclough, 1984), inhabiting the northern part of the Bering Sea ice front from late March to early May (Burns, 1970, 1981b; Braham et al., 1984), and moving north with the receding ice edge in May to mid-July (Shustov, 1965; Tikhomirov, 1966; Burns, 1970, 1981b; Burns et al., 1981a). Ribbon seals usually haul out on thick pack ice (Shustov, 1965; Tikhomirov, 1966; Burns, 1981b; Burns et al., 1981a) and only rarely on shorefast ice (Bailey, 1928). In April, they have been found throughout the ice front but most abundantly over deep water south of the continental shelf (Braham et al., 1984). As the sea ice recedes in May-June, two major rafted remnants of the pack ice remain: the Alaskan massif (from Bering Strait to eastern St. Lawrence Island and south to Nunivak Island) and the Anadyr massif (from the Gulf of Anadyr toward St. Matthew Island); ribbon seals are thought to be associated with the Anadyr massif (Burns et al., 1981b). Little is known of the distribution of ribbon seals after the ice recedes from the Bering Sea (Kelly, 1988a); they are presumed to be solitary and pelagic in summer and autumn but their distribution is unknown (Burns, 1981b). Many ribbon seals may migrate north to the Chukchi Sea during the summer (Kelly, 1988a), while others may remain pelagic in the Bering Sea, near the edge of the continental shelf (Burns, 1970, 1981b). Single ribbon seals have been observed during the summer (June-August) within 84 miles (mi.) of the Pribilof Islands (Burns, 1981b), near Cordova, Alaska (Burns, 1981b) and south of the Aleutian Islands (Stewart and Everett, 1983).

A reliable estimate of abundance, abundance trends, and stock structure for the Alaska stock of ribbon seals is currently not available (Angliss and Outlaw, 2005). The worldwide population of ribbon seals was estimated at 240,000 in the mid-1970s, with an estimate of 90,000 to 100,000 in the Bering Sea (Burns, 1981b). Ribbon seals are also taken by Alaska Native subsistence hunters, primarily from villages in the vicinity of the Bering Strait and to a lesser extent at villages along the Chukchi Sea coast (Kelly, 1988a). The annual subsistence harvest was estimated to be less than 100 seals annually from 1968 to 1980 (Burns, 1981b). The more recent annual subsistence harvest in Alaska is estimated to be 193 (Angliss and Outlaw, 2005).

Ringed Seal. Ringed seals (*Phoca hispida*) are found throughout the arctic in areas of seasonal sea ice as well as in areas covered by the permanent polar ice cap (McLaren, 1958; Smith, 1987; Kelly, 1988b; Ramsay and Farley, 1997; Reeves, 1998). In the North Pacific Ocean, they are found in the Bering Sea and range as far south as the seas of Okhotsk and Japan. Most ringed seals overwinter, breed, give birth, and nurse their young within the shorefast sea ice (McLaren, 1958; Smith and Stirling, 1975), although some breeding seals (and pups) have been observed in pack ice (Finley et al., 1983). In the Chukchi and Beaufort Seas, ringed seals haul out in highest densities in shorefast ice during the May-June molting season, immediately following the March-April pupping season (Johnson et al., 1966; Burns and Harbo, 1972; Frost et al., 1988, 1997, 1998, 1999). Little is known about the distribution of ringed seals during the “open water” season, July-October, but ringed seals have been seen both hauled out on pack ice and foraging in open water some distance away from the nearest sea ice (Smith, 1987). Ringed seals migrate north and south with the retreat and advance of the sea ice edge, but some seals in areas of seasonal shorefast sea ice may be sedentary (Burns, 1970; Smith, 1987; Heide-Jørgensen et al.,

1992; Kapel et al., 1998; Teilmann et al., 1999). In addition to ice-associated migrations, ringed seals can also travel long distances east or west, particularly young seals (Smith, 1987; Kapel et al., 1998).

A reliable estimate of abundance, abundance trends, and stock structure for the Alaska stock of ringed seals is currently not available (Angliss and Outlaw, 2005). Crude estimates of population in Alaskan waters include 1-1.5 million (Frost, 1985) or 3.3-3.6 million, based on aerial surveys conducted in 1985, 1986, and 1987 (Frost et al., 1988). Surveys conducted in the Beaufort Sea in the 1990s (Frost et al., 2002) and the eastern Chukchi Sea in 1999 and 2000 (Bengtson et al., 2005) resulted in a total of approximately 249,000 seals (Angliss and Outlaw, 2005). This is a minimum population estimate because it does not include much of the geographic range of the stock and the estimate for the Alaska Beaufort Sea has not been corrected for the number of ringed seals not hauled out at the time of the surveys. Ringed seals are an important species for Alaska Native subsistence hunters. The most recent annual subsistence harvest in Alaska is estimated to be 9,567 (Angliss and Outlaw, 2005).

Pacific Walrus. The Pacific walrus (*Odobenus rosmarus*) occurs primarily in the shelf waters of the Bering and Chukchi Seas (Allen, 1880; Smirnov, 1929). Most of the population congregates during the summer in the southern edge of the Chukchi Sea pack ice between Long Strait, Wrangell Island, and Point Barrow (Fay et al., 1984). The remainder of the population, primarily adult males, stays in the Bering Sea during summer (Brooks, 1954; Burns, 1965; Fay, 1955, 1982; Fay et al., 1984). Females and sub-adult males migrate toward Bering Strait in the autumn when the pack ice begins to re-form (Fay and Stoker, 1982). Walruses use terrestrial haulout sites when suitable haulout sites on ice are unavailable. The major haulout sites are located along the northern, eastern, and southern coasts of the Chukchi Peninsula, on islands in the Bering Strait, on the Punuk Islands, on Round Island in Bristol Bay (Lentfer, 1988), and at Cape Seniavan on the north side of the Alaska Peninsula.

The current size and trend of the Pacific walrus population is unknown (Gorbics et al., 1998). The total initial estimate of 270,000 to 290,000 animals in 1980 was later adjusted to about 250,000 (Fay et al., 1984; Fedoseev, 1984). Subsistence harvest mortality levels are estimated at 5,789 animals per year (Angliss and Outlaw, 2005).

Polar Bear. Polar bears (*Ursus maritimus*) are circumpolar in their distribution in the northern hemisphere. Two stocks occur in Alaska: the Chukchi/Bering Seas stock and the southern Beaufort Sea stock. Polar bear movements are extensive and individual activity areas are enormous. A reliable abundance estimate for the Chukchi/Bering Seas population currently does not exist. The most recent estimate, made by the IUCN Polar Bear Specialist Group in 1998 estimated this population to be approximately 2,000-5,000 animals. The abundance of the southern Beaufort Sea stock is estimated to be 2,272 animals (Angliss and Outlaw, 2005).

Prior to the twentieth century, when Alaska's polar bears were hunted primarily by Alaskan Natives, both stocks probably existed near carrying capacity. The size of the Beaufort Sea stock appeared to decline substantially in the late 1960s and early 1970s due to excessive harvest rates when sport hunting was legal. Similar declines could have occurred in the Chukchi Sea, although data are unavailable to test that assumption. Since passage of the MMPA, only subsistence harvests by Alaska Natives have been permitted and overall harvest rates have declined. Both

stocks appear to have increased in abundance. Polar bear stocks in Alaska have no direct interaction with commercial fisheries activity (Angliss and Outlaw, 2005).

The 1991-2000 mean U.S. harvest from the Chukchi/Bering sea stock was 44.8 animals per year. Development of a management agreement for this stock between Native representatives of Alaska and the Russian Federation, and the U.S. and Russian governments, is ongoing. In 1997, a Cooperative Agreement was developed between the USFWS and the Alaska Nanuuq Commission to facilitate local participation in activities related to the conservation and management of polar bears pursuant to Section 119 of the MMPA (Angliss and Outlaw, 2005). The 1995-2000 mean U.S. harvest from the Beaufort Sea stock was 32.2 animals per year. A management agreement between Canadian Inuit and Alaskan Inupiat of the North Slope has been in place since 1998. Since initiation of this local user agreement, the combined Alaska/Canada mean harvest from this stock has been 55.1 animals per year, which is less than an annual allocation guideline of 81 and PBR level of 95 animals per year (Angliss and Outlaw, 2005).

Gray Whale. Gray whales (*Eschrichtius robustus*) occur across the coastal and shallow water areas of both the eastern and western reaches of the North Pacific Ocean, as well as the Bering, Chukchi, and Beaufort Seas. Two stocks are recognized: the western Pacific or Korean stock (listed as endangered under the ESA) and the eastern North Pacific stock (removed from the ESA in 1994, Rugh et al., 1999). Only the eastern North Pacific stock is found in the Bering Sea/Aleutian Islands and Gulf of Alaska. This population migrates annually along the coast of North America from summer feeding areas in the Bering, Chukchi, and Beaufort Seas to winter grounds in sheltered waters along the Baja Peninsula (Rice and Wolman, 1971).

The eastern North Pacific gray whale population has made a remarkable recovery since its depletion in the early 1900s caused by commercial whaling. Gray whales were listed as endangered under the ESA on June 2, 1970 (35 FR 8495). Then, following a comprehensive evaluation of their status (Breiwick and Braham, 1984), NMFS concluded on November 9, 1984 (49 FR 44774), that this population should be listed as threatened, instead of endangered, under the ESA. However, no further action was taken until 1991 when a subsequent review was completed and made available to the public on June 27, 1991 (56 FR 29471). The latter review showed the best available abundance estimate (in 1987/88) was 21,296 whales with an average annual rate of increase of 3.29% (Buckland et al., 1993). Calculations indicated that this population was approaching carrying capacity (Reilly, 1992). Therefore, NMFS proposed, on November 22, 1991 (56 FR 58869), that this population be removed from the list of endangered and threatened wildlife under the ESA. After an extensive review period, NMFS published a final notice of determination (58 FR 3121, January 7, 1993) that this population should be removed from the list because the population had recovered to near its estimated original population size and was neither in danger of extinction throughout all or a significant portion of its range, nor likely to again become endangered within the foreseeable future. On June 16, 1994 (59 FR 31094), the eastern North Pacific gray whale population was formally removed from the list of endangered and threatened wildlife under the ESA.

The most recent abundance estimates are based on counts made during the 1997/98, 2000/01, and 2001/02 southbound migrations. Analyses of these data resulted in abundance estimates of 29,758 for 1997/98, 19,448 for 2000/01, and 18,178 for 2001/02 (Rugh et al., 2005). Most of these surveys started in mid-December and ran until mid-February; however, the 2001 southbound migration continued for another three weeks. Consequently, the systematic counts

were extended until March 5, 2001. In 2002, migration timing returned to normal with the southward migration ending in mid-February (Rugh et al., 2005).

Previous analysis of abundance estimates from shore-based counts indicates that the population increased by approximately 2.5% per year ($SE=0.3\%$) between 1967/68 and 1995/96 (Buckland and Breiwick, 2002). A Bayesian analysis of gray whale population dynamics for the same period suggested the rate of increase of the population could have been 3.4% (95% $CI=2.54.2\%$), if the Russian Chukotkan Natives had not continued a harvest of roughly 40-80 whales per year (Wade and DeMaster, 1996). A provisional analysis incorporating the preliminary data from 2000/01 and 2001/02 speculates that the low estimates could have been a result of an unusual number of whales that did not migrate as far south as Granite Canyon in these years or that the high mortality rates observed in 1999 and 2000 may indicate a decline in gray whale abundance (Rugh et al., 2002).

Although the estimates show that migrating gray whales seemed to be decreasing between 1997/98 and 2000/01 to 2001/02, this decline in abundance appears to be temporary and related to the unexplained gray whale mortality event that occurred in 1999 and 2000. The population is estimated to currently be at 99% to 100% of carrying capacity (Wade and Perryman, 2002). However, it is impossible to determine how much of the drop in the estimates is due to a real decline in the population and how much is sampling error in the estimate. Evidence that the decline is temporary comes from stranding data (Norman et al., 2000; Gulland et al., 2002; Gulland et al., 2005), calf production data (Perryman et al., 2002; Perryman et al., 2004; Urban et al., 2002), and a change in body condition of whales during the southward migration (LeBoeuf et al., 2000; Perryman and Rowlett, 2002).

The Alter et al. (2007) interpretation of historic gray whale abundance based on their analysis of genetic material is very much in debate at this time (Palsbøll et al., 2007; Alter and Palumbi, 2007). The authors suggest the entire Pacific metapopulation numbered on average 96,000 gray whales. In 2004, in the light of a similar genetic modeling paper published in 2003 (Roman and Palumbi 2003), the IWC Scientific Committee considered the general methodological issue of estimating carrying capacity and/or pre-exploitation population size in the context of the Scientific Committee's assessment work (source: <http://www.iwcoffice.org/publications/editorialnew.htm#estimate> [accessed 11/3/07]). The Scientific Committee agreed that such genetic methods have the potential to be one of a suite of tools that can be used to examine pre-exploitation abundance but that there are a number of limitations and uncertainties that must be considered when examining such data in a present-day management context. The Scientific Committee had agreed that the estimates of historic abundance provided in the Roman and Palumbi paper for the initial pre-whaling population sizes of humpback, fin and common minke whales in the North Atlantic had considerably more uncertainty than reported, and could not be considered reliable estimates of immediate pre-whaling population size. Particularly important in this regard was the mismatch between the time-period to which genetic estimates applied (i.e. the time period is difficult to determine and extremely wide) and the population sizes of whales immediately prior to exploitation (eg. see Baker and Clapham 2004).

Subsistence hunters in Alaska, Washington State, and the Russian Federation have traditionally harvested whales from this stock (Angliss and Outlaw, 2005). The U.S. and the Russian Federation have agreed that the IWC quota would be shared with an average annual harvest of

120 whales by the Russian Chukotka people and four whales by the Makah Indian Tribe, subject to the satisfaction of domestic legal requirements under NEPA and the MMPA, with respect to any subsistence hunt by the Makah Tribe. Russian aboriginals harvested 121 (+2 struck and lost) in 1999 (IWC, 2001a), 113 (+2 struck and lost) in 2000 (Borodin, 2001), 112 in 2001 (Borodin et al., 2002), 131 in 2002 (Borodin, 2003), and 126 (+2 struck and lost) in 2003 (Borodin, 2004), while the Makah Tribe harvested one whale in 1999 (IWC, 2001a). Based on this information, the annual subsistence take averaged 122 whales during the five-year period from 1999 to 2003.

Beluga Whale. Beluga whales (*Delphinapterus leucas*) are distributed throughout seasonally ice-covered arctic and subarctic waters of the Northern Hemisphere (Gurevich, 1980), and some stocks are closely associated with open leads and polynyas (nonlinear openings in the sea ice) in ice-covered regions (Hazard, 1988). Depending on season and region, beluga whales may occur in both offshore and coastal Alaskan waters, with concentrations in areas now designated as separate stocks: Bristol Bay, eastern Bering Sea, eastern Chukchi Sea, and Beaufort Sea (Angliss et al., 2001). Most beluga whales from these summering areas are assumed to overwinter in the Bering Sea, but few data exist to support this conclusion (O'Corry-Crowe et al., 1997; O'Corry-Crowe and Lowry, 1997). The Bristol Bay and eastern Bering Sea stocks occur within the Bering Sea/Aleutian Islands and Gulf of Alaska.

The population abundance estimate for the Bristol Bay stock is 2,133 animals, 18,142 animals in the eastern Bering Sea stock, 3,710 animals in the eastern Chukchi Sea stock, and 39,258 animals in the Beaufort Sea stock (Angliss and Outlaw, 2005). Current population trends for the Beaufort Sea and eastern Bering Sea stocks are unknown (Angliss and Outlaw, 2005). The Bristol Bay stock is considered stable and may be increasing and there is no evidence that the eastern Chukchi Sea stock is declining (Angliss and Outlaw, 2005). The annual subsistence take by Alaska Natives between 1999-2003 averaged 53 animals per year from the Beaufort Sea stock, 65 animals per year from the eastern Chukchi sea stock, 209 animals per year from the eastern Bering Sea stock, and 19 animals per year from the Bristol Bay stock. These estimates may be negatively biased because of unreliable estimates of struck and loss rates during subsistence hunts. The Alaska Beluga Whale Committee monitors the subsistence harvest of beluga whales (Angliss and Outlaw, 2005). Since 2003, Alaska Native hunters have landed the following number of beluga whales for the years 2004 through 2006: Beaufort Sea stock – 32, 20, and 5 whales; Chukchi Sea stock – 54, 43, and 31 whales; eastern Bering Sea stock – 132, 249, and 166 whales; Kuskokwim stock – 0, 2, and 9 whales; and Bristol Bay stock – 16, 19, and 20 whales (Kathy Frost, Alaska Beluga Whale Committee, personal communication, November 2, 2007).

Minke Whale. Minke whales (*Balaenoptera acutorostrata*) are distributed worldwide. Sightings range from Point Barrow, Alaska, in the Chukchi Sea, through the Bering Sea and Bristol Bay, and in coastal and offshore waters of the Gulf of Alaska (Leatherwood et al., 1982; Mizroch, 1992; Platforms of Opportunity Program [POP], 1997). Few data are available on migratory behavior and apparent "home ranges" of the Alaska stock of minke whales (e.g., Dorsey et al., 1990). In the central Bering Sea, an estimated 936 minke whales (95% Confidence Interval [CI] 473-1,852, Coefficient of Variation [CV] = 0.35) were observed during the summer of 1999 (Moore et al., 2000b). However, this covers only a small portion of the Alaska stocks range. Seabird surveys around the Pribilof Islands indicated an increase in local abundance of minke whales between 1975-78 and 1987-89 (Baretta and Hunt, 1994). No data exist on trends in abundance in Alaskan waters (Angliss et al., 2001).

Subsistence takes of minke whales by Alaska Natives are rare, but have been known to occur. Only seven minke whales are reported to have been taken for subsistence by Alaska Natives between 1930 and 1987 (C. Allison, IWC, personal communication). The most recent harvest (two whales) in Alaska occurred in 1989 (IWC, 1991).

Killer Whale. Killer whales (*Orcinus orca*) have been observed in all oceans and seas of the world (Leatherwood et al., 1982) and are found throughout Alaska waters from the Chukchi Sea to southeast Alaska (Braham and Dahlheim, 1982). They occur primarily in coastal waters, although they have been sighted well offshore (Heyning and Dahlheim, 1988). Seasonal movements in polar regions may be influenced by ice cover and in other areas primarily by availability of food. An estimated 1,123 killer whales belong to the eastern North Pacific Alaska resident stock (Angliss and Outlaw, 2005). Resident killer whales are not known to eat other marine mammals. Population trends for the entire stock are currently unknown though portions of the stock in Prince William Sound and Kenai Fjords have increased 3.3% per year from 1984 to 2002 (Matkin et al., 2003). Transient killer whales are the only known predators of bowhead whales (Angliss and Outlaw, 2005). In a study of marks on bowheads taken in the subsistence harvest, 4.1% to 7.9% had scars indicating the bowhead whales had survived attacks by killer whales (George et al., 1994). A minimum number of 314 transient killer whales have been photographed from the Gulf of Alaska, Aleutian Islands, and Bering Sea Transient stock (Angliss and Outlaw, 2005). There is no reported subsistence harvest of killer whales in Alaska (Angliss and Outlaw, 2005).

Harbor Porpoise. Harbor porpoises (*Phocoena phocoena*) are found in the eastern North Pacific Ocean from Point Barrow, along the Alaskan coast, and down the west coast of North America to Point Conception, California (Gaskin, 1984; Suydam and George, 1992; Dahlheim et al., 2000). They occur primarily in coastal waters, but are also found where the shelf extends offshore (Gaskin, 1984; Dahlheim et al., 2000). In 1999, aerial surveys were conducted in Bristol Bay resulting in an abundance estimate of 47,356 for this portion of the Bering Sea. Currently, there is no reliable information on population trends (Angliss and Lodge, 2003). Subsistence hunters in Alaska have not reported to take from this stock of harbor porpoise (Angliss and Lodge, 2003).

3.3.2 Marine Birds

Many species of birds occur in substantial numbers in the Arctic Coastal Plain and Beaufort Sea habitats and nearly all are migratory, present sometime during the period from May to early November. Species include waterfowl, shorebirds, loons, seabirds, hawks and eagles, ptarmigan, and songbirds (MMS, 2002a). Birds hunted by Alaska Eskimos in Barrow, Kaktovik, and Nuiqsut include the snowy owl, red-throated loon, tundra swan, eiders (common, king, spectacled, and Steller's), ducks, geese, and ptarmigan (MMS, 2002a). Three bird species that are listed under the ESA and that inhabit the areas where Alaska Eskimos hunt for bowhead whales are short-tailed albatross, spectacled eider, and Steller's eider.

Short-tailed Albatross. The short-tailed albatross (*Phoebastria (=Diomedea) albatrus*) is listed as endangered under the ESA and by the State of Alaska (65 FR 46643). The short-tailed albatross was originally listed in 1970, under the Endangered Species Conservation Act of 1969, prior to the passage of today's ESA (35 FR 8495). However, as a result of an administrative error (and not from any biological evaluation of status), the species was listed as endangered

throughout its range except within the U.S. (50 CFR 17.11). On July 31, 2000, this error was corrected when the USFWS (USFWS) published a final rule listing the short-tailed albatross as endangered throughout its range (65 FR 46643). These birds mate for life, laying eggs in October or November and incubating them for 65 days. The species is known to breed on only two remote islands in the western Pacific. Chicks leave the nest after five months to go to the North Pacific. Adults also spend the summer at sea, feeding on squid, fish, and other organisms. Most summer sightings of these birds are in the Aleutian Islands, Bering Sea, and Gulf of Alaska. During the late 1800s and early 1900s, hunters killed an estimated five million birds, stopping only when the species was nearly extinct. Protection of their nesting grounds has led to an increased number of short-tailed albatross, from fewer than 50 birds in the late 1940s to over 600 birds in 1993 (Alaska Department of Fish and Game [ADF&G], 2001a). Presently, fewer than 2000 short-tailed albatrosses are known to exist (USFWS, 2005). Critical habitat has not been designated for this species.

Spectacled Eider. The spectacled eider (*Somateria fischeri*) is a threatened species under the ESA and also listed as a species of special concern in Alaska. An estimated 7,370 spectacled eiders occupied the Arctic Coastal Plain of Alaska in June 2001, about 2% of the estimated 363,000 world population (MMS, 2002a) of spectacled eiders nest in wet tundra near ponds on the Arctic coasts of Alaska and the Russian Federation and on the coast of the Yukon-Kuskokwim (Y-K) Delta in Alaska. Nesting pairs arrive together each spring, but the males leave after egg incubation begins. In late summer, the females and young join the males at sea (ADF&G, 2001b). The only known wintering area lies south of St. Lawrence Island in the Bering Sea. Because few eiders are observed in marine areas along the Beaufort coast in spring, a majority may migrate to the nesting areas overland from the Chukchi Sea (MMS, 2002a). Spectacled eiders have declined dramatically in Alaska since the 1960s (ADF&G, 2001, Spectacled Eider). Causes for this decline are not known but may include some combination of reduced food supplies, pollution, overharvest, lead shot poisoning, increased predation, and other causes (ADF&G, 2001b).

The breeding population on the North Slope is currently the largest breeding population of spectacled eiders in North America. The most recent population estimate, uncorrected for aerial detection bias, is $4,744 \pm 907$ pairs (arithmetic mean plus or minus two times the standard error associated with the sample) (Larned et al., 1999). However, this breeding area is nearly nine times the size of the Y-K Delta breeding area. Consequently, the density of spectacled eiders on the North Slope is about one quarter that on the Y-K Delta (Larned and Balogh, 1997; USFWS, 1996; 66 FR 9146). Based on USFWS survey data, the spectacled eider breeding population on the North Slope does not show a significant decline throughout most of the 1990s. The downward trend of 2.6% per year is bounded by a 90% confidence interval ranging from a 7.7% decline per year to a 2.7% increase per year (66 FR 9146). In February 2001, USFWS designated critical habitat on the Y-K Delta, in Norton Sound, Ledyard Bay, and the waters between St. Lawrence and St. Matthew Islands (66 FR 9146). All areas designated as critical habitat for the spectacled eider contained one or more of these physical or biological features: space for individual and population growth, and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, rearing of offspring; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

Steller's Eider. The Steller's eider (*Polysticta stelleri*) is a threatened species under the ESA and an Alaska species of special concern. Steller's eiders are diving ducks that feed on mussels in marine waters during the winter and insect larvae in freshwater ponds during the breeding season of spring and summer. Their current breeding range includes the arctic coastal plain in northern Alaska and northern coastal areas of the Russian Federation, where they nest on the tundra near small ponds (ADF&G, 2001c). In winter, most of the world's population of Steller's eiders range throughout the Alaska Peninsula and eastern Aleutian Islands. Aerial surveys provide the only currently available means of objectively estimating Steller's Eider population size in northern Alaska. Population size point estimates based on annual waterfowl breeding pair surveys from 1989 to 2000 ranged from 176 to 2,543 (Mallek, 2002). These surveys likely underestimated actual population size, however, because an unknown proportion of birds were missed when counting from aircraft, and no species-specific correction factor has been developed and applied (USFWS, 2002a). Nonetheless, these observations indicated that hundreds or low thousands of Steller's Eiders occur on the Arctic Coastal Plain. These surveys do not demonstrate a significant population trend from 1989-2000.

The current world population estimate is 150,000 to 200,000 birds, but the population is thought to have declined by as much as 50% between the 1960s and 1980s. When the Alaska breeding population of the Steller's Eider was listed as threatened, the factor or factors causing the decline was (were) unknown. Factors identified as potential causes of decline in the final rule listing the population as threatened (62 FR 31748) included predation, hunting, ingestion of spent lead shot in wetlands, and changes in the marine environment that could affect Steller's Eider food or other resources. Since listing, other potential threats, such as exposure to oil or other contaminants near fish processing facilities in southwest Alaska, have been identified, but the causes of decline and obstacles to recovery remain poorly understood (USFWS, 2002a). In February 2001, USFWS designated critical habitat for the Alaska-breeding population of Steller's eiders in one terrestrial and four marine areas: Y-K Delta, Kuskokwim Shoals, Seal Islands, Nelson Lagoon (including Nelson Lagoon and portions of Port Moller and Herendeen Bay), and Izembek Lagoon (66 FR 8849).

3.3.3 Other Species

Arctic coastal waters support a diverse community of planktonic and epontic species that are prey for fish, birds, and marine mammals. Both marine and anadromous fish inhabit coastal arctic waters. Marine fish include arctic cod, saffron cod, two-horn and four-horn sculpins, Canadian eelpout, arctic flounder, capelin, Pacific herring, Pacific sand lance, and snailfish. Migratory (anadromous) fish common to the arctic environment include arctic cisco, least cisco, Bering cisco, rainbow smelt, humpback whitefish, broad whitefish, Dolly Varden char, and inconnu. Although uncommon in the North Slope region, salmon are present in arctic waters and used by Alaska Eskimos (MMS, 2002a).

Fish species used by Alaska Eskimos in Barrow, Kaktovik, and Nuiqsut include Pacific salmon (chum, pink, silver, king, and sockeye), whitefish (round, broad, humpback, least cisco, Bering/Arctic cisco), Arctic char, Arctic grayling, burbot, lake trout, northern pike, capelin, rainbow smelt, arctic cod, tomcod, and flounder (MMS, 2002a).

Terrestrial mammals hunted by Alaska Eskimos in Barrow, Kaktovik, and Nuiqsut include caribou, moose, brown bear, Dall sheep, musk ox, arctic fox, red fox, porcupine, ground squirrel, wolverine, weasel, wolf, and marmot (MMS, 2002a).

3.4 Socio-economic Environment

The proposed action has effects on the human environment, notably the 10 member communities of the AEWC. This section describes the population size and ethnic composition, along with a key indicator of economic status, as a basis for the Environmental Justice analysis found in Section 4.8.5.

These communities are small, predominantly Alaska Native villages, with the exception that Barrow, as a regional service center is larger and more diverse. In 2005, the 10 AEWC communities counted a total 8,131 residents, of whom 6,333 or 77.9% are Alaska Native or part Alaska Native (Table 3.4-1). Barrow accounts for just over half of the total population, and is more diverse, with Alaska Native residents making up 64% of the community. The recent trend in population for these communities is a slight decline since the 2000 census, when the total population for these communities was 8,577 residents (5.2%) and 6,633 Alaska Native residents (4.5%) (U.S. Census Bureau, 2007).

Table 3.4-1
2005 AEWC Community Population and Ethnicity

Community	Total Population	Percent Alaska Native	Alaska Native Population
Barrow	4,199	64.0%	2,687
Diomedes	132	93.8%	124
Gambell	660	95.8%	632
Kaktovik	276	84.0%	232
Kivalina	385	96.6%	372
Nuiqsut	411	89.1%	366
Point Hope	702	90.6%	636
Savoonga	695	95.5%	664
Wainwright	520	93.0%	484
Wales	151	90.1%	136
Total	8,131	77.9%	6,333

Source: Alaska Department of Commerce, Community, and Economic Development (ADCCED), 2007

The most current information concerning income and poverty levels is the 2000 Census. Table 3.4-2 shows that, using the federally defined poverty level, two of the AEWC communities have low levels (< 9% of residents), while three communities have intermediate rates (12% - 18% of residents). The remaining five communities have higher rates, ranging from 26% through 35% of residents living below the poverty level. Barrow has the lowest rate of household below the poverty level, resulting from higher levels of employment available in this service hub community. All but two of these communities exceed the average rate of Alaska residents living below the poverty level, which is 9.4%, and in most cases these are two and three times the Alaska average.

Table 3.4-2
Portion of Residents Living Below Poverty Level in 2000

Community	Percent
Barrow	8.62%
Diomede	35.44%
Gambell	28.47%
Kaktovik	28.47%
Kivalina	26.40%
Nuiqsut	2.37%
Point Hope	14.83%
Savoonga	29.06%
Wainwright	12.54%
Wales	18.30%
State of Alaska Rate	9.4%

3.5 Eskimo Tradition of Subsistence Hunt of Bowhead Whales

Bowhead whale hunting has been a part of Alaska Eskimo culture for at least 2,000 years (Stocker and Krupnik, 1993). Subsistence hunting communities along the western and northern coasts of Alaska participate in annual bowhead whale hunts and rely on the hunts for both cultural and subsistence needs (Braund et al., 1997). Historically, residents of the villages participate in one or more of the semi-annual hunts (Stocker and Krupnik, 1993). This section describes the importance of the on-going bowhead subsistence hunt, in relation to the overall pattern of subsistence production, in its key social organization features, and as a foundation of Inupiat and Siberian Yupik cultural identity and ceremonial life.

Bowhead subsistence whaling represents an especially important source of subsistence food among the AEWC communities. During the past 10 years (1997 - 2006), the AEWC villages have landed 410 bowhead whales, or an average of 41 whales per year. As shown in Table 3.5-1, the largest AEWC community of Barrow takes over half of the total, with an average of 23.4 bowhead whales landed per year in the last decade. Most of the rest of the communities take one to three whales per years, while the small communities of Wales and Little Diomede have highly intermittent harvests, and Kivalina has taken no whales in this period.

Table 3.5-1
Bowhead Whales Landed 1997 - 2006

	Gambell	Savoonga	Wales	Little Diomede	Kivalina	Point Hope	Wainwright	Barrow	Nuiqsut	Kaktovik	Total
Total Landed	14	25	2	2	0	30	38	234	33	32	410
Annual Ave.	1.4	2.5	0.2	0.2	0	3	3.8	23.4	3.3	3.2	41

Source: AEWC and NSB, 2007

Bowhead whales provide exceptionally large quantities of food. During the late 1980's, a method was developed to estimate the edible pounds produced from bowhead whales of various sizes (Braund and ISER, 1993). After weighing crew shares of *maktak* and meat from a number of harvests in Barrow, the authors established the average pounds of food produced per foot of length for small, medium, and large bowhead whales. As shown in Table 3.5-2, using the

detailed data on length of harvested whales, the 1993 method was applied to derive an estimate that an average of 1.03 million pounds of bowhead whale *maktak* and meat was produced annually over the past decade. However, a benchmark estimate can be constructed to suggest how much food might be available. The 2000 Census figures for the population of the AEWC villages (noted in Section 3.4), represent the population at approximately the mid-point of the period under consideration. For this population, the estimated total harvest would represent an annual harvest level of 121 pounds per capita, if the total population is counted, or 155 pounds per capita if the Alaska Native population is taken as the basis of the calculation. Since a considerable quantity of bowhead food is shared with kin group members and friends outside of the AEWC communities, the figures developed would tend to overestimate the per capita rate. In addition, it is important to keep in mind that this is a mathematical estimate only, and not a documented rate of food received by each household.

Table 3.5-2
Estimated Edible Pounds of Bowhead Whale 1997 - 2006

	Number Taken	Total Edible Pounds	Average Annual Edible Pounds
Small whales (17 - 34 ft.)	225	3,170,845	317,084
Medium whales (35 - 45 ft.)	100	3,237,857	323,786
Large whales (46 - 63 ft.)	81	3,892,129	389,243
Total	406	10,301,129	1,030,113

Source: AEWC and NSB, 2007

Additional facets of the importance of bowhead whale within the total annual round of subsistence harvests can be shown through the comprehensive household surveys, conducted in the period from 1987 through 1993, and reported in the ADF&G Subsistence Division subsistence harvest database. Surveys of this sort permit a more detailed perspective on the variation in bowhead harvest levels between participating communities and of the variation in the proportion of bowhead food in relation to other major subsistence resources. As displayed in Table 3.5-3, per capita harvest levels for bowhead whales, during the years studied, ranged from as high as 560 pounds in Kaktovik in 1992, to about 200 pounds per capita in several communities, and a very low level of bowhead harvest in Kivalina in 1992 at 39 pounds. Total subsistence production levels also varies among the communities, with the more heterogeneous community of Barrow having the lowest annual per capita total at 289 pounds, while the other ranged from 740 pounds to 885 pounds during the study years. In viewing these results, it is important to note that bowhead subsistence harvests vary from year to year, particularly for some of the smaller communities, so these results are indicative, and do not define a stable pattern. In addition, the period covered in these studies had lower bowhead harvest levels, on the whole, than those of the past decade. From 1987 - 1993, the communities averaged 28.6 bowheads whales landed per year, whereas in the past decade the average has been 41 bowhead whales landed per year, an increase of approximately 44%. This trend is even more important for Barrow, with average harvests of 13.7 whales per year in the period 1987 - 1993, compared to an average annual take of 23.4 whales per year in the past decade, an increase of 73%.

Table 3.5-3
Community Subsistence Harvest Levels by Species Group (Pounds per Capita)

Village	Bowhead whale	Other marine mammals	Game	Fish & marine invertebrates	Birds & eggs	Vegetation	Total
Barrow 1989	125.21	43.29	71.18	39.28	9.76	0.44	289.16
Kaktovik 1992	560.35	38.78	148.71	118.91	16.83	1.18	884.76
Kivalina 1992	38.55	279.47	165.25	253.29	10.79	14.03	761.38
Nuiqsut 1993	213	23.02	242.03	250.62	11.98	1.1	741.75
Wainwright 1989	218.23	302.27	178.18	37.15	15.41	ND	751.24
Wales 1993	188.19	392.14	25.53	121.99	11.62	4.69	744.16

Source: ADF&G, 2001d

In addition to this high reliance on bowhead whales, Inupiat and Siberian Yupik communities harvest many species throughout an intricate annual cycle of subsistence activities. The species composition of subsistence harvests in selected AEWC communities gives an indication of the flexible adaptation of subsistence patterns to ecological patterns of abundance and access to various resources. For example, while bowhead, caribou, and fish make up the majority of subsistence foods in most of the Inupiat communities, the Chukchi Sea communities rely more heavily on walrus and seal than do the Beaufort Sea villages (MMS, 2006a:168). In Table 3.5-4, the communities of Kaktovik, Barrow, and Nuiqsut have high proportions of total subsistence food derived from the bowhead harvest, and lower proportions from other marine mammals, while the communities of Wainwright, Kivalina, and Wales show much greater harvests of other marine mammals.

Table 3.5-4
Proportion of Subsistence Food Provided by Various Species Groups

Village	Bowhead whale	Other marine mammals	Game	Fish & marine invertebrates	Birds & eggs	Vegetation	Total Percent
Barrow 1989	43.3%	15.0%	24.6%	13.6%	3.4%	0.2%	100.0%
Kaktovik 1992	63.3%	4.4%	16.8%	13.4%	1.9%	0.1%	100.0%
Kivalina 1992	5.1%	36.7%	21.7%	33.3%	1.4%	1.8%	100.0%
Nuiqsut 1993	28.7%	3.1%	32.6%	33.8%	1.6%	0.1%	100.0%
Wainwright 1989	29.0%	40.2%	23.7%	4.9%	2.1%	ND	100.0%
Wales 1993	25.3%	52.7%	3.4%	16.4%	1.6%	0.6%	100.0%

Source: ADF&G, 2001d

ND = no data

Households in the AEWC communities have very high rates of participation in production and consumption of bowhead subsistence foods. The comprehensive household surveys also documented the percentage of households using bowhead, trying to harvest, actually harvesting, receiving bowhead food from others, and giving bowhead food to other households. As seen in Table 3.5-5, for the five smaller communities with data, 74% to 97% of households use bowhead whale foods. Note too that this is the result of widespread sharing of food, since rather small proportion of households (4.8% - 21.2%) have actually harvested bowhead whales in the study years. For the larger communities of Barrow and Wainwright, the available data are more limited, demonstrating that 45% to 66% of household are involved in harvesting. If sharing and use data were available, it is likely that these two communities would also show extremely high proportions of households using bowhead whale foods. More detailed accounts of the

subsistence harvest patterns of Kaktovik, Nuiqsut, Barrow, Wainwright, and Point Hope are found in Appendix C of MMS (2006a).

Table 3.5-5
Rates of Participation in Bowhead Subsistence Activities

	Percentage of Households				
	Using	Trying to Harvest	Harvesting	Receiving	Giving
Barrow 1989	n/a	n/a	45.0	n/a	n/a
Kaktovik 1992	87.2	53.2	6.4	85.1	61.7
Kivalina 1992	90.3	64.5	4.8	88.7	48.4
Nuiqsut 1993	96.8	37.1	4.8	96.8	75.8
Pt. Lay 1987	87.5	21.2	21.2	84.4	21.2
Wainwright 1989	n/a	n/a	66.0	n/a	n/a
Wales 1993	73.8	26.2	11.9	64.3	40.5

Source: ADF&G, 2001d

n/a = not available

Subsistence harvests occur within traditional use areas, for which hunters have accumulated detailed knowledge of the physical geography of landscape and waters, the social geography of place names and the associated stories, and the wildlife ecology of likely animal distributions by seasons and under varying weather conditions. Hunters have a repertoire of effective harvest strategies to draw upon as they hunt throughout these traditional harvest areas. Bowhead subsistence whaling occurs in U.S. waters primarily during the spring and autumn migrations as the bowhead whales move north and east through near shore leads in the spring, and then west and south as ice forms in the autumn. The bowhead migration patterns are conducive to spring harvests for westerly AEWC communities, while Barrow's location provides for successful spring and fall hunts, and the villages of Nuiqsut and Kaktovik participate in the fall hunts. The St. Lawrence Island communities of Gambell and Savoonga take bowhead in the fall migration, continuing as late as December. For an overview of community whaling areas and migration patterns, see Figure 3.5-1.

Subsistence activities are often centered in family groups, with widespread sharing of financial resources and equipment to support hunters, sharing of labor in harvesting, processing and distributing subsistence foods, and sharing of knowledge as elders provide practical information and ethical understandings for successful subsistence pursuits. The social organization of subsistence activities binds generations and families together across and even between communities. Subsistence whaling and the roles of whaling captains and whaling crews are especially prominent in the social organization of the Inupiat and Siberian Yupik whaling communities. The wives of whaling captains and whaling crew members also have an intricate set of interlinked responsibilities. These are particularly important in the preparation of bearded seal (*ugruk*) skins for the *umiaks*, still preferred in Barrow for the spring hunts due to their silence in the water (see Bodenhorn, 2000 for additional discussion). From aboriginal times, the whaling captain, or *umailik*, was recognized as a leader for his knowledge, success at hunting, support for the needs of his whaling crews throughout the year, and generosity in sharing the fruits of a successful hunt. Cooperation among whaling crews was critically important in the success of any hunt, and customary laws prescribed how a captain would distribute portions of the whale to the crews that helped in the capture as well as to the entire community (Worl, 1979). Hauling a whale onto the ice edge and processing the enormous amount of food provided required the cooperative labor of virtually the entire community.

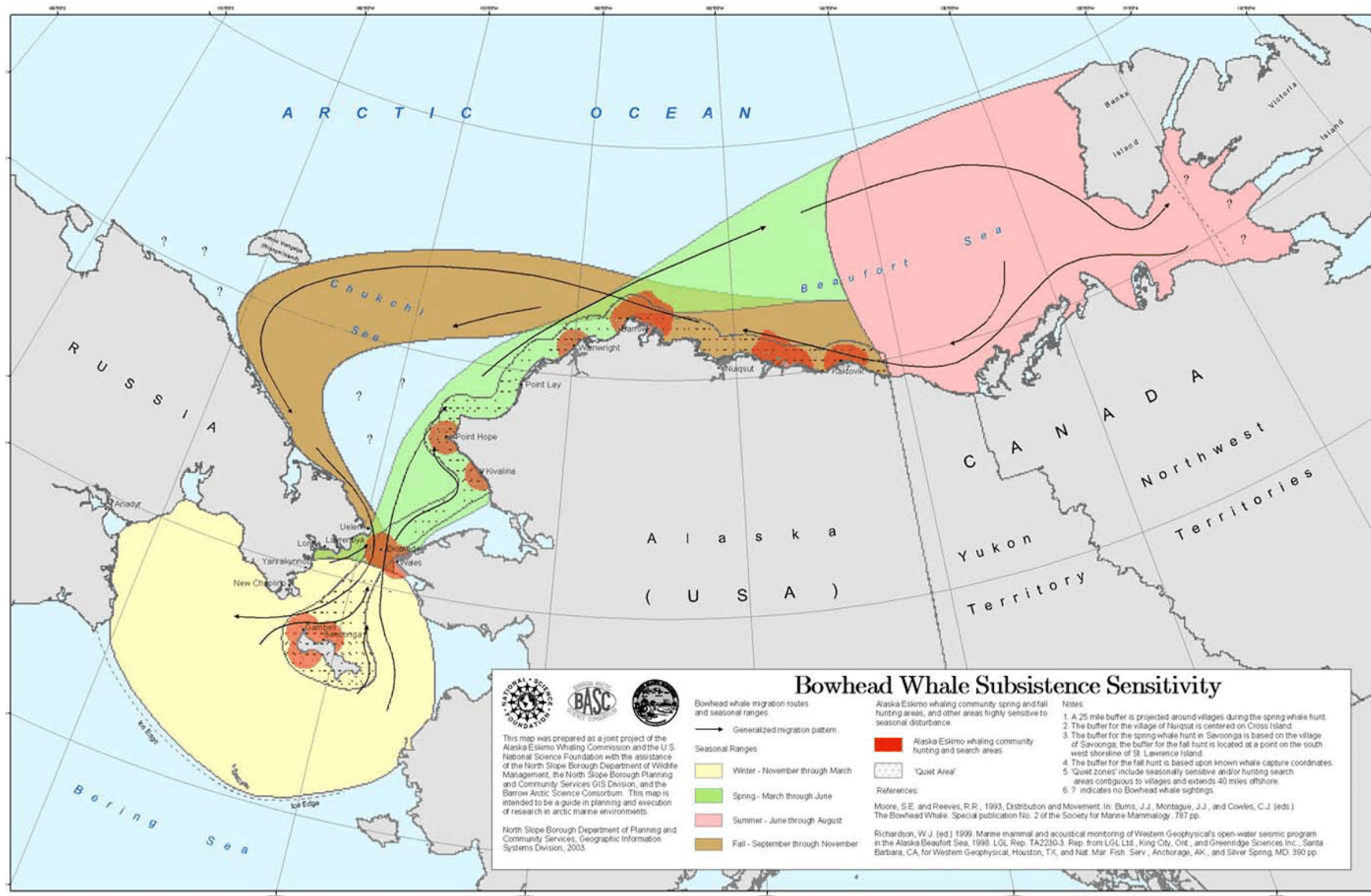


Figure 3.5-1 Bowhead whale subsistence sensitivity. Draft prepared by the National Science Foundation, the Barrow Arctic Science Consortium, and the North Slope Borough (2003).

In addition to the widespread sharing of bowhead whale foods, the non-edible parts of the whale such as baleen and bone are also valuable for craft work. No specific data are available on the quantities of baleen and bone distributed within and between communities. However, representatives of the AEWC and the Inupiat History, Language and Culture Commission (IHLC) provided an overview of these sharing and distribution patterns (Harry Brower Jr., personal communication, 2007; Dorcus Stein, personal communication, 2007). The whaling captains retain half of the baleen and bone, and distribute the remainder to the whaling crew. Captains and crew members share these materials with others in their communities and beyond. Some communities on the North Slope, the Bering Sea coast, and Norton Sound do not have access to bowhead whales, but value the baleen and bone as raw materials for use in making handicrafts. Craft producers may contact a whaling captain and offer to trade subsistence foods for such raw materials. A whaling captain might also take an interest in baleen craft courses at schools in the NSB and provide the raw materials for use in the class to support continuation of the artistic traditions. Craft production is widespread and important to Inupiat and Yupik communities.

Spiritual and moral values, beliefs, and cultural identity are expressed and recreated through subsistence harvest activities. The great gifts of food from bowheads are recognized in the ceremonies of the *Nalukatak* festival at the conclusion of spring whaling.

Since the late 1970s, subsistence bowhead whaling has been governed in the formal structures of international treaties, national legislation, and the Cooperative Agreement between NOAA and the AEWC. The IWC has determined catch limits for bowhead whale harvests, after considering the nutritional and cultural need for bowhead whales by Alaska Eskimos and the level of harvest that is sustainable. In 1986, the IWC accepted a method to calculate subsistence and cultural need of Alaska Eskimos for bowhead whales. This method incorporates the historic and current size of the Eskimo population residing in Alaskan subsistence hunting villages and the number of bowhead whales historically landed by each community (Appendix 8.1).

Because bowhead subsistence hunts are a community-wide activity, it is appropriate to consider the community population in association with the historic harvest levels. Besides abundance of bowhead whales, community population levels are a critical factor that influences harvests because the community population dictates the number and size of subsistence hunt crews and the amount of meat and *maktak* needed to feed the community, share with others, and provide for annual celebrations (Braund et al., 1997).

The first calculation of nutritional and cultural need was submitted to the IWC in 1983 and was accepted by the IWC in 1986 (U.S. Government, 1983). Using the same method for calculating need, the second calculation was submitted to and accepted by the IWC in 1988, when more extensive research provided additional historical subsistence hunting and human population data. The 1988 study used the most recent Eskimo population data available at that time, ranging from 1983 to 1987, to calculate then-current need (Braund et al., 1988). The third calculation of need was submitted to and accepted by the IWC in 1994, based on July 1, 1992 human population data generated by the State of Alaska, Department of Labor. The fourth calculation, submitted to the IWC in 1997, used the same method accepted by the IWC in 1986 for calculating need, presenting revised calculations based on July 1, 1997 human population data generated by the State of Alaska, Department of Labor (Braund et al., 1997). This same calculation was submitted to the annual IWC meeting in 2002. This need statement demonstrated a documented nutritional

and cultural need for 56 landed bowhead whales per year. Most recently, a 2007 calculation of subsistence need was submitted to the IWC, based on 2000 census data (Appendix 8.1). This statement documented a nutritional and cultural need for 57 landed bowhead whales per year.

The U.S. request to the IWC for the subsistence whaling allocation considered the AEWC-commissioned study and other factors relevant to the negotiations at the IWC meeting. The combined request of the U.S. and the Russian Federation was for a total of 285 bowhead whales for the five-year period from 2008 through 2012, (of which 25 would be available to the Chukotkan hunters and 255 would be available to the 10 Alaska Bowhead whaling communities). This represents an annual average of 51, compared to the 57 identified as the need level in the study. The U.S. request and the IWC catch limits are identical to the level authorized in the previous five-year block for 2003 through 2007.

3.5.1 Methodology of Eskimo Subsistence Hunt

The hunting of bowhead whales by Alaska Eskimos is believed to date back several thousand years with the use of harpoons and lances fashioned from stone, ivory, and bone. Seal-skin or walrus-skin covered whaling vessels known as *umiaks* were employed from aboriginal times and remain the most commonly used vessel for the spring hunt (Stocker and Krupnik, 1993). Crew sizes currently average six persons per vessel (www.mms.gov/alaska/native/rexford/rexford.htm). Before the whales arrived during each migration, ritual ceremonies were performed in special houses known as *karigi*, to ensure a successful hunt and to honor the whale (Ellis, 1991).

Alaska Eskimos continue to use traditional methods to take whales today, but have also incorporated Yankee whaling era technologies such as darting and shoulder guns as a method of improving efficiency and humane killing methods (Stocker and Krupnik, 1993). The harpoon with line and float attached is always used first since it is the forward part of the darting gun. Once the darting gun is thrown, the shoulder gun is almost always used as a back-up.

Contemporary hunts occur twice a year in the spring and autumn seasons based on ice and weather conditions. In the autumn season, aluminum skiffs or small open boats with outboard motors are used for the hunt due to the open water conditions. In the spring, traditional skin-covered *umiaks* are preferred because they are quieter and therefore more effective in the ice leads.

Traditionally, most of the whale was used for food, though other parts of the whale were used to make whaling gear, fishing equipment, traps, tools, and for many other practical day-to-day uses (Ellis, 1991). The gut was made into translucent windows, and the oil was used for heating, cooking, and lighting (Ellis, 1991). The bones were used for fences, house construction, and sled runners (Ellis, 1991). Baleen and bone are used in many forms of handicraft, including baleen baskets, scrimshaw, and carvings. Today, bowhead is still an important source of subsistence, where the skin and blubber, known as *maktak*, are either eaten raw or boiled in salted water (Ellis, 1991). Subsistence foods also include muscle, tongue, flukes, flipper, tongue, intestines, heart and kidney, as well as stomach and liver in Point Hope. Blood is used in *migiyaq* (fermented meat and blubber). The membrane on the liver is used for drum skins. The tympanic or ‘ear’ bones are kept by the captains and prized by family members, and used for art work (Craig George, North Slope Borough, personal communication, December 20, 2007).

The AEWG has focused on improving humane killing methods (i.e., reducing time to death) and the efficiency of the hunt (i.e., struck to landed ratio)⁸. In the most recent IWC meeting held in Anchorage, Alaska in May 2007, the AEWG prepared, and the U.S. submitted to the Subcommittee on Whale Killing Methods a report documenting the significant increase in efficiency and improvements in whaling weapons technology (AEWG and U.S. Government, 2007). This report provided a detailed description of the dangerous ice and weather conditions of the modern hunt, and an account of contemporary subsistence whaling techniques and technology. The report noted that hunt efficiency has improved steadily from a historic hunt efficiency of approximately 50%, to a recent average of 75% of whales struck being landed. In some recent years, the efficiency is as high as 80% of the whales struck being landed (See Figure 3.5.2-2).

The report notes that a shoulder fired darting gun, using a black powder exploding projectile, has been used in Inupiat subsistence whaling for approximately 150 years, since it was introduced by the Yankee commercial whalers in the mid-nineteenth century. Beginning in 1987, the AEWG and its Weapons Improvement Program Committee worked with Dr. Egil Ole Øen and Henriksed Mek. Verksted of Norway to design, test, and promote use of a penthrite-loaded projectile to improve safety and certainty in use of the dart gun. The new design for penthrite projectiles and modified dart gun barrels were field tested through 2004. Beginning in 2005, training and certification for use of the new technology was phased in. As documented in this report, penthrite projectiles were successfully used in eight bowhead whale takes in 2005, and five in 2006. In these harvests the whales appeared to die instantly or quickly, following detonation of the penthrite projectile. With additional deliveries of penthrite projectiles in fall 2007 and 2008, the AEWG will complete its planned village training sessions for safe use of the new technology.

3.5.2 Results of Recent Hunts

Suydam and George (2004) summarize Alaskan subsistence harvests of bowheads from 1974 to 2003. Hunters landed a total of 832 whales during this time period. Subsequently, the number of bowheads landed by Alaska Natives was reported as 37 in 2004 (Suydam et al., 2005; 2006), 55 in 2005 (Suydam et al., 2006), and 31 in 2006 (Suydam et al., 2007). Barrow consistently landed the most whales (n = 490) while Little Diomedes landed two (Figure 3.5.2-1). Shaktoolik, a village located on the coast of Norton Sound, Alaska, harvested one whale in 1980 but has not been a regular participant in the hunt. The number of whales landed at each village varied greatly from year to year (Figure 3.5.2-1), as success was influenced by village size and ice and weather conditions. The annual average subsistence take during the eight year period from 1999 to 2006 is 40 bowhead whales. The efficiency of the hunt (i.e., the number of whales landed compared to the number of whales struck) has increased since the implementation of the bowhead quota in 1978. Before 1978 the efficiency was about 50%; in recent years efficiency has averaged about 75% (Figure 3.5.2-2).

⁸ The efficiency of the hunt is also expected to improve as a result of the passage of an emergency towing assistance provision contained in section 403 of the Hydrographic Services Improvement Act Amendments of 2002. Pub. L. 107-372.

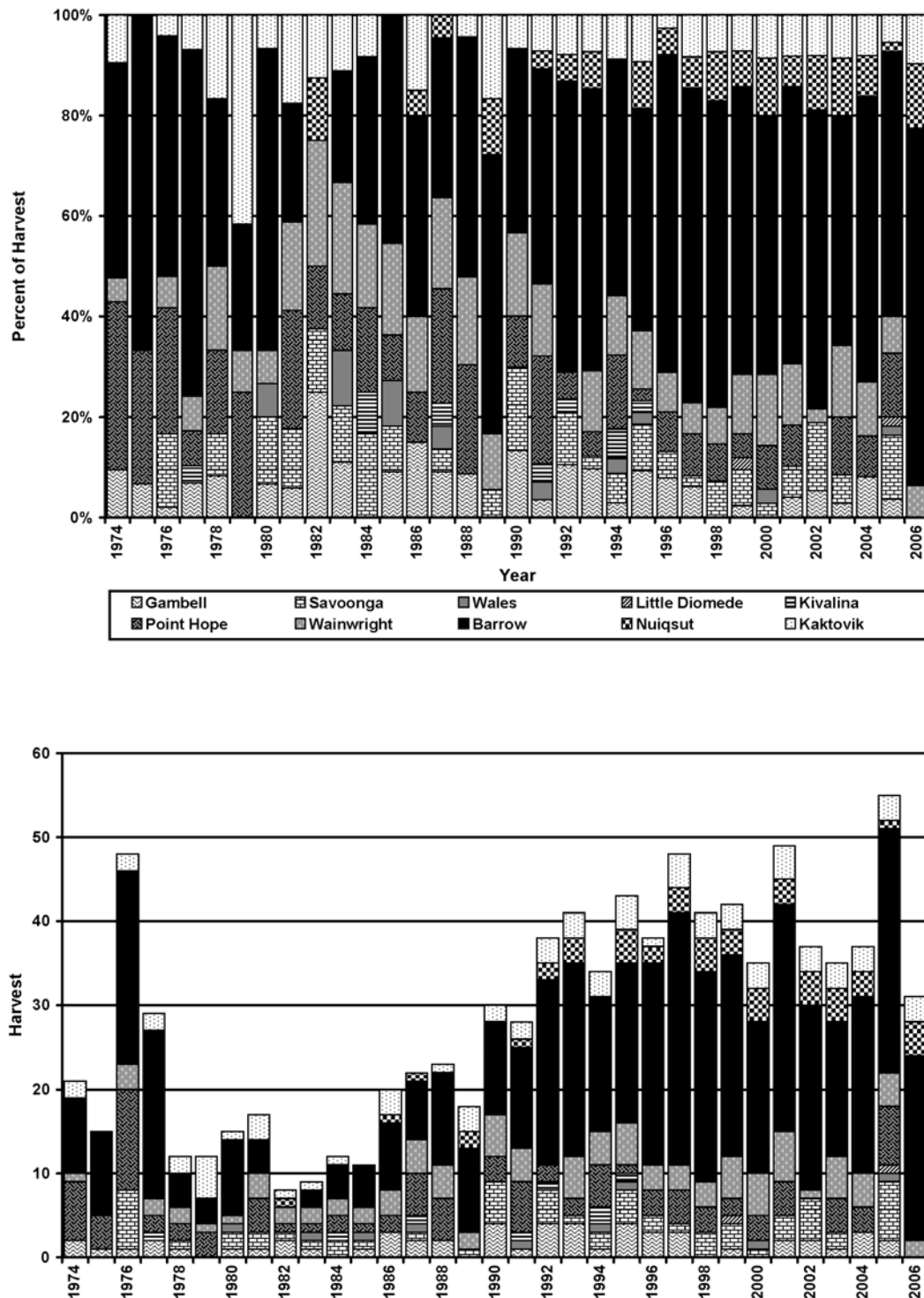


Figure 3.5.2-1 Number (a) and cumulative percent (b) of Western Arctic bowhead whales landed by Eskimo villages in Alaska, 1974-2006 (from AEWC and NSB, 2007).

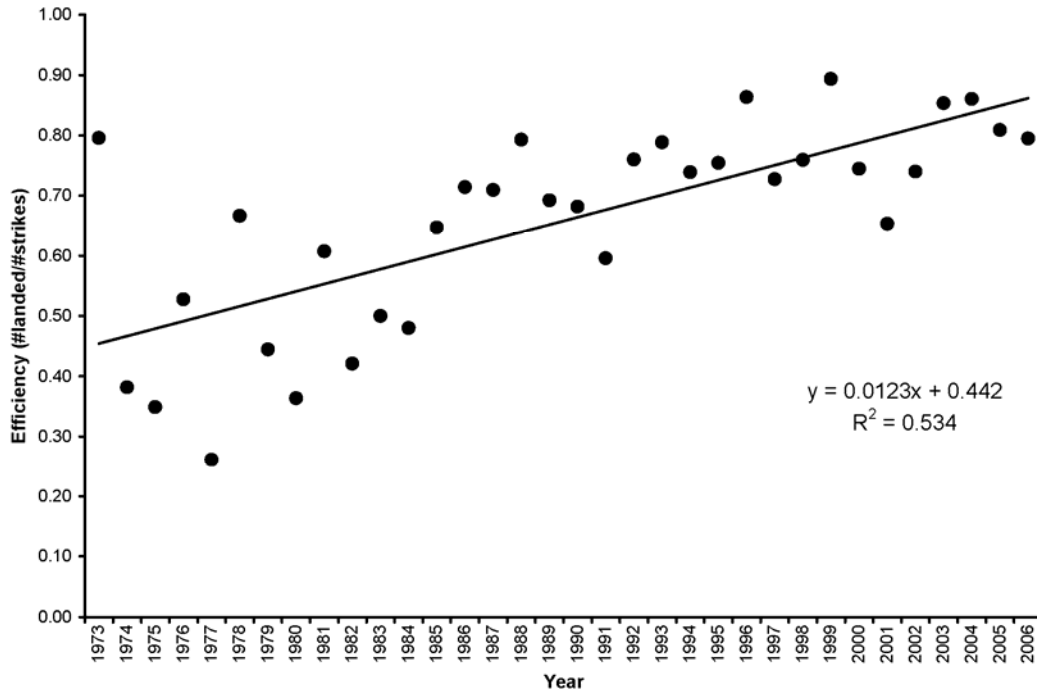


Figure 3.5.2-2 Efficiency of the Western Arctic bowhead whale subsistence hunt, 1973-2005 (from AEW and NSB, 2007).

The size of landed whales differs among villages. Gambell and Savoonga (two villages on St. Lawrence Island) and Wainwright typically harvest larger whales than Point Hope and Barrow. These differences were likely due to hunter selectivity, whale availability and season. For example, during spring in Barrow, smaller whales were caught earlier in the season than larger whales while the opposite was true in the autumn (Suydam and George, 2004). Villages along the western coast of Alaska harvest bowhead whales primarily during the spring migration (Figure 3.5.2-3), while villages along the Beaufort Sea hunt during the autumn migration. In recent years, the villages on St. Lawrence Island have been able to hunt bowhead whales when they overwinter in the Bering Sea (Figure 3.5.2-3). Overall, the sex ratio of the harvest has been equal.

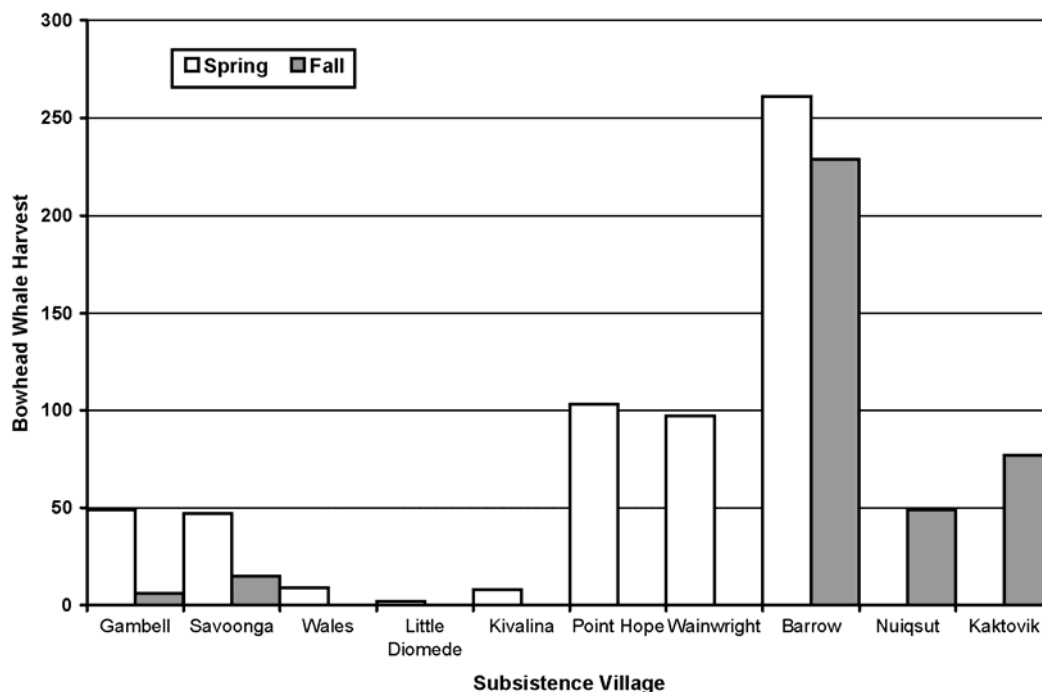


Figure 3.5.2-3 Western Arctic bowhead whale harvest by season for each Eskimo village in Alaska, 1974-2006 (from AEWc and NSB, 2007).

3.6 Co-management of Subsistence Whaling with AEWc

The purposes of the NOAA-AEWc Cooperative Agreement are to protect the Western Arctic population of bowhead whale and the Eskimo culture, to promote scientific investigation of the bowhead whale, and to effectuate the other purposes of the WCA, the MMPA, and the ESA, as these Acts relate to the aboriginal subsistence hunts for whales. Cooperative Agreements have been in place between NOAA and the AEWc since the first agreement was signed in March 1981, and have been renewed regularly thereafter⁹.

3.6.1 Description of Management

The NOAA-AEWc Cooperative Agreement establishes a structure of relationships between the authorities and activities of NOAA and the AEWc. The Cooperative Agreement generally represents a functional delegation of on-the-ground management from NOAA to the AEWc, subject to NOAA oversight. The provisions of the Cooperative Agreement build on the provisions of the AEWc Management Plan (adopted in November 1977, renewed on March 4, 1981, and continuously since) (Appendix 8.4). The authority and responsibilities of the AEWc are contained in and limited by the Cooperative Agreement and Management Plan, as amended, to the extent that the Management Plan is not inconsistent with the Agreement. If AEWc fails to carry out its responsibilities, NOAA may assert its federal management and enforcement authority to regulate the hunt after notifying the AEWc of its intent, and providing an opportunity to the AEWc to discuss the proposed action. The AEWc Management Plan

⁹ NOAA and AEWc are signatories to the Cooperative Agreement. However, NMFS has been delegated the responsibility for implementation.

provides that the AEW C is empowered to administer the following regulations: (1) insure an efficient subsistence harvest of bowhead whales; (2) provide a means within the Alaska Eskimo customs and institution to protect bowhead whale habitat and limit harvest to prevent extinction of the species; and (3) provide for Eskimo regulation of all whaling activities by Eskimo members of the AEW C (subsection 100.1). The AEW C may deny any person who violates these regulations the right to participate in the hunt, make civil assessments, and act as an enforcement agent (subsection 100.11(b)). In addition to administering and enforcing regulations within the Management Plan, the AEW C also provides village education programs including training programs for whaling captains and crews, and initiates research to improve the accuracy and reliability of weapons used to hunt bowhead whales (subsection 100.12).

3.6.2 Quota Distribution among Villages

Under the AEW C Management Plan, the AEW C consults with each whaling village before establishing the level of harvest for each whaling village during each season (subsection 100.26) and adjustments may be made during the season, if a village does not use its allocation. Each whaling captain registers with the AEW C on forms that disclose name, address, age, qualifications as a captain, and willingness to abide by and require the crew to abide by AEW C regulations (subsection 100.22).

3.6.3 Monitoring and Enforcement of Hunting Regulations

Reports of each hunt must include the date, place, time of strike, size, and type of bowhead whale, reasons if struck and lost, and condition of struck and lost whales (subsection 100.23). Whaling crews must use traditional harvesting methods (as defined under subsection 100.24). Meat and edible products must be used exclusively for consumption and not be sold or offered for sale. Violators, after opportunity for a hearing before the AEW C, are prohibited from hunting or attempting to hunt for a period of not less than one whaling season nor more than five whaling seasons and/or may be subject to a fine not to exceed \$10,000. Should a dispute between NOAA and AEW C occur over any of these matters, and resolution does not occur after consulting with AEW C, the dispute will be referred to an administrative law judge (15 CFR 904.200-904.272).

From the earliest years of the Management Plan, the AEW C has shown a willingness to intervene with whaling captains to enforce the quota and other provisions. Langdon (1984:51) refers to examples from 1981 and 1982, while Freeman (1989:151) describes a 1985 incident. More recently, on approximately May 25, 2003, a female bowhead whale was taken in the Beaufort Sea off Barrow, Alaska, by the crew of an AEW C registered bowhead subsistence captain. On taking the whale, the crew realized it was accompanied by a calf, which then swam away. The U.S. elected to report two infractions to the IWC as the disposition of the calf was unknown (IWC, 2005b). The taking of a whale calf or a cow accompanied by a calf is prohibited by Alaska Eskimo hunting tradition, by the AEW C management plan for the bowhead subsistence hunt, the WCA regulations, and by the IWC Schedule. The AEW C considers the taking of a whale calf or a cow with a calf to be a very serious infraction. On May 30, 2003, the Commissioners of the AEW C convened a hearing to receive testimony from the members of the crew and from the members of other crews who were in the vicinity when the whale was taken. While testimony indicated that the taking might have been accidental, the Commissioners concluded that the crew knew a cow/calf pair was in the vicinity and did not act with proper caution under the circumstances. Therefore, the Commissioners voted to rescind the bowhead

subsistence captain's registration with the AEWc for two years (four seasons) beginning with the autumn 2003 bowhead subsistence hunt. The AEWc also confiscated the baleen taken from the whale and donated it to a local organization that supports Native artists. Under the WCA, it is illegal for anyone who is not a registered captain with the AEWc, or a member of the crew of a registered captain, to hunt bowhead whales. Anyone attempting to take a bowhead whale without being properly registered with the AEWc, or being a crew member of a registered captain, is subject to penalties under U.S. law.

Another calf taking occurred during the Fall 2006 hunt, Whale ID 06B10, 9/29/2006 (Male, 6.3 m), Barrow. This whale was landed and then deemed to be a calf. It had milk in its stomach and very short baleen (Suydam et al., 2007). On November 16, 2006, the Commissioners of the AEWc convened a hearing on this incident. After receiving testimony from the members of the crew and other crews in the area when the whale was taken, the Commissioners determined that this taking was an accident resulting from the fact that no cow was seen in the vicinity and the animal was large for a lactating calf.

3.6.4 Reporting requirements to NOAA and IWC

It is the responsibility of the whaling captains and crew to report to the commissioner of their village on a daily basis when they are whaling. The commissioner then reports to the AEWc central office in Barrow. The AEWc office takes a report which is passed on to the NMFS office in Anchorage. After completion of the whaling season, the AEWc office submits a final report to the U.S. Department of Commerce, NOAA office in Washington, D.C. According to the Cooperative Agreement, on the first of each month during the whaling seasons, the AEWc must inform NOAA of the number of bowhead whales struck during the previous month. The final report is due to NOAA within 30 days after the conclusion of the whaling season.

4.0 ENVIRONMENTAL CONSEQUENCES

4.1 Methodology

This chapter describes the predicted direct, indirect, and cumulative effects on the biological and human environment from implementing the alternatives described in Chapter 2. The chapter begins by summarizing the methodology used to predict environmental consequences, including frequently used terms (Section 4.1.1); the steps and criteria used for determining the level of impact (Section 4.1.2); and an overview of the approach to cumulative effects assessment (Section 4.1.3). Section 4.2 explains how incomplete or unavailable information is dealt with in this document, and Section 4.3 identifies resources not carried forward for further analysis. Sections 4.4 and 4.5 analyze direct and indirect impacts to the Western Arctic bowhead whale stock and individual bowhead whales, respectively, from each of the alternatives, while Section 4.6 discusses the cumulative impacts to the Western Arctic bowhead whale stock. Sections 4.7 and 4.8 discuss the analyses of the direct, indirect, and cumulative impacts to other wildlife and the socio-cultural environment, respectively. Section 4.9 summarizes the biological and socio-cultural cumulative effects together.

4.1.1 Definition of Terms

The following terms are used throughout this document to discuss impacts:

Direct Effects – caused by the action and occurring at the same time and place (40 CFR 1508.8). Direct effects pertain to the proposed action and alternatives only.

Indirect Effects – defined as effects caused by an action and later in time or farther removed in distance but still reasonably likely. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural systems, including ecosystems (40 CFR 1508.8).

Indirect effects are caused by the project, but do not occur at the same time or place as the direct effects. Indirect effects pertain to the proposed action and alternatives only.

Cumulative Effects – additive or interactive effects that would result from the incremental impact of the proposed action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions (40 CFR 1508.7). Interactive impacts may be either countervailing (where the net cumulative effect is less than the sum of the individual effects) or synergistic (where the net cumulative effect is greater than the sum of the individual effects). EISs address reasonably foreseeable cumulative effects issues, rather than speculative impact relationships. Section 4.1.3 describes steps involved in the cumulative effects assessment.

Reasonably Foreseeable Future Actions – this term is used in concert with the Council on Environmental Quality (CEQ) definitions of cumulative effects, but the term itself is not further defined. Most regulations that refer to “reasonably foreseeable” do not define the meaning of the words, but do provide guidance on the term. For this analysis, reasonably foreseeable future actions (RFFAs) or impacts are those that are likely (or reasonably certain) to occur within the

timeframe used for analyzing environmental consequences, and are not purely speculative. This determination of “reasonably foreseeable” is based on documents such as existing plans, permit applications, or announcements.

4.1.2 Steps for Determining Level of Impact

NEPA requires federal agencies to prepare an EIS for any action that may significantly affect the quality of the human environment. The CEQ regulations implementing NEPA state that an EIS should discuss the significance, or level of impact, of the direct, indirect, and cumulative effects of the proposed alternatives (40 CFR 1502.16), and that significance is determined by considering both the context in which the action will occur and the intensity of the action (40 CFR 1508.27). Context and intensity are often further broken down into components for impact evaluation. The context is composed of the extent of the effect (geographic extent or extent within a species, ecosystem, or region) and any special conditions, such as endangered species status or other legal status. The intensity of an impact is the result of its magnitude and duration. Actions may have both adverse and beneficial effects on a particular resource. A component of both the context and the intensity of an effect is the likelihood of its occurrence.

The combination of context and intensity is used to determine the level of impact on each type of resource. The first step is to examine the mechanisms by which the proposed action could affect the particular resource. For each type of effect, the analysts develop a set of criteria to distinguish between major, moderate, minor, or negligible impacts. The analysts then use these impact criteria to rank the expected magnitude, extent, duration, and likelihood of each type of effect under each alternative.

Tables 4.1-1 through 4.1-3 provide a guideline for the analysts to place the effects of the alternatives in an appropriate context and to draw conclusions about the level of impact. The criteria used to assess the effects of the alternatives vary for the different types of resources analyzed. The impact criteria tables use terms and thresholds that are quantitative for some components and qualitative for others. The terms used in the qualitative thresholds are somewhat imprecise and relative, necessarily requiring the analyst to make a judgment about where a particular effect falls in the continuum from “negligible” to “major.” The following descriptions of the terms used in the criteria tables are intended to help the reader understand the distinctions made in the analyses.

The magnitude or intensity of effects on biological resources is generally assessed in terms relative to the population rather than the individual. The MMPA, as amended, established a management objective to reduce incidental mortality of marine mammals in commercial fisheries. To this end, it defines an upper limit guideline for fishery-related mortality for each species or management stock, its Potential Biological Removal (PBR). PBR is defined in the MMPA as “...the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population.” According to the most recent NMFS stock assessment, the PBR for the Western Arctic stock of bowhead whales is 95 animals (Angliss and Outlaw, 2007).

PBR was originally intended as a measure of impact from commercial fisheries, and should not be used as a means of evaluating or limiting subsistence harvest. The subsistence harvest is managed under the authority of the Whaling Convention Act. Accordingly, the aboriginal

subsistence whaling provisions in the IWC Schedule take precedence over the PBR estimate for the purpose of managing the Alaska Native subsistence harvest from this stock. A conservative approach to setting the harvest limit is to use the values of the catch control rule Q from the 2006 stock assessment (see Section 3.2.1 for the introductory discussion of the catch control rule Q), which range from a low bound of 155 whales per year to a high bound of 412, with a best estimate value of 256 (Brandon and Wade, 2006). The 2006 Q values will also be used as thresholds for determining the level of impact on the bowhead whale population in this EIS. Recognizing that there is some uncertainty (Q is based on probability estimates) in the Q values, this assessment will employ the lower bound of Q at 155 whales, termed Q_{low} and the best estimate of Q at 257 whales, termed Q_{best} , and the high bound of Q at 412 whales, termed Q_{high} , as impact threshold levels.

A take that is below Q_{low} (155 whales per year) is considered a negligible impact. A take that is between Q_{low} (155 whales) and Q_{best} (256 whales) would be considered a minor impact. A take that is between Q_{best} (257 whales) and Q_{high} (412 whales) would be considered a moderate impact. A take greater than the Q_{high} (412 whales) would be considered a major impact. The impact criteria are summarized in Table 4.1-1.

For wildlife species other than bowhead whales, the magnitude of effects on the population is based on the potential mechanisms for effects on mortality and disturbance and the relationship of bowhead whaling activities with the species considered. The impact criteria for wildlife are summarized in Table 4.1-2.

The analysis of socio-cultural impacts examines effects on subsistence use patterns, whaling community health and nutrition, and public safety. For impacts to subsistence uses, the magnitude and intensity of effects are based on the potential for loss or substantial reduction in production of key subsistence resources. For impacts to health and nutrition, and to public safety, the magnitude of effects is based on the proportion of the communities and population affected.

The geographic extent component is intended to estimate the distribution of effects relative to the population or nonbiological resource as a whole. For bowhead whales and other wildlife, local populations are defined as those populations that are generally distributed near a particular whaling community in some portion of their ecological range.

The geographic extent of socio-cultural impacts is first defined in relation to the bowhead subsistence whaling communities and their traditional subsistence use areas. In addition, because these communities share bowhead subsistence foods widely, socio-cultural effects could indirectly extend to those distant receiving communities, including those in neighboring regions, and also the Inupiat and Siberian Yupik families living in Fairbanks and Anchorage who remain integrated in sharing networks. The impact criteria for socio-cultural resources are summarized in Table 4.1-3.

The duration or frequency component provides the context of time. "Short-term" refers to a temporary effect that lasts from a few minutes to a few days, after which the affected animals or resource revert to a "normal" condition. "Long-term" describes more permanent effects that may last for years or from which the affected animals or resource never revert to a "normal" condition. Moderate is somewhere in between. Intermittent or infrequent effects are those that only occur a couple times a year or fewer. "Frequent" refers to effects that occur on a regular or

repeated basis each year. Other elements of the temporal context of effects, such as whether the effects occur primarily during a sensitive or critical part of the year, are described in the analyses for each species or resource.

This assessment also evaluates the likelihood of an effect, in other words whether the potential effects are plausible or just speculative. "Likely" effects are those that could arise from reasonable or demonstrated mechanisms and the probability of those mechanisms arising from the alternatives is greater than 50%. This does not imply that the analysts will perform a formal probability calculation. Instead analysts use professional judgment to make a qualitative determination that the probability of the effect occurring is more likely than not. The likelihood of occurrence is considered in assessing magnitude, extent, and duration, as these factors are defined above. The determination of level of impact for each of these three factors is made on the basis of effects that are more likely to occur than not.

4.1.2.1 Determining the quota

Since the late 1970s the IWC has determined catch limits for bowhead whale harvests, after considering the nutritional and cultural need for bowhead whales by Alaska Eskimos and Russian Natives and the level of harvest that is sustainable. In 1986, the IWC accepted a method to calculate subsistence and cultural need of Alaska Eskimos for bowhead whales. This method incorporates the historic and current size of the Eskimo population residing in Alaskan subsistence hunting villages and the number of bowhead whales historically landed by each community (Appendix 8.1).

The IWC first established the five-year block catch limits for this stock in 1997, allowing a total of 280 bowhead whales to be landed, or an average of 56 whales per year. Suitability of the strike limits is determined using the Bowhead Strike Limit Algorithm (SLA) program (IWC, 2005a). Inputs include bowhead whale catches, abundance estimates from 1978-2001, and the value of need (i.e., 67 whales multiplied by the number of years of the quota). In 2004, the results of the Bowhead SLA calculations showed "that this level of need can be satisfied while fully meeting the Commissioner's management objectives" (IWC, 2005a:23). For the proposed 2008 through 2012 quota (Alternative 3), annual strike limits would be established at 67 bowhead whales struck, with an allowance for the carry-over of up to 15 unused strikes from any previous year (including 15 unused strikes from the 2003 through 2007 block quota). The IWC has sanctioned the aboriginal harvest of whales from this stock by both the U.S. and the Russian Federation. The annual strike limits and quotas for bowhead whales are determined at the beginning of each year after consultation with the AEWG and renewal of the U.S.-Russia bilateral agreement governing the allocation of the bowhead whale subsistence quota between the two countries. Of the quota, the U.S. and the Russian Federation have agreed on a suballocation of five whales per year to the Chukotkan aboriginal whalers (Appendix 8.3).

4.1.2.2 Impact Criteria

Table 4.1-1 provides a framework within which effects on bowhead whales can be assessed. This table summarizes the criteria for determining the level of impact based on the type (mortality or disturbance), the components (magnitude, extent, and duration) and the thresholds for four levels of effects (negligible, minor, moderate, and major). As noted in Section 4.1.2, the components of impact (magnitude, extent, and duration) are established in CEQ regulations. This framework represents the best judgment of the analysts in identifying mortality and disturbance as the key types of effects, and in establishing the thresholds for a spectrum of impact levels from negligible to major. The thresholds for mortality effects are established in relation to the IWC Scientific Committee catch control rule Q , as described in Section 4.1.2. The results of applying this framework are found in Sections 4.4 and 4.5, which describe the anticipated direct and indirect effects for each alternative on bowhead whales. Since the provisions for carry-over of strikes represent the key difference among the alternatives, the analysis focuses on evaluating the scope and intensity of effects from each level of the strike limit carry-over.

Table 4.1-1
Criteria for Determining Impact Level for Effects on Bowhead Whales

Type of Effect	Impact Component	Impact Level			
		Negligible	Minor	Moderate	Major
Mortality	Magnitude or Intensity	Total mortality assessment less than or equal to Q_{low} (less than 155 annually, or 775 for five years)	Total mortality assessment between Q_{low} and Q_{best} (155 – 257 annually, or 775 - 1285 for five years)	Total mortality assessment between Q_{best} and Q_{high} (257 - 412 annually, or 1285 - 2060 for five years)	Total mortality assessment equal to or greater than Q_{high} (greater than 412 annually or 2,060 for five years)
	Geographic Extent	No measurable population decline	Population decline measurable at one location	Population decline measurable at several locations	Population decline measurable across range of stock
	Duration or Frequency	No measurable population decline	Short-term or infrequent population decline	Moderate-term or intermittent population decline	Long-term and/or repeated population decline
Disturbance	Magnitude or Intensity	No measurable effects	Disturbance effects but distribution similar to baseline	Noticeable change in localized distribution	Enough to cause shift in regional distribution
	Geographic Extent	No measurable effects	Effects limited to one location	Effects distributed among several locations	Effects distributed across range of stock
	Duration or Frequency	No measurable effects	Periodic, temporary, or short-term	Moderately frequent or intermittent	Chronic and long-term

Table 4.1-2 provides a framework for assessing the effects of bowhead whale harvests and whaling-related activities on other biological resources (other than bowhead whales). These effects are primarily related to disturbance associated with whaling activities, or redirection of subsistence harvests to other species if bowhead whaling were prohibited. Some habitat damage can also occur from other actions and events. This table summarizes the criteria, developed by the project scientists, for determining the level of impact based on the magnitude, extent, and duration. Section 4.7 summarizes the anticipated direct, indirect, and cumulative effects under each alternative for other biological resources.

Table 4.1-2
Criteria for Determining Impact Level for Effects on Other Wildlife

Type of Effect	Impact Component	Impact Level			
		Negligible	Minor	Moderate	Major
Mortality	Magnitude or Intensity	Mortality effects but no measurable change in population	Causes minor population change	Causes moderate population change	Causes major population change
	Geographic Extent	No measurable effects	Effects limited to one location	Effects distributed among several locations	Effects distributed across range of population
Mortality	Duration or Frequency	No measurable effects	Short-term or moderate and intermittent or infrequent	Moderate and frequent or long-term and intermittent	Long-term and/or frequent
Disturbance	Magnitude or Intensity	No measurable effects	Disturbance effects but distribution similar to baseline	Noticeable change in localized distribution	Enough to cause shift in regional distribution
	Geographic Extent	No measurable effects	Effects limited to one location	Effects distributed among several locations	Effects distributed across range of stock
	Duration or Frequency	No measurable effects	Periodic, temporary, or short-term	Moderately frequent or intermittent	Chronic and long-term

Table 4.1-3 provides a framework for assessing the effects of bowhead whale harvests and whaling-related activities on the social and cultural environment, and the criteria, developed by the project scientists, for determining the level of impact based on the magnitude, extent, and duration. These effects are primarily related to subsistence characteristics and public health and safety. Section 4.8 summarizes the anticipated direct, indirect, and cumulative effects under each alternative for these resources.

Table 4.1-3
Criteria for Determining Impact Level for Effects on Socio-cultural Resources

Type of Effect	Impact Component	Impact Level			
		Negligible	Minor	Moderate	Major
Effects on subsistence	Magnitude or Intensity	No decline in production of major subsistence resources	Minor decline in production affecting few resources or limited seasons	Moderate decline in production affecting several resources or seasons	Substantial decline in production of major subsistence resources
	Geographic Extent	No measurable effects	Effects realized at few locations	Effects realized in numerous locations	Effects realized throughout the project area
	Duration or Frequency	No measurable effects	Periodic, temporary, or short-term	Moderate and frequent or long-term and intermittent	Chronic and long-term
Effects on public health and safety	Magnitude or Intensity	No measurable effects	The health and safety of < 5% of the population in the community would be affected	The health and safety of 5%-25% of the population in the community would be affected	The health and safety of >25% of the population in the community would be affected
	Geographic Extent	No measurable effects	Affects individuals in few communities	Affects individuals in half of the communities	Affects individuals throughout project area
	Duration or Frequency	No measurable effects	Periodic, temporary, or short-term	Moderately frequent or intermittent	Long-term and/or frequent

4.1.3 Steps for Identifying Cumulative Effects

To meet the requirements of NEPA, an EIS must include an analysis of the cumulative effects of a proposed action and its alternatives and consider those cumulative effects when determining environmental impacts. The CEQ guidelines for evaluating cumulative effects state that "...the most devastating environmental effects may result not from the direct effects of a particular action but from the combination of individually minor effects of multiple actions over time" (CEQ, 1997). The CEQ regulations for implementing NEPA define cumulative effects as follows:

The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time (40 CFR 1508.7).

For this EIS, assessment of cumulative effects requires an analysis of the direct and indirect effects of the proposed harvest quota alternatives, in combination with other past, present, or RFFAs potentially affecting bowhead whales, and other biological, physical, and socio-economic resources. The intent of this analysis is to capture the total effects of many actions over time that would be missed by evaluating each action individually, and to assess the relative contribution of the proposed action and its alternatives to cumulative effects. The cumulative effects assessment then describes the additive and synergistic result of the harvest quota alternatives as they are reasonably likely to interact with actions external to the proposed actions. The ultimate goal of identifying cumulative effects is to provide for informed decisions that consider the total effects (direct, indirect, and cumulative) of the harvest quota alternatives.

The methodology used for cumulative effects analysis in this EIS is similar to that followed in the Alaska Groundfish Fisheries Programmatic Supplemental EIS (SEIS) (NMFS, 2004), the Steller Sea Lion Protection Measures SEIS (NMFS, 2001b), the Setting the Annual Subsistence Harvest of Northern Fur Seal on the Pribilof Islands EIS (NMFS, 2005), and the Steller Sea Lion and Northern Fur Seal Research Final Programmatic EIS (NMFS, 2007a). It consists of the following steps:

- *Identify issues, characteristics, and trends within the affected environment that are relevant to assessing cumulative effects of the alternatives* – include lingering effects from past activities, and demonstrate how they have contributed to the current baseline for each resource. This information is summarized in Chapter 3.
- *Describe the direct and indirect effects of the harvest quota alternatives.* This information is presented in Chapter 4.
- *Define the spatial (geographic) and temporal (time) frame for the analysis.* This timeframe may vary between resources depending on the historical data available and the relevance of past events to the current baseline. The “reasonably foreseeable future” has been established as the next 10 years (through 2018) for the purposes of this EIS.
- *Identify past, present, and reasonably foreseeable external actions such as other types of human activities and natural phenomena that could have additive or synergistic effects* – summarize past and present actions, within the defined temporal and spatial timeframes, and also identify any RFFAs that could have additive or synergistic effects on identified resources. The cumulative effects analysis uses the specific direct and indirect effects of each resource alternative and combines them with these identified past, present, and reasonably foreseeable effects of the identified external actions.
- *Use cumulative effects tables to screen all of the direct and indirect effects, when combined with the effects of external actions, to capture those synergistic and incremental effects that are potentially cumulative in nature* – both adverse and beneficial effects of external factors are assessed and then evaluated in combination with the direct and indirect effects to determine if there are cumulative effects.

- *Evaluate the impact of the reasonably likely cumulative effects using the criteria established for direct and indirect effects and assess the relative contribution of the action alternatives to cumulative effects.*
- *Discuss rationale for determining the impact rating, citing evidence from the peer-reviewed literature, and quantitative information where available – the term unknown can be used where there is not enough information to determine an impact level.*

The advantages of this approach are that it closely follows 1997 CEQ guidance, employs an orderly and explicit procedure, and provides the reader with the information necessary to make an informed and independent judgment concerning the validity of the conclusions.

4.1.3.1 Relevant Past and Present Actions within the Project Area

Relevant past and present actions are those that have influenced the current condition of the resource. For the purposes of this EIS, past and present actions include both human-controlled events (such as subsistence harvest, oil and gas exploration and development activities, and commercial fisheries), and natural events, such as predation and climate change.

The past actions applicable to the cumulative effects analysis have been either presented in Chapter 3 or previously reviewed in the Arctic Ocean OCS Seismic Surveys Programmatic EA (MMS, 2006b), Chapter 4 of the Alaska Groundfish Draft Programmatic SEIS (NMFS, 2004), Steller Sea Lion Protection Measures SEIS (NMFS, 2001b), Setting the Annual Subsistence Harvest of Northern Fur Seals on the Pribilof Islands EIS (NMFS, 2005), and the Draft Steller Sea Lion and Northern Fur Seal Research Programmatic EIS (NMFS, 2007a). The cumulative effects analysis relies heavily on the descriptions presented in those documents. Additional past actions were identified using agency documentation, NEPA documentation, reports and resource studies, peer-reviewed literature, and best professional judgment. Table 4.1-4 lists relevant past and present actions, and notes where descriptions of those actions can be located.

4.1.3.2 Reasonably Foreseeable Future Actions (RFFAs)

RFFAs are those that 1) have already been or are in the process of being funded, permitted, described in fishery, oil and gas lease sale documents, or coastal zone management plans; 2) are included as priorities in government planning documents; or 3) are likely to occur or continue based on traditional or past patterns of activity. Judgments concerning the probability of future impacts must be informed rather than based on speculation. RFFAs to be considered must also fall into the temporal and geographic scope described in Section 4.1.3.3.

Reasonably foreseeable future human-controlled and natural actions were screened for their relevance to the alternatives proposed in this EIS. Due to the large geographic scope dealt with in this analysis, the identification of RFFAs was conducted on a broad scale, although some specific RFFAs were considered where applicable. The following list presents the actions to be considered in the cumulative effects analysis, and Table 4.1-4 compares those actions with past and present actions:

- *Subsistence activities:* Subsistence harvests of bowhead whales by Alaska Natives who dwell on the North Pacific Ocean or Arctic Ocean coasts of Alaska are likely to continue at present levels as described in Chapter 3. Subsistence harvests of other animals are likely to continue at present levels also.
- *Oil and gas activities:* Oil and gas leases in the Beaufort and Chukchi Seas will result in continued and future off-shore production facilities and pipelines, drilling activities, seismic programs, transportation and barging, staging, fixed and temporary camp operations, and ice road construction.
- *Industrial pollutants:* Oil pollution in the marine environment can occur from road runoff, bilge cleaning and ship maintenance, natural seeps, pipeline and platform spills, oil tanker spills, and offshore drilling. Other marine pollution and debris can occur due to industrial activities, waste disposal, and atmospheric deposition. Marine species may accumulate contaminants such as PCBs and polycyclic aromatic hydrocarbons (PAHs).
- *Commercial fisheries:* Federal and state fisheries operate according to the designated Fishery Management Plan (FMP). State-regulated and federally regulated fisheries in the project area are administered by the North Pacific Fishery Management Council (NPFMC) and the Alaska Board of Fisheries (ABF). The NPFMC oversees management of groundfish in the U.S. Exclusive Economic Zone (EEZ) off Alaska and ABF manages fisheries in nearshore waters as well as the offshore crab fisheries.
- *Commercial shipping:* It is anticipated that commercial shipping will increase in the future as northern Alaskan ports become ice-free for longer periods throughout the year, as onshore and offshore areas are developed for oil and gas, and as local communities grow.
- *Other economic development:* Coastal development within the project area, including port expansions and the construction of docks and facilities within the project area, is likely to occur as needs for marine support services and shipping capacity increase.
- *Scientific research:* Activities related to the scientific research of the physical environment, bowhead whales specifically, other marine mammals, fish, birds, and marine predator-prey relationships are likely to continue.
- *Climate variability:* Short-term changes in the ocean climate are likely to continue on a scale similar to those presently occurring, as described in Chapter 3. Evidence is emerging that human-induced global climate change is linked to the warming of air and ocean temperatures and shifts in global and regional weather patterns.
- *Mortality:* Disease, parasites, and predation will continue to result in mortality of marine mammals, fish, and birds. Factors such as exposure to contaminants, decreased genetic diversity, and increased stress can lead to reduced fitness, which in turn can increase susceptibility to mortality from disease and predation.

**Table 4.1-4
Past, Present, and RFFAs Considered in the Impact Analyses**

	Past and Present	Reference (within this EIS)	Reasonably Foreseeable
Human-Caused Events			
Subsistence activities	<ul style="list-style-type: none"> Harvest of marine and terrestrial mammals, fish, and birds 	Sections 1.1.4, 1.2, 2.1, 2.2, 2.3, 2.4, 3.2.4, 3.4, 3.5, 4.8	<ul style="list-style-type: none"> Harvest of marine and terrestrial mammals, fish, and birds
Commercial harvest	<ul style="list-style-type: none"> Commercial whaling 	Section 3.2.3	<ul style="list-style-type: none"> None
Oil and gas activities	<ul style="list-style-type: none"> Seismic Exploration Offshore drilling and production Industrial noise 	Sections 3.2.8, 4.6.1	<ul style="list-style-type: none"> Seismic exploration Offshore drilling and production Industrial noise
Industrial pollutants	<ul style="list-style-type: none"> Marine spills and pollution Marine debris Bioaccumulation Human health 	Sections 3.2.8, 4.6, 4.8.1	<ul style="list-style-type: none"> Marine spills and pollution Marine debris Bioaccumulation Human health
Commercial fisheries	<ul style="list-style-type: none"> Crab fishery (entanglement in gear) Ship strikes 	Sections 3.2.7, 4.6.3	<ul style="list-style-type: none"> Crab fishery (entanglement in gear) Ship strikes
Commercial shipping	<ul style="list-style-type: none"> Barge/vessel traffic and fuel spills Ship strikes 	Section 4.6.3	<ul style="list-style-type: none"> Barge/vessel traffic and fuel spills Ship strikes
Other development	<ul style="list-style-type: none"> Military activity Coastal and infrastructure development Tourism 	Section 4.6	<ul style="list-style-type: none"> Military activity Coastal and infrastructure development Tourism
Scientific research	<ul style="list-style-type: none"> Biological Oceanographic Geophysical/chemical (see oil and gas development) 	Section 4.6.4	<ul style="list-style-type: none"> Biological Oceanographic Geophysical/chemical (see oil and gas development)
Natural Events			
Climate variability	<ul style="list-style-type: none"> Global warming 	Section 4.6.2	<ul style="list-style-type: none"> Global warming
Mortality	<ul style="list-style-type: none"> Predation Disease and parasites 	Sections 1.1.3, 3.2.5, 3.2.7, 4.4, 4.5, 4.6	<ul style="list-style-type: none"> Predation Disease and parasites

Table 4.1-5 provides a list of the RFFAs likely to occur in the project area and identifies which resources a particular RFFA could affect.

Table 4.1-5
RFFAs Considered in the Cumulative Impact Analyses

RFFA	Anticipated Cumulative Impacts to Resource
Subsistence Activities	1, 2, 3, 4, 5, 6
Commercial Harvest	1, 2, 3, 6
Oil and Gas Activities	1, 2, 3, 4, 5, 6
Global and Industrial Pollutants	1, 2, 3, 4, 5, 6
Commercial Fisheries	1, 2, 5, 6
Commercial Shipping	1, 2, 5, 6
Other Development	1, 2, 5, 6
Scientific Research	1, 2
Climate Variability	1, 2, 3, 4, 5, 6,
Mortality	1, 2, 3
KEY	
1. Bowhead Whale (stock)	4. Eskimo Safety
2. Other Wildlife	5. Other Tribes and Aborigines
3. Eskimo Health	6. General Public

4.1.3.3 Project Area and Scope for Analysis

The spatial scope of the effects analysis is the entire geographic range of the Western Arctic bowhead whale stock in the Bering, Chukchi, and Beaufort Seas, including Russian and Canadian waters in this range. When this spatial scope is not applicable to a given resource, a relevant geographic sub-area is defined in the analysis.

Evaluation of cumulative effects requires an analysis of the potential direct and indirect effects of the proposed alternatives, in combination with other past and present actions and RFFAs. The time frame or temporal scope for the past and present effects analysis was defined as the period since the Western Arctic bowhead whale stock was first commercially hunted in the Bering Sea in 1848. For each resource, the time frame for past and present effects is described in Section 3. RFFAs considered in the cumulative effects analysis consist of projects, actions, or developments that can be projected, with a reasonable degree of confidence, to occur in the foreseeable future and that are likely to affect the resources described. A common practice is to project 5 to 10 years forward, and in this case, the 10 year time frame was chosen because reasonable estimates regarding oil and gas exploration and development along the Chukchi and Beaufort Seas are available for this period.

4.2 Incomplete and Unavailable Information

The CEQ guidelines require that:

When an agency is evaluating reasonably foreseeable significant adverse effects on the human environment in an environmental impact statement and there is incomplete or unavailable information, the agency shall always make clear that such information is lacking (40 CFR 1502.22).

In the event that there is relevant information, but “the overall costs of obtaining it are exorbitant or the means to obtain it are not known” (40 CFR 1502.22), the regulations instruct that the following should be included:

- A statement that such information is unavailable;
- A statement of the relevance of such information to evaluate reasonably foreseeable significant adverse impacts;
- A summary of existing information that is relevant to evaluating the adverse impacts; and
- The agency’s evaluation of adverse impacts based on generally accepted scientific methods.

In the analysis, this EIS identifies those areas where information is unavailable to support a thorough evaluation of the environmental consequences of the alternatives. The direct, indirect, and cumulative effects analyses are based on readily available information; however, whatever data gaps still exist are identified in accordance with the above CEQ guidelines.

4.3 Resources and Characteristics Not Carried Forward For Analysis

Species that would not be affected directly or indirectly by bowhead whaling activities include gray whales, minke whales, killer whales, harbor porpoise, short-tailed albatross, and many terrestrial mammals. These species were not considered for further analysis because the alternatives would not have any effects on these species.

4.4 Direct and Indirect Effects of the Alternatives on the Western Arctic Bowhead Whale Stock

Alternatives were developed based on the IWC recommended strike limit (including takes in both Alaska and the Russian Federation). The action alternatives primarily assess the merits of different options in the carry-over strikes without suggesting a change to the existing catch limits provided through the international forum of the IWC and as established through several decades of scientific research and calculations. In the analysis of impacts under the alternatives, the risk of mortality is estimated based on the strike limits, rather than the quota for landed whales. The fate of struck and lost whales, and the likelihood of their mortality, is not fully known. For the purposes of assessing biological impacts, it is necessary to take the precautionary approach and assume that all struck whales represent mortalities. This is a worst case scenario required for the analysis, and not an assertion that all strikes from subsistence whaling result in mortalities.

4.4.1 Alternative 1

Alternative 1 would eliminate a quota for subsistence taking of bowhead whales and may result in the elimination of subsistence whaling activities and harvest. No bowhead whales would be taken in subsistence harvests. So, the magnitude, extent, and duration of direct mortality under this alternative are considered negligible to the population of bowheads (as per Table 4.1-1). Human activities associated with subsistence whaling would be sharply reduced under this alternative, so that the amount of noise and disturbance from subsistence whaling would also be considered negligible.

4.4.2 Alternative 2

Alternative 2 would authorize a maximum annual mortality of 67 bowheads (strikes) for a five-year period, subject to a total of 255 landed whales over five years. Over the five-year period the total mortality could be 5×67 or 335 whales total. (The total mortality would be lower if all struck whales were landed because of the limit on landed whales.) The total annual mortality assessment under this alternative is 67 whales per year which, given the current abundance and growth trends (Section 3.2.1), is unlikely to cause the population to decline or to slow its rate of recovery. The magnitude, geographic extent, and duration of this level of mortality is therefore considered negligible for the bowhead population (Table 4.1-1). Human activities associated with subsistence whaling under Alternative 2 would vary from year to year and place to place depending on whale movements, weather, ice characteristics, and social factors. Effects of human activities are localized and timed to coincide with the presence of whales during their spring and autumn migrations. Disturbance to the whales from subsistence whaling activities under Alternative 2 would be localized and short-term and would be considered minor at the population level.

4.4.3 Alternative 3

Alternative 3 would authorize a maximum mortality of 82 bowheads (strikes) in a given year, if the authorized carry-over of 15 unused strikes were to occur, subject to a total of 255 landed whales over five years. Over the five-year period the total mortality could be 350 whales (5×67 , plus 15 carried over) or an average of 70 bowhead whales per year. This level of mortality is considered negligible in magnitude for the bowhead population (Table 4.1-1), in light of current abundance and growth trends (Section 3.2.1). The extent and duration of the effects under this alternative are the same as those for Alternative 2, so the overall impact is rated negligible. The effects of human activities associated with subsistence whaling under Alternative 3 would be similar to those described for Alternative 2, with disturbance at a minor impact level.

4.4.4 Alternative 4

Alternative 4 would authorize a maximum mortality of 100 bowheads (strikes) in a given year, if the authorized carry-over of 33 unused strikes were to occur, subject to a total of 255 landed whales over five years. Over the five-year period the total mortality could be 368 (5×67 , plus 33 carried over strikes), or an average of 74 bowheads per year. This level of mortality is considered negligible in magnitude at the population level for bowheads (Table 4.1-1), in light of current abundance and growth trends (Section 3.2.1). The extent and duration of the effects under this alternative are the same as those for Alternative 2, so the overall impact is rated negligible. The

effects of human activities associated with subsistence whaling under Alternative 4 would be similar to those described for Alternative 2, with disturbance at a minor impact level.

4.5 Direct and Indirect Effects of the Alternatives on Individual Whales

In addition to mortality if struck or landed, under the action alternatives, hunting activities have the potential to indirectly affect bowhead whales that are not being pursued. This includes the presence of vessels and underwater noise. The sound of one or more harpoon bomb detonations during a strike is audible for some distance. Acousticians listening to bowhead whale calls as part of the census report that calling rates decrease precipitously after a detonation. (Christopher W. Clark, Cornell Laboratory of Ornithology, personal communication). The range at which whales may be affected is unknown and will vary with environmental conditions (e.g., depth of water, ambient noise levels, ice conditions, bottom structure) and the depth at which the bomb detonates.

According to Alaska Native TEK, after a harpoon bomb detonation, some whales act “skittish” and wary (E. Brower, Barrow Whaling Captain’s Association President, personal communication). Whales temporarily halt their migrations, turn 180 degrees away from the disturbance (i.e., move back through the lead systems), or become highly sensitized as they continue migrating (E. Brower, Barrow Whaling Captain’s Association President, personal communication). These changes in migratory behavior in response to disturbance are short-term, as several whales are often landed at whaling villages such as Barrow in a single day (George, 1996).

In this respect, the indirect disturbance effects on individual whales will be negligible in magnitude, extent, and duration under Alternative 1, since under this alternative no subsistence whaling would occur. Under Alternatives 2, 3, and 4, subsistence whaling would occur, and as described in the effects analysis in Section 4.4, the magnitude, extent, and duration of the associated disturbance effects would be minor for individual bowhead whales.

4.6 Cumulative Effects of the Alternatives on the Western Arctic Bowhead Whale Stock

4.6.1 Offshore Petroleum Extraction Activities Including Seismic Surveys

4.6.1.1 Past and Present Oil and Gas Activities

Fifteen state and federal planning areas make up the Alaska Region for oil and gas exploration. Of these, leasing consideration is being proposed in four of the planning areas: Beaufort Sea, Chukchi Sea, Cook Inlet, and the North Aleutian Basin. For a summary of past, present, and future oil and gas exploration and development in the Beaufort and Chukchi Seas, which are the only areas that overlap with the distribution of the Western Arctic stock of bowhead whales, please refer to following documents:

- (1) Biological Opinion prepared by NMFS for the Minerals MMS pursuant to Section 7 of the ESA on Oil and Gas Leasing and Exploration Activities in the Beaufort Sea, Alaska (NMFS, 2001).

- (2) Biological Opinion prepared by NMFS for MMS pursuant to Section 7 of the ESA on Oil and Gas Leasing and Exploration Activities in the Beaufort Sea, Alaska and Authorization for small takes under the MMPA (NMFS, 2006).
- (3) Final EIS for the Chukchi Sea Planning Area Oil and Gas Lease Sale 193 and Seismic Surveying Activity in the Chukchi Sea (MMS, 2007a).
- (4) Final EIS for Beaufort Sea and Chukchi Sea Proposed Oil and Gas Lease Sales for Years 2007-2012 (MMS, 2007b).
- (5) Final EIS and EAs prepared for the Beaufort Sea Planning Area Oil and Gas Lease Sale, Sales 186, 195, and 202 (MMS, 2003; MMS, 2004; and MMS, 2006a).
- (6) Final EIS on the BPXA's Liberty Development Project (MMS, 2002b).
- (7) Final EIS prepared on the Beaufort Sea Oil and Gas Development Project/Northstar (USACE, 1999).

Beaufort Sea

The terrestrial environment adjacent to the Beaufort Sea has experienced most of the oil and gas-related industrial development on the North Slope compared to development in nearshore and offshore waters. Oil and gas exploration and production activities have occurred on the North Slope since the early 1900s, and production has occurred for more than 50 years. Associated industrial development has included the creation of an industry-support community airfield at the town of Deadhorse and an interconnected industrial infrastructure that includes roadways, pipelines, production and processing facilities, gravel mines, and docks. Offshore exploration for oil and gas in the Beaufort Sea has occurred intermittently during the past 30 years. Offshore discoveries have resulted in field development from wells drilled directionally from onshore facilities and from a limited number of structures in nearshore waters (defined as inside the barrier islands) and offshore waters (defined as outside the barrier islands).

Lease Sales. Ten federal lease sales for the OCS have been held in the Beaufort Sea planning area since 1979. Currently there are 181 active leases in this area. Thirty-one exploratory wells have been drilled and there is production from a joint federal/state unit, with federal production of over 15 million barrels of oil since 2001. While the disposition of the leases purchased in recent lease sales is highly speculative at this time, it is probable that at least some seismic exploration and possibly some exploratory drilling could take place during the 10 year period identified for the cumulative effects analysis in the EIS. The State of Alaska made nearshore state waters (mean high tide line to 3 mi. offshore) available for leasing along much of the coast of the Beaufort Sea. Beaufort Sea Areawide Lease Sales are held annually in October. Four lease sales have been held to date. As of July 2004, 194 active leases in this area encompass 440,000 acres. Future state lease sales will continue on a regular basis.

Seismic Survey Activities. The vast majority of geophysical seismic surveys conducted in the Beaufort and Chukchi Seas to date used the less detailed 2-D methodology; future seismic surveys are likely to use the more informative 3-D methodology to explore for oil and gas deposits (MMS, 2006b). Openwater and over-ice seismic surveys in Beaufort Sea federal waters began in the late 1960s and peaked in the 1980s. More seismic activity permitted by the MMS has occurred in the Beaufort Sea OCS than in the Chukchi Sea OCS (MMS, 2006b). The 2-D marine seismic surveys in the Beaufort Sea began with two MMS Geological and Geophysical (G&G) permits issued in 1968 and four in 1969. Both over-ice and marine 2-D seismic surveys were conducted in the 1970s. With one exception, the 80 marine and 43 over-ice surveys

permitted in the Beaufort Sea OCS by MMS in the 1980s were 2-D. In the 1990s, both 2-D and 3-D seismic surveys were conducted. The first 3-D over-ice survey occurred in the Beaufort Sea OCS in 1983 and the first marine 3-D seismic survey occurred in 1996. More than 100,000 line-miles of 2-D and 3-D seismic surveys have been collected to date in the Beaufort Sea Planning Area (MMS, 2006b).

In 2006, Shell Offshore Inc., conducted open-water seismic programs, which consisted of an estimated 3,000 mi. of 3-D seismic line acquisition and site-clearance surveys in the eastern Beaufort and Chukchi Seas (MMS, 2006b). The open-water seismic program consisted of two vessels, one active in seismic acquisition and the second providing logistical support. Shell Offshore Inc., expects to eventually spend two to three seasons acquiring 3-D seismic data from all of its Beaufort Sea leases, although exactly which areas it surveys in any particular season will depend on ice conditions. The open-water program will involve a geotechnical investigation supported by a soil-boring vessel.

A 2-D seismic survey was conducted in late summer to early fall 2006 in the Mackenzie Delta region of the Canadian Beaufort Sea, by Input/Output, a subsidiary of GX Technology. This work provided high-resolution data for the Mackenzie Delta and adjoining Canada Basin (First Break, 2007).

Seismic surveys for exploration purposes in state waters are authorized under Miscellaneous Land Use Permits; however, seismic surveys conducted for other purposes, such as shallow hazard assessments, do not require permits unless they are not conducted from the ice and/or involve contact with the seafloor (MMS, 2006b). Since 1969, the State of Alaska has issued 42 permits for seismic survey activities in the Beaufort Sea. There are no current seismic activities in state waters in the Chukchi or Beaufort Sea Planning Areas. However, seismic activities in adjacent federal waters of the Chukchi Sea in autumn 2006 resulted at some times in seismic sounds entering into the state waters at detectable levels. Not all detectable noise would be expected to elicit a reaction to bowhead whales or other marine mammals.

Site Clearance Survey Activities. To date, high-resolution site-clearance surveys in the Beaufort Sea OCS were conducted for 30 exploration wells. Additional site-clearance surveys may have been conducted in the proposed action area where no exploration wells were drilled. In the Beaufort Sea OCS, site-clearance surveys in 2006 occurred on three oil and gas prospects.

Oil and Gas Development. Since the discovery and development of the Prudhoe Bay and Kuparuk oil field, more recent fields generally have been developed not in the nearshore environment, but on land in areas adjacent to existing producing areas. Notable exceptions to this are the Northstar, Endicott, and Lisburne fields. Endicott Field was developed using causeways whereas the Lisburne Field was developed using directional drilling from shore. The Oooguruk Field is currently under development by Pioneer Natural Resources Alaska in nearshore waters off of Oliktok Point (Figure 4.6.1.1-1). The Northstar development is an offshore gravel structure outside of the barrier islands with flow lines to onshore facilities. The Northstar facility has been issued a Letter of Authorization under the MMPA from NMFS to cover Level A and Level B taking of bowhead, gray, and beluga whales, and ringed, spotted, and bearded seals, incidental to operation of the facility. This includes potential effects from presence of personnel, structures, and equipment; oil spills; on-ice construction or transportation; vessel and helicopter activity;

and acoustic impacts from power generation and oil production. The Letter of Authorization excludes seismic surveys because they are not a component of operation of the facility.

Chukchi Sea

Lease Sales. There have been two sales in this area with the most recent in 1991. There have been five exploratory wells drilled with no commercial discoveries. There are no existing leases at this time. This area is included in the current program as a special interest sale. No interest was expressed in the first two calls for information in 2003 and 2004. There was industry interest expressed in a large portion of the area, in response to the call in early 2005, but there was not adequate time remaining in the current program to complete the necessary pre-lease steps and environmental documentation. The sale was deferred for consideration in the 2007-2012 program. Chukchi sale 193 is currently scheduled for 2007.

Seismic Survey Activities. Openwater and over-ice seismic survey activity in the federal waters of the Chukchi Sea has been significantly less than that in the Beaufort Sea (MMS, 2006b). The MMS-permitted seismic surveys have been conducted in the Chukchi and Beaufort Seas since the late 1960s/early 1970s. Between 1970 and 1975, 12 MMS G&G permits were issued for Chukchi Sea 2-D marine seismic surveys, but none between 1976 and 1982. Seismic survey activity increased between 1982 and 1991, when MMS issued 30 G&G permits. The most G&G permits issued in any one year in the Chukchi Sea was seven (six marine and one over-ice) in 1986. ConocoPhillips Alaska, Inc., and GX Technology conducted open-water seismic programs in the Chukchi Sea in 2006.

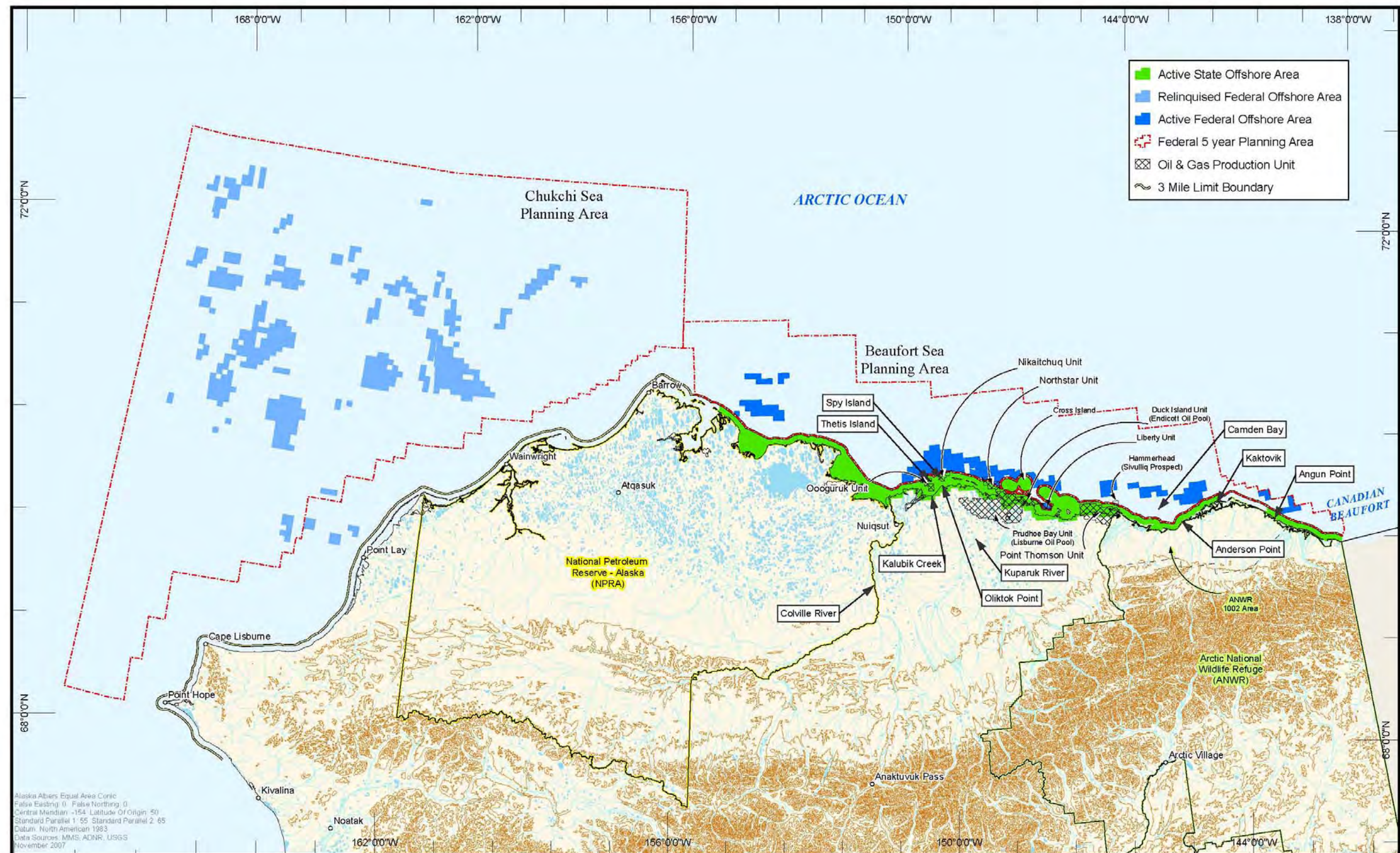


Figure 4.6.1.1-1 Offshore North Slope Oil and Gas Lease Areas

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In addition to the industry seismic surveys, a team from the University of Texas and the U.S. Geological Survey with research funding from the National Science Foundation acquired seismic data in the northern Chukchi Sea and Arctic Ocean, using the U.S. Coast Guard icebreaker Healy during the 2006 summer season. This seismic program forms part of a scientific study of the composition of submarine plateaus and the structure of the Earth's crust in the Arctic Ocean (MMS, 2006b).

Site Clearance Survey Activities. In the 1980s, five high-resolution site-clearance surveys were conducted in the Chukchi Sea OCS prior to five exploration wells being drilled. No high-resolution site-clearance surveys occurred in the Chukchi Sea in 2006 (MMS, 2006b,d).

Oil and Gas Development. There are currently no remaining leases from earlier sales and no operating oil or gas facilities in the Chukchi Sea Planning Area.

4.6.1.2 Reasonably Foreseeable Future Oil and Gas Activities

Beaufort Sea

Lease Sales. Lease sale 202 is the last of three sales in MMS' current five-year offshore plan, which ends in June 2007 (MMS, 2006b). As required by the Outer Continental Shelf Lands Act (OCSLA), MMS has prepared a final proposed five-year program (2008 through 2012) to replace the current 2002 through 2007 leasing program. Options for the Federal OCS Lease Sales during this five year period in the Beaufort Sea include two lease sales; Sale 209 in 2009 and Sale 217 in 2011.

Seismic Surveys. Projected seismic 2-D/3-D surveys in the Beaufort Sea planning area are estimated at three per year for 2007 and 2008 and two per year for 2009 and 2010 (MMS, 2006b). In State waters, seismic surveys are projected at one per year for 2008 and 2010 (MMS, 2006b).

Site Clearance Survey Activities. In those leased blocks where there is sufficient potential for further exploration drilling or development and production, geological site surveys, and shallow hazard surveys would be required. MMS projects two site clearances per year between 2007 and 2010 (MMS, 2006b). ConocoPhillips Alaska, Inc., planned to conduct an over-ice geophysical survey and portions of a site-clearance survey in the Beaufort Sea just north of Cross Island in spring 2007 (EPA, 2007) and received an Incidental Harassment Authorization from NMFS. However, the planned work was not conducted.

Oil and Gas Exploration and Development. The 2006 Alaska Ocean OCS Seismic studies Programmatic EA discusses oil and gas exploration and development projects in the Beaufort Sea and their cumulative effect in more detail (MMS, 2006e). These projects include:

- Shell Offshore Inc. - Proposes to drill exploration targets during open water season on various MMS OCS lease blocks in the Beaufort Sea. Proposed activities include exploration and appraisal drilling offshore approximately 16 mi. north of Pt. Thomson in Camden Bay.
- Oooguruk Unit - This unit is located northwest of the Kuparuk River Unit in shallow waters of the Beaufort Sea, near Thetis Island. An offshore production island between

Thetis Island and the Colville River Delta has been completed, along with a 5.7 mi. off-shore underground pipeline, from the island to landfall near the mouth of Kalubik Creek, which was completed and successfully tested in spring 2007. Nakaitchuq Unit - Involves construction of a gravel pad with drilling, gathering, and production facilities on Oliktok Point, construction of a gravel drilling island near Spy Island, a 3.8 mi. sub-sea flow line and utility bundle to Oliktok Point for fluid processing, and a 14 mi. pipeline from Oliktok Point to a tie in to the Kuparuk common carrier pipeline. A small gravel island is to be constructed within the barrier islands for future drilling.

- Liberty Project - BP Alaska is in the process of pursuing the Liberty Project in Beaufort Sea waters east of Prudhoe Bay. Current plans call for accessing the project through directional drilling from onshore.
- State of Alaska - Stratigraphic test well could be drilled at one of two potential locations in state waters offshore of the 1002 area of the Arctic National Wildlife Refuge. Drilling operations will be conducted in winter using a mobile offshore drilling unit.
 - approximately 20 mi. southwest of Kaktovik near Anderson Point;
 - approximately 30 mi. southeast of Kaktovik near Angun Point.
- State of Alaska - onshore/on-ice geotechnical program will acquire soil borings in state waters from approximately 200 feet (ft) onshore seaward to 10 km offshore between the state's offshore Hammerhead leases and the shoreline within the Point Thompson Unit.
- Canadian Beaufort exploration and development – Activities on new and existing leases in the Canadian Beaufort are expected to continue in the near future.

Chukchi Sea

Lease Sales. In June 2007, MMS published a Final EIS for proposed Lease Sale 193 in the Chukchi Sea. The lease sale is a carry over from the MMS 2002 to 2007 Oil and Gas Leasing Program and is currently scheduled to occur in early 2008. The recent MMS five year leasing program for 2008 through 2012 calls for two additional lease in the Chukchi Sea planning area; Sale 212 in 2009 and Sale 221 in 2010.

In the western Chukchi in Russian waters, there has been little exploration activity. The simultaneous U.S./Russia OCS lease sale that was proposed in the five-year program for 1992 through 1997 was canceled, with this area being deferred for consideration in later programs (MMS, 2006b). No additional oil and gas development activities have been identified in the Russian Chukchi Sea.

Seismic Survey Activity. Additional seismic surveys are planned for the Chukchi Planning area for the remainder of the five-year leasing program (MMS, 2006b). MMS projects that three surveys per year would occur during 2007 and 2008, but that this would decrease to about two per year in 2009 and 2010.

Site Clearance Survey Activities. High resolution site-clearance surveys on leases in the Chukchi Sea are not anticipated until at least 2009 and 2010 and would consist of only one site-clearance per year (MMS, 2006b). This contrasts with site-clearance survey activities in the 1980s, when five high-resolution site-clearance surveys were conducted in the Chukchi Sea OCS prior to five exploration wells being drilled. No high-resolution site-clearance surveys occurred in the Chukchi Sea in 2006 (MMS, 2006b,d).

Summary

In both the Beaufort and Chukchi Seas lease areas, bowhead whales can be affected by combined effects of noise and activity from all of these sources in nearshore waters, including seismic activity, site-clearance seismic surveys, drilling, and other oil and gas development activity.¹⁰ As a result, whales may experience short-term displacement from traditional migration routes to areas farther offshore, thereby making it harder for subsistence hunters to both hunt and retrieve the harvested whales.

4.6.1.3 Effects of Noise on Bowhead Whales

Past and Present Effects

The spring season appears to be a particularly critical period in the bowheads' annual cycle. This is the time most, if not all, of the population migrates, through areas covered by dense ice, where migration routes are constrained and most likely to be blocked by elevated sound sources (Richardson et al., 1995a,b). Exposure to man-made sound and contaminants may produce short- and long-term effects (Richardson and Malme, 1993; Bratton et al., 1993). However, Richardson and Malme (1993) state that data are not available to assess long-term impacts. Further, research in 1996 through 1998 showed that some seismic noise can deflect autumn migration of bowheads to farther offshore (Miller et al., 1999; Richardson, 1999; Richardson et al., 1999). Residents of the Arctic have expressed concern regarding the cumulative and long-term effects of anthropogenic noises on Western Arctic bowhead whales (Ahmaogak, 1985, 1989). Anthropogenic impact is a function of the extent that industrial activities coincide with the bowhead whales' seasonal occupation of certain regions and the whales' tolerance level of the impacts (Richardson and Malme, 1993; Bratton et al., 1993).

As noted in Section 3.2.8 of this EIS, the effects of oil and gas activities on bowhead whales are discussed at length in several documents: NMFS (2006), MMS (2002a), and MMS (2006a) with additional information presented on the MMS Alaska OCS Region website: www.mms.gov/alaska. NMFS (2006) concluded that the effects from an encounter with aircraft generally are brief and whales should resume their normal activities within minutes (Patenaude et al., 2002). Bowheads may exhibit temporary avoidance behavior to vessels at distances of 1 to 4 km. Many earlier studies indicate that most bowheads exhibit avoidance behavior when exposed to sounds from seismic activity. Bowheads also exhibited tendencies for reduced surfacing and dive duration, fewer blows per surfacing, and longer intervals between successive blows. Eskimo whalers have stated that noise from seismic surveys and some other activities at least temporarily displaces whales farther offshore, especially if the operations are conducted in the main migration corridor (MMS, 2006b). Studies in the 1980s indicated that bowheads appeared to recover from these behavioral changes within 30-60 minutes following the end of seismic activity (Richardson et al., 1986b; Ljungblad et al., 1988). Monitoring studies of 3-D seismic exploration in the nearshore Beaufort Sea during 1996-1998 have demonstrated that nearly all bowhead whales will avoid an area within 20 km of an active seismic source (Richardson et al., 1999). Sound levels received by bowhead whales at 20 km ranged from

¹⁰ Certain proposed activities by Shell Offshore Inc. are undergoing administrative and legal challenges. The final resolution of these challenges may affect foreseeable future offshore oil development in both the Beaufort Sea and Chukchi Sea Planning Areas.

117-135 dB re $1\mu\text{Pa rms}$ ¹¹ and 107-126 dB re $1\mu\text{Pa rms}$ at 30 km, but did not persist beyond 12 hours after seismic operations (Richardson et al., 1999). Data from monitoring seismic operations from 1996 through 1998 suggested that the offshore displacement may have begun roughly 35 km (19 nautical miles [n. mi.] or 22 statute miles [st. mi.]) east of the activity and may have persisted more than 30 km to the west (Richardson et al., 1999). Bowheads reoccupied the area within 12-24 hours after seismic surveys ended (Richardson et al., 1999).

Bowheads have been sighted within 0.2-5 km from drill ships, although bowheads change their migration speed and swimming direction to avoid close approach to noise-producing activities. During autumn migration, however, bowheads may avoid drill ships and their support vessels at 20-30 km. There are no observations of bowhead reactions to icebreakers breaking ice, but it has been predicted that roughly half of the bowheads would respond at a distance of 4.6-20 km when the signal-to-noise ratio is 30 dB (Richardson et al., 1995a).

Available information does not indicate that oil and gas-related activity (or any recent activity) has had detectable long-term adverse population-level effects on the overall health, current status, or recovery of the bowhead population (MMS, 2006b). Data indicate that the bowhead whale population has continued to increase over the timeframe that oil and gas activities have occurred and that there is no evidence of long-term displacement from habitat (MMS, 2006b).

Reasonably Foreseeable Future Effects

Overall, bowhead whales exposed to noise-producing activities are most likely to continue to experience temporary, nonlethal behavioral effects in the future. The cumulative effect of noise on bowhead from offshore oil and gas activities would be expected to be similar to those described and summarized for OCS leasing and exploration.

Oil and gas activities during migration could potentially add to the overall noise and disturbance from subsistence hunting activities and potentially affect habitat use (MMS, 2006c). Reactions to aircraft overflights and vessels are relatively brief, lasting only a few minutes with greater reaction to drill ships and seismic vessel. Whales disturbed by noise and activity from all sources in nearshore waters, including site-clearance seismic surveys, could experience short-term displacement from migration routes to areas farther offshore. The available data on reaction to noise and disturbance do not indicate any lasting population-level effect on bowheads, based on the level of activity in the Beaufort and Chukchi since the 1970s (NMFS, 2006). However, the cumulative effects of these future-noise generating activities are less certain. As sea ice retreats due to climate change, drill ships and seismic exploration vessels may have access to areas where they were previously excluded at certain times of the year, which may contribute to an increased exposure to bowheads to future offshore oil and gas activities. However, it is not clear whether such potential changes in the distribution of seismic efforts, site-clearance activities, or

¹¹ Sound is typically measured in decibels, which measure the reduction of a sound's intensity over distance. Because sound travels differently through different media, the measurement of sound must also take into account a medium's impedance (or resistance) of sound pressure to be meaningful. A standard reference point for sound pressure in water (through which sound waves propagate more efficiently than through air) is one microPascal ($1\mu\text{Pa}$), a measure of pressure. In underwater acoustics, the *source level* of a sound represents the intensity of a sound at a certain distance, usually one meter, from the source, referenced to one microPascal; this is the meaning of the scientific phrase dB re $1\mu\text{Pa}$ at 1 m. The *received level* is the intensity of the sound at the listener's actual distance from the source; this is the value represented by the scientific phrase dB re $1\mu\text{Pa rms}$ (rms = root mean square, a statistical measure of the amplitude of the variable intensity of a sound wave).

development activities would coincide with potential changes in the distribution or migratory movements of bowheads as a result of climate change.

Overall, bowheads exposed to noise producing activities, including subsistence hunting, marine and aircraft traffic, and oil and gas activities, most likely would experience temporary, nonlethal behavioral effects, such as avoidance behavior. Effects could potentially be longer term, if sufficient oil and gas activity were to occur in a localized area, but long-term displacement of bowhead whales as a result of human activity has not been demonstrated (MMS, 2007a). Cumulative effects of disturbance from noise are considered minor at the population or stock level. A detailed discussion of the contribution of effects of oil and gas activity to the overall cumulative effects on bowhead whales is presented in the 2006 Arctic Region Biological Opinion for Oil and Gas Activity in the Beaufort and Chukchi Sea (NMFS, 2006) and the 2007 Chukchi Oil and Gas Lease Sale 193 Final EIS (MMS, 2007a).

4.6.1.4 Oil Spills

The Biological Opinion prepared for oil and gas leasing and exploration activities by the MMS in the Beaufort Sea considered the effects on bowhead whales if there was to be oil and gas leasing and exploration on the OCS portion of the U.S. Beaufort Sea (MMS, 2006f). Oil spills can occur during seismic exploration, exploratory drilling, construction and operation of offshore platforms, and from subsea pipelines. Spills can occur as large spills, greater than 1,000 barrels, small spills, between 50 and 1,000 barrels, and very small spills, under 50 barrels (MMS, 2006f). The probability of a large oil spill is considered to be remote during exploration, but was assessed due to the pronounced effects it might have on bowheads and the potentially higher probabilities associated with subsequent development and production phases (NMFS, 2006).

Bowhead whales can be affected by oil spills through displacement, direct contact with oil, and disturbance from response vessels. Displacement of individual bowhead whales may occur in the event of a large oil spill, and avoidance of the contaminated area may last for several years (MMS, 2001). This suggests that bowhead whales may have some ability to detect an oil spill and would avoid surfacing in the oil by detouring away from the spill area (NMFS, 2001c). Displacement from feeding areas or contaminated food may also occur as a result of an oil spill, but it is unlikely that the availability of food sources for bowheads would be affected given the abundance of plankton resources in the Beaufort Sea (Bratton et al., 1993).

Modeling efforts have indicated that only up to 2% of the Beaufort Sea bowhead whale population would be affected by a large oil spill (NMFS, 2001c). However, the impacts of oil exposure to the bowhead whale population would depend upon how many animals contacted oil. In the worst case, if oil found its way into leads or ice-free areas frequented by migrating bowheads, a substantial portion of the population could be affected (Englehart, 1987).

Prolonged exposure to freshly spilled oil could kill some whales, but the numbers are estimated to be small due to a low chance of such contact (MMS, 2006f). This would be most likely to occur if oil spilled into a lead that bowhead whales could not escape (MMS, 2006f). Most whales exposed to spilled oil could be expected to experience temporary, nonlethal effects from skin contact with oil, inhalation of hydrocarbon vapors, and ingestion of oil-contaminated prey (NMFS, 2006). Spilled oil may also foul the baleen fibers of mysticete whales during feeding at

the surface, including the bowhead whale, temporarily impairing food-gathering efficiency or resulting in the ingestion of oil or oil-contaminated prey (Geraci and St. Aubin, 1987).

Bowhead whales may be displaced temporarily from an oil-spill area due to the large numbers of personnel, equipment, vessels, and aircraft that could be involved in oil-spill cleanup activities. However, because of such displacement, fewer bowhead whales would be expected to be exposed to oil as a result of cleanup operations (MMS, 2001, 2006f). The Industry Site-Specific Bowhead Whale-Monitoring Program should be effective in detecting a delay or blockage of the migration (MMS, 2004).

In investigating the probability of spilled oil contacting bowhead whales, MMS identified specific offshore areas (Ice/Sea Segments [ISS]) and modeled for probability of contact with a spill. Certain of these ISS's overlay the migratory corridor of the bowhead (MMS, 2003). Using data from the MMS oil spill analysis for Sale 170, and assuming an oil spill of 1,000 barrels or more occurred at any of several offshore release areas during the summer season, the chance of that oil contacting these ISS's within 30 days during the summer season ranged from 5-82%. Overall, the combined probability of a spill occurring and also contacting bowhead habitat during periods when whales are present is considered to be low, and the percentage of the bowhead whale stock so affected is expected to be very small. The NSB believes there are some scenarios, such as an oil spill in a spring lead system near Barrow, which could affect a large portion of the population. The likelihood of this is debatable, depending on how oil development proceeds in the Chukchi Sea (Craig George, North Slope Borough, personal communication, December 20, 2007).

4.6.2 Climate Change - Cumulative Effects of Environmental Variability

4.6.2.1 Past and Present Effects of Climate Change

Evidence of climate change in the past few decades, commonly referred to as global warming, has accumulated from a variety of geophysical, biological, oceanographic, and atmospheric sources. The scientific evidence indicates that average air, land, and sea temperatures are increasing at an accelerating rate. Although climate changes have been documented over large areas of the world, the changes are not uniform and affect different areas in different ways and intensities. Arctic regions have experienced some of the largest changes, with major implications for the marine environment as well as for coastal communities. Recent assessments of climate change, conducted by international teams of scientists (Gitay et al., 2002 for the Intergovernmental Panel on Climate Change [IPCC]; Arctic Climate Impact Assessment [ACIA], 2004; IPCC, 2007), have reached several conclusions of consequence for this EIS:

- Average arctic temperatures increased at almost twice the global average rate in the past 100 years.
- Satellite data since 1978 show that perennial arctic sea ice extent has shrunk by 2.7% per decade, with larger decreases in sea ice extent in summer of 7.4% per decade.
- Arctic sea ice thickness has declined by about 40% during the late summer and early autumn in the last three decades of the twentieth century.
- The ice pack is retreating from the land sooner in the spring and reforming later in the fall. This affects the timing of phytoplankton blooms and zooplankton concentrations.

- The ice pack is retreating further seaward than in the past, which creates larger areas of open water near coastal areas and leads to larger waves, higher storm surges, and accelerated rates of coastal erosion. This dynamic is exacerbated by rising sea levels due to thermal expansion of seawater and other sources.
- The arctic tundra is warming rapidly, causing permafrost to thaw deeper in the summer and over much larger areas than previously observed, accompanied by substantial changes in vegetation and hydrology.
- The melting ice pack, melting glaciers, and increased precipitation are adding large amounts of freshwater to the sea, causing decreases in salinity that may combine with longer ice-free seasons to affect the timing and intensity of phytoplankton blooms.

Bowhead whales are associated with and well adapted to ice-covered seas with leads, polynyas, openwater areas, or thin ice that the whales can break through to breathe. Arctic coastal peoples have hunted bowheads for thousands of years, but the distribution of bowheads in relationship to climate changes and sea ice cover in the distant past is not known. It has been suggested that a cold period 500 years ago resulted in less ice-free water near Greenland, forcing bowheads to abandon the range, and that this led to the disappearance of the Thule culture (McGhee, 1984; Aagaard and Carmack, 1994, as cited in Tynan and DeMaster, 1997). However, it is not clear if larger expanses and longer periods of ice-free water will be beneficial to bowheads. The effect of warmer ocean temperatures on bowheads may depend more on how such climate changes affect the abundance and distribution of their planktonic prey rather than the bowheads' need for ice habitat itself (Tynan and DeMaster, 1997).

4.6.2.2 Reasonably Foreseeable Future Climate Change Effects

The most recent analysis of climate change (IPCC, 2007) concluded that there is very strong evidence for global warming and associated weather changes and that humans have "very likely" contributed to the problems through burning fossil fuels and adding other "greenhouse gasses" to the atmosphere. This study involved numerous models to predict changes in temperature, sea level, ice pack dynamics, and other parameters under a variety of future conditions, including different scenarios for how human populations respond to the implications of the study. It is not clear how governments and individuals will respond or how much these future efforts will reduce greenhouse gas emissions. Although the intensity of climate changes will depend on how quickly and deeply humanity responds, the models predict that the climate changes observed in the past 30 years will continue at the same or increasing rates for at least 20 years.

The implications of these trends for bowheads are uncertain but they may be beneficial, in contrast to affects on ice-obligate species such as polar bears and walrus (ACIA, 2004). There will be more open water and longer ice-free seasons in the arctic seas which may allow them to expand their range as the population continues to recover from commercial whaling. However, this potential for beneficial effects on bowheads will depend on their ability to locate sufficient concentrations of planktonic crustaceans to allow efficient foraging. Since phytoplankton blooms may occur earlier or at different times of the season, or in different locations, the timing of zooplankton availability may also change from past patterns (Arrigo and van Dijken, 2004). Hence, the ability of bowheads to use these food sources may depend on their flexibility to adjust the timing of their own movements and to find food sources in different places (ACIA, 2004).

Moore and Laidre (2006) have examined sea ice changes in areas important to the Western Arctic bowhead stock and developed a conceptual model of how sea ice changes could affect the whales' access to prey. There was little change in the average amount of open water along the primary springtime migration corridors but extreme variability in the amount of open water from year to year (Moore and Laidre, 2006). Years with early and extensive retreat of the ice pack may allow migrating bowheads to access areas they could not occupy when sea ice is more extensive. This affects the migration routes of the whales and may therefore affect the ability of whaling communities to hunt successfully. However, for the past 10 years bowheads have been feeding more frequently in ice-free waters northeast of Barrow than in past years, leading to increased hunting success for Barrow crews in the fall (Treacy, 2002; Bodenhorn, 2003; as cited in Moore and Laidre, 2006). This observed pattern of new feeding opportunities for bowheads agrees with modeling predictions that the retreat of the ice edge relative to the underwater shelf break facilitates wind-driven upwelling of zooplankton-rich waters, as well as allowing greater primary production in ice-free waters, which leads to a beneficial increase in prey availability for bowheads (Moore and Laidre, 2006).

4.6.3 Commercial Shipping and Fishing

4.6.3.1 Past and Present Effects

Commercial shipping and fishing activities would potentially affect mortality of bowhead whales through ship strikes or interactions with fishing gear or result in disturbance from vessel noise. Between 1976 and 1992, only three ship strike injuries were documented out of a total of 236 bowhead whales examined from the Alaskan subsistence harvest (George et al., 1994). Since that publication, six additional whales have been noted with ship strike injuries (1995-2002) out of approximately 180 examined whales (J.C. George, Department of Wildlife Management, NSB, personal communication), indicating that the rate of ship strikes may have increased slightly in recent years. The most recent stock assessment provides no estimate for past mortality from ship strikes (Angliss and Outlaw, 2007). The low number of observed ship strike injuries suggests that bowheads either do not often encounter vessels or that avoid interactions with vessels. It is possible that an unknown number of unobserved and unreported mortalities may occur after ship strikes. However, given the steadily increasing population trend, the magnitude of this potential effect is likely to be small. It is not known when or where ship strikes are most likely to occur.

Most commercial fishing activity in the Bering Sea occurs well south of the range of bowhead whales. There are very limited commercial fisheries in the Chukchi Sea and none in the Beaufort Sea due to small commercial fish stocks, operating difficulties near sea ice, and great distance to markets (ACIA, 2004). The North Pacific Groundfish Observer Program places observers on many of the large commercial fishing vessels that operate in the northern Bering Sea but there are no observer records of fishery interactions with bowheads either through entanglements in fishing gear or ship strikes (Angliss and Outlaw, 2005). There are also no self-reported interactions from vessels without observers. However, since 1978 there have been approximately 20 records of scarring by fishing lines and entanglement in crab fishing gear from bowheads that have been harvested or found stranded on beaches (Angliss and Outlaw, 2005). Data from the NSB Department of Wildlife (1990-2001) suggest that perhaps 10% of the population exhibits clearly identifiable fishing line injuries of varying degrees of severity (George, 2001). It is not known whether these injuries are from active fishing gear or from gear that had been lost and drifting. The number of serious injuries resulting from fishing gear entanglement appears to be

very small. The most recent stock assessment report attributes 0.2 mortalities per year resulting from interactions with fishing gear (Angliss and Outlaw, 2007).

The effects of anthropogenic noise, such as vessel noise, on bowhead whales are primarily related to disturbance of migration. The effects of noise are discussed in detail in Section 4.6.1.

4.6.3.2 Reasonably Foreseeable Future Effects

Observed and predicted decreases in the summer extent of the ice pack could lead to a substantial increase in commercial shipping in the Arctic, especially if the Northwest Passage becomes reliably navigable (ACIA, 2004). Increased vessel traffic in the Beaufort and Chukchi Seas would be likely to result in greater disturbance effects on foraging bowheads and could result in a higher incidence of ship strikes with the potential for serious injury and mortality. However, if bowheads are able to move away from future shipping lanes and still find suitable foraging areas, the increased risk of ship strikes could be minimal.

Commercial and subsistence fishing activities are certain to continue in the future but potential changes in fishing effort relative to the range of the bowhead are not clear. Some commercially exploited fish stocks may expand in both abundance and northward range as a result of climate warming while other stocks are predicted to decline (ACIA, 2004). It is not clear whether such changes would lead to increased or decreased fishing effort in arctic waters. The potential risk of injury to bowheads from entanglement in fishing gear is therefore uncertain but likely to remain small in the foreseeable future given the relatively high cost of transporting arctic fish resources to distant markets.

The effects of anthropogenic noise, such as vessel noise, on bowhead whales are primarily related to disturbance of migration. The effects of noise are discussed in detail in Section 4.6.1.

4.6.4 Research Activities

4.6.4.1 Past and Present Effects

Research activities occurring in the project area have the potential to affect bowhead whales, primarily by introducing noise into the environment, incidentally through operation of the vessel or intentionally through seismic surveys or sonar.

The greatest potential impact from arctic-based research comes from underwater noise generated by icebreakers. The Western Arctic Shelf Basin Interactions project was a multi-year, interdisciplinary program investigating the impacts of climate change on biological, physical, and geological processes in the Western Arctic Ocean. The project was conducted from the US Coast Guard HEALY and POLAR STAR icebreakers. Although radiated noise levels for these ships have not been measured, estimated source levels for icebreakers of similar size range from 177-191 dB re $1\mu\text{Pa}$ at 1 m (Richardson et al., 1995a: Table 6.5). Increases in noise level (510 dB) during ice breaking are caused by propeller cavitation, are broadband (10-10,000 Hz), and are extremely variable over the period of pushing ice. Noise from research activities aboard the icebreakers, or from ice camps may also be audible underwater, but their source level would be expected to be much lower than that of a ship breaking ice. It should be noted that ambient sea-ice noise is also extremely variable, with source levels of 124-137 dB re $1\mu\text{Pa}$ at 1 m for 4 and 8 Hz tones measured for ice deformation noises at pressure ridges (Richardson et al., 1995a).

Based on previous studies of bowhead response to noise, ice-breaking noise could result in temporary displacement of whales from the area where the icebreakers were operating and could potentially cause temporary deflection of the migration corridor (see Section 4.6.1 for further discussion of noise disturbance).

Research specifically on bowhead whales has been conducted since the early 1980s. The early focus of research was to understand the species' biology and ecology, particularly abundance, distribution, and habitat use. Current research focuses on population growth, genetics, and response to anthropogenic sources, particularly because bowheads utilize habitat near oil and gas developments. The following briefly describes the type of research being conducted on bowhead whales.

Land, vessel, and aerial surveys are conducted to collect data on population abundance, distribution, and behavior throughout the bowhead whales' range. Individual and group behaviors are observed during these surveys to provide information on feeding ecology, distribution, habitat use, and behavior. Shore-based counts along the migration route, particularly at Point Barrow, are supplemented with acoustic survey data (George et al., 2004a). Acoustic survey data are collected with the use of autonomous acoustic recorders. Calls of individual whales are localized in realtime or once the recorders have been collected. Radio and satellite tracking provides information on the migration pattern and timing, distribution, and habitat use (Mate et al., 2000). Tags are placed on whales through the use of a pole extended from a vessel in close proximity to the whale or via a crossbow. Skin biopsy samples are also taken to study genetic variability among and within stocks, as well as sex of the whales. The characteristics and segregation of size and age class, in addition to calf growth patterns, are determined through the use of photo identification and photogrammetry taken during aerial surveys (Rugh, 1990; Koski et al., 1993). Many studies have also been conducted to determine the effect of anthropogenic noise (i.e., drilling, dredging, seismic surveys) on the behavior of bowhead whales (e.g., Richardson et al., 1995a,b). Generally, these ship-based and aerial surveys could cause temporary disturbance of individual whales in the area and result in avoidance of the vessel. Aerial surveys are generally flown at heights that do not harass the whales.

Various tissue samples are taken from harvested or stranded whales for physiological studies. Stomach content analysis and isotopic composition of materials (baleen, muscle, and blubber) provide information on the feeding ecology (e.g., Lowry, 1993). These studies can be supplemented with collection of zooplankton in feeding areas to determine the prey composition. Reproductive tissues are taken to determine age of whales, pregnancy rates, and toxicology studies (effects of contaminants on tissues) (e.g., Willetto et al., 2002). Mortality of bowheads is studied by looking at the bacterial, mycotic, and viral infection rates of harvested whales (Philo et al., 1993). Because tissue samples are taken from whales already dead, there would be no effects on bowheads associated with this type of research. Furthermore, the knowledge gained from this research would be beneficial in understanding whale biology and ecology.

4.6.4.2 Reasonably Foreseeable Future Effects

Research is expected to continue in the area. Noise from ice-breaking, vessels, and other sources (e.g., seismic, sonar) would continue to add to the cumulative levels of noise in the whale's environment. Increased noise may result in disturbance and temporary displacement of the whales or temporary deflection of the migration. At present, data do not indicate that current

noise levels result in long-term behavioral or physiological adverse effects on the bowheads in this stock.

4.6.5 Other Development

4.6.5.1 Past and Present Effects

Other activities that may possibly contribute to the cumulative effects on bowhead whales include military activities, other industrial development, and tourism. The surface and airspace of the Chukchi and Beaufort Seas are not extensively used for testing or training of aircraft, vessels, weapon systems, and personnel. There are no military vessels or aircraft stationed in the Beaufort or Chukchi Seas. None of the airspace over the Beaufort and Chukchi Seas is classified as “special use airspace” for the military by the Federal Aviation Administration. Military vessels may occasionally transit through the area. Submarines are often used for oceanic research or military activities in the area, particularly for use of passive and active acoustic technologies. Information about the response of bowhead whales to submarines is not available. Passive acoustics would not introduce noise to the environment and would likely result in no impact to bowhead whales.

Past military activities in the area were associated with the Defensive Early Warning System (DEW-Line), an integrated chain of radar and communications sites across Alaska, northern Canada, and Greenland. This system was discontinued in 1963 and replaced with short- and long-range radar. The U.S. Department of Defense is in the process of dismantling the abandoned sites.

On the Chukchi Sea, the major industrial developments are associated with the Red Dog Mine and Delong Mountain Terminal. Red Dog Mine is the largest producer of zinc concentrate in the world. Mining operations have reserves for over 40 years. The Delong Mountain Terminal receives ore concentrate from the Red Dog Mine and stores it until the area is free of ice. Approximately 250 barge trips per year transfer 1.5 millions tons of concentrate to about 27 bulk cargo ships, which are anchored 6 mi. offshore (MMS, 2006b).

Tourism activities are concentrated on land but may include the occasional use of marine vessels and aircraft. The effects of vessels are related to ship strikes and anthropogenic noise. The effects of ship strikes are discussed in Section 4.6.3 and the effects of anthropogenic noise on bowheads are discussed in Section 4.6.1.

4.6.5.2 Reasonably Foreseeable Future Effects

The level of future military activities in the area is expected to remain low, but transit of vessels or aircraft through the area is expected to continue. In routine operations, submarines use passive sonar, which is not likely to disturb bowhead whales. The use of submarines as research platforms is likely to continue, resulting in potential disturbance to bowheads.

The U.S. Army Corps of Engineers is currently in the process of evaluating the feasibility of expanding the Delong Mountain Terminal port so that cargo ships can access the terminal directly, instead of being loaded offshore. This would result in fewer barges being needed for transport of concentrate from the terminal to cargo ships, but would not change the number of cargo ships in the area. Noise associated with dredging during construction would result in

temporary noise disturbance to bowhead whales. Future development associated with the Red Dog Mine facility includes onshore developments, such as roads and/or infrastructure, which would have no impact on bowhead whales.

Tourism activities are likely to increase in the area, resulting in potential ship strikes and increased noise. The effects of ship strikes are discussed in Section 4.6.3 and the anthropogenic noise on bowheads are discussed in Section 4.6.1.

4.6.6 Cumulative Effects of the Alternatives on Bowhead Whales

The major elements of cumulative effects on bowheads have been described above, primarily in terms of mortality and disturbance. The intent of this section is first to summarize the combined effects from factors other than subsistence whaling and then to assess the contribution of the alternatives to the overall cumulative effects on bowheads. (For the direct and indirect effects of subsistence harvests on bowhead whale populations, see Section 4.4.)

4.6.6.1 Anthropogenic Mortality from Sources other than Subsistence Whaling

Offshore oil and gas development would not likely contribute to mortality unless there was an oil spill. The potential magnitude of mortality on bowheads would depend on a large number of variables that cannot be predicted ahead of time: size, location, and timing of a spill; ice/open water characteristics at the time; weather; cleanup efforts; and presence of whales. Although there are a number of oil development projects that could contribute to this risk of mortality, the high degree of uncertainty regarding the magnitude and duration of a future oil spill event precludes the identification of a particular mortality level as a "reasonably foreseeable" effect. Ship strikes and entanglement in fishing gear are also likely contribute to mortality and could affect whales throughout their range. Evidence from harvested whales indicates that entanglement is fairly common (perhaps 10%) but probably temporary for most whales because serious injuries are thought to be relatively rare and observed mortality from these sources is 0.2 whales per year (Angliss and Outlaw, 2007). The incidence of ship strikes and entanglement could increase in the future depending on the impacts of climate change on the expansion of fisheries and marine traffic in the Arctic. The very low level of bowhead mortality from sources other than subsistence whaling efforts (less than one whale per year) is unlikely to cause the population to decline or slow its rate of recovery. The magnitude, geographic extent, and duration of this level of mortality is therefore considered negligible for the bowhead population (Table 4.1-1).

4.6.6.2 Disturbance from Sources other than Subsistence Whaling

Offshore petroleum development, shipping, fishing, and research all contribute marine noise and activities that may disturb bowheads to the point of altering their movement patterns and behavior. These activities take place across the range of the bowheads and are likely to continue or expand in the future. Although climate change does not disturb whales directly, it may affect bowhead movement patterns and behavior through its effects on sea ice distribution and zooplankton populations. Long-term and localized sources of noise such as offshore petroleum facilities can be regulated to mitigate the effects on bowheads during the times when they are present, but none the less may lead to bowheads avoiding those areas, essentially creating habitat loss. Mobile sources of noise such as marine vessels tend to be short-term and inconsistent in

time and place. Whales may avoid these sources when they encounter them but are not likely to abandon a particular area of their range unless the disturbance is more consistent. While human sources of disturbance could serve to inhibit the use of some areas by bowheads, the retreat of sea ice due to climate change may allow bowheads to expand their range. The cumulative effect of disturbance on bowheads is minor in magnitude, since the distribution of the bowhead population is unlikely to be changed. Concerning the factor of geographic extent, the disturbance effects discussed in this section are primarily localized, but in a number of locations, for a rating of moderate. The duration of these effects is short-term, for a rating of minor. In all, the effects of disturbance are unlikely to limit bowhead population growth and so they are considered to be minor (Table 4.1-1).

4.6.6.3 Contribution of the Alternatives to Cumulative Effects

Alternative 1 would eliminate the federal quota for subsistence taking of bowhead whales and result in the elimination of subsistence whaling activities and harvest. The magnitude of direct mortality under this alternative is considered negligible to the population of bowheads. Human activities associated with subsistence whaling would be sharply reduced under this alternative so that the amount of noise and disturbance from subsistence whaling would be considered negligible. The cumulative effects of human activities other than subsistence whaling were described and rated negligible to minor in the preceding sections. Alternative 1 would contribute a negligible amount of mortality and disturbance to the cumulative effects on bowheads as previously described.

Alternative 2 would authorize a maximum annual mortality of 67 bowheads (strikes) for a five-year period (up to 335 whales total, subject to a cap of 255 landed whales) (see Section 4.4 for more detailed discussion). This level of mortality is considered negligible at the population level for bowheads (Table 4.1-1). Mortality from sources other than subsistence whaling is also considered negligible (as described above), so the cumulative effect of these two sources of mortality would be considered negligible at the population level. Human activities associated with subsistence whaling under Alternative 2 would vary from year to year and place to place depending on whale movements, weather, ice characteristics, and social factors. Disturbance to the whales from subsistence whaling activities under Alternative 2 would not affect the distribution of bowheads, and would be localized and short-term, so this is considered a minor impact to the population. Subsistence whaling activities would contribute on a regular, seasonal basis to the cumulative effects of disturbance from non-whaling activities. Overall, disturbance sources tend to be minor in magnitude, to impact a relatively small portion of the range for the population, or to be very short in duration. The cumulative effects of disturbance from all sources, including the contribution from Alternative 2, would be considered minor to the population.

Alternative 3 would authorize a maximum mortality of 82 bowheads (strikes) in a given year, if the authorized maximum carry-over of 15 unused strikes were to occur, with a total mortality of up to 350 whales over the five-year period, subject to a cap of 255 landed whales (see Section 4.4 for more detailed discussion). This level of mortality is considered negligible at the population level for bowheads (Table 4.1-1). The cumulative effects analysis for Alternative 3 is similar to that described for Alternative 2 above, with negligible cumulative effects through mortality and minor cumulative effects through disturbance, including the contribution from Alternative 3.

Alternative 4 would authorize a maximum mortality of 100 bowheads (strikes) in a given year, if the authorized maximum carry-over of 33 unused strikes were to occur, with a total mortality of up to 368 whales over the five-year period, subject to a cap of 255 landed whales (see Section 4.4 for more detailed discussion). This level of mortality is considered negligible at the population level for bowheads (Table 4.1-1). The cumulative effects analysis for Alternative 4 is similar to that described for Alternative 2 above, with negligible cumulative effects through mortality and minor cumulative effects through disturbance, including the contribution from Alternative 4.

4.7 Direct, Indirect, and Cumulative Effects on Other Wildlife

4.7.1 Direct and Indirect Effects of the Alternatives

Alternative 1 would eliminate the federal quota for bowhead whales and result in the elimination of authorized subsistence whaling activities and harvest. It is likely that hunting pressure on other species (especially seals, walrus, and caribou) would increase substantially to compensate in part for the loss of whale harvest. Although this increased effort on other species is unlikely to replace the whale harvest, it could lead to moderate reductions in the populations of popular game species around the whaling communities. Hunting pressure on smaller game species might increase a small amount with minor effects on populations. Increased hunting activity would also increase noise and disturbance to game species and other wildlife. Since the loss of whaling would affect a number of communities, increased hunting disturbance would affect game populations in numerous locations, but not range-wide for any species. For species that often congregate in numbers, like walrus and caribou, disturbance could affect numerous animals for each hunting event and the effects would be considered moderate. For species that are primarily dispersed, like seals and polar bears, few animals would be disturbed and the effects would be considered minor. The duration of effects would depend on the duration of a whaling moratorium but the frequency of disturbance on other wildlife would likely vary from minor to moderate.

Alternatives 2, 3, and 4 are not expected to have more than negligible or minor effects on other wildlife species. The USFWS was consulted and concurred with NMFS's conclusion that the proposed action is not likely to adversely impact ESA listed species under USFWS jurisdiction (USFWS, 2002b). Just as individual whales may be indirectly affected by hunting activities, (e.g., vessel noise) (Section 4.5), other wildlife such as seals or polar bears may also be disturbed by these activities. Moreover, the Native villages and communities that currently harvest bowhead whales would be likely to alter their harvest patterns of other subsistence foods depending on the number of bowhead whales harvested. This currently occurs, as other species may be sought out when bowheads cannot be hunted due to weather/ice or whenever a village's hunting is only partially successful. At these times it is possible that subsistence hunters may increase their harvest of other animals, such as seals, ducks, fish, caribou, bear, walrus, beluga whales, or Dall sheep. It is not possible to quantify this effect, as each subsistence food may have its own individual value and place within the Native diet. A pound of bowhead whale *maktak* is not necessarily replaceable by a pound of caribou or whitefish, even if that were possible. In magnitude, extent, and duration, these effects are considered negligible to minor.

4.7.2 Cumulative Effects of the Alternatives

4.7.2.1 Past and Present Effects

Chapter 3 describes a number of marine and terrestrial wildlife species that are present in the Alaskan coastal areas considered in this EIS. Some of these bird and mammal species are affected directly or indirectly by bowhead whaling activities:

- Disturbance (marine species);
- Mortality associated with supplying whaling crews with food (seals, caribou);
- Mortality associated with whaling equipment (bearded seal, walrus, furbearers);
- Personal defense mortality of polar bears attracted to hunting camps and butchering sites;
- Mortality associated with community celebrations (waterfowl, caribou, seals); and
- Mortality associated with alternative food sources when whaling is not successful (marine and terrestrial species).

Other species (gray whales, minke whales, killer whales, harbor porpoise, short-tailed albatross, and many terrestrial mammals) would not be affected directly or indirectly by bowhead whaling activities. These species will not be considered further because the alternatives would not contribute to any cumulative effects for the species.

Chapter 3 summarizes the major natural and human-influenced factors that affect different wildlife species in the Arctic. For most of these species, reasonable population estimates and trends are not available so it is difficult to establish the relative importance of natural and human influenced factors to population level effects. Some of the major human influenced factors that contribute to cumulative effects on these species include:

- Subsistence and sport hunting;
- Noise and disturbance from motorized vehicles and vessels;
- Environmental contamination (air, water, and land) from distant industrial and agricultural sources;
- Oil spills and other discharges from marine traffic;
- Noise and pollution from oil and gas development;
- Environmental changes due to global warming; and
- Commercial fishery interactions.

4.7.2.2 Reasonably Foreseeable Future Effects

All of the human activities and factors that have contributed to wildlife effects in the past are likely to continue in the future. The relative importance of various factors and intensity of effects on different species is likely to change over time, especially as environmental (climate) changes become more pronounced. Although extensive modeling efforts are underway to help predict changes in the physical environment (ACIA, 2004; IPCC, 2007), the synergistic responses of animals and humans to future environmental conditions are very difficult to predict. Major conservation concerns in the Arctic include substantial reductions in ice pack habitat with major adverse impacts on ice-dependent species such as seals, walrus, and polar bears (ACIA, 2004). In addition, the retreat of sea ice has forced many polar bears to spend more time on land where they are more susceptible to starvation and more frequent interactions with people, leading to an

increasing frequency of bear and human mortalities that will likely continue in the future (Wohlforth, 2004; Schliebe et al., 2006).

4.7.2.3 Cumulative Effects

Under Alternative 1, it is likely that hunting pressure and associated disturbance on other wildlife species (especially seals, walrus, and caribou) would increase substantially to compensate in part for the loss of whale harvest, which might result in minor to moderate reductions in game populations around the whaling communities. These populations are managed for sustainable harvests by the ADF&G the state under its regulations and under co-management agreements with Alaska Native Organizations. For ice-dependent species, cumulative effects are likely to be dominated by the effects of climate change but the contribution of Alternative 1 would be minor to moderate based on increased harvest and associated disturbance of ice-dependent marine mammals (i.e., seal and walrus populations), at least near whaling communities. Increased harvest of terrestrial game species might add to the difficulty of managing game populations, especially with the uncertainty of how climate change will affect different terrestrial species. For other species, including threatened and endangered species, cumulative effects are likely to be dominated by conservation issues independent of whaling activities, as outlined above. The contribution of Alternative 1 to the cumulative effects on these species would be moderate for important game species (e.g., caribou) and minor for other species based on increased hunting pressure.

Alternatives 2, 3, and 4 would result in a similar amount of whaling activity and harvest over a five-year period, although total take levels could vary annually among these alternatives, due to differing provisions concerning carry-over of unused strikes. Based on low magnitude, limited geographic extent, and short-term duration, the direct and indirect effects of these alternatives are considered to be negligible to minor for other wildlife, depending on the species. For ice-dependent species, cumulative effects are likely to be dominated by the effects of climate change and the contribution of the alternatives is considered negligible to minor. For other species, including threatened and endangered species, cumulative effects are likely to be dominated by conservation issues independent of whaling activities, as outlined above. The contribution of the alternatives to the cumulative effects on these species is considered negligible.

4.8 Direct, Indirect, and Cumulative Socio-cultural Effects

4.8.1 Effects on Subsistence Patterns

The past, present, and future importance of the bowhead whale in these Eskimo villages cannot be overemphasized. The AEWG has stated "whaling, more than any other activity, fundamentally underlies the total lifeway of these communities" (AEWG, undated). Eskimos have hunted the bowhead whale for over 2,000 years, and the hunt remains the dominant aspect of their culture. Subsistence whaling is a year-round activity in these villages, beginning each winter with preparation of skin boats and caribou hunting for meat supplies for the crews and sinew for sewing bearded seals skins used for *umiaks*, preparation of ice cellars, outfitting the camps with supplies. Spring whale hunting involves shared labor in harvesting followed by widespread distribution of bowhead whale food and, cultural events celebrating the harvest. By summer time, whalers are hunting for bearded seals for use in building *umiaks* for the following year's spring bowhead hunt, followed by autumn whaling (in Barrow, Nuiqsut, and Kaktovik).

Bowhead whale meat and oil have long provided and continue to provide important contributions to the Eskimo diet and are thought to be especially valuable in supplying high-calorie protein in a cold and harsh climate. Subsistence foods are highly nutritious and contain heart-healthy fats (Nobmann, 1997 in MMS, 2006c:167). A recent study found that Alaska Natives with higher levels of polyunsaturated fats, found in fish oils and marine mammals, had lower heart disease mortality (McLaughlin et al., 2005). A permanent loss of whale meat could precipitate the physical, psychological, and cultural trauma that often accompanies drastic and forced dietary changes (Michie, 1979). The sale of bowhead whale meat is prohibited; however, edible portions are shared throughout the communities of Alaska's North Slope. Bowhead whales also provide raw materials for the creation of Native handicrafts, which may be legally sold.

In 1997, the AEWG documented a level of 280 landed whales over a five-year period as necessary to provide for the nutritional and cultural needs of these communities. The 2007 need statement of the AEWG (Appendix 8.1) documents a continuing need at the same level. Any alternative that would provide fewer whales would be expected to have some level of adverse impact to socio-economic and cultural needs of these villages. It is not likely the nutritional or cultural void created would or could be filled with substitute foods. Imported foods cannot readily take the place of whale and other marine mammals which are central to the cultural identity and diets of Eskimos (Michie, 1979).

Under Alternative 1, there would be no federal authorization of subsistence bowhead whaling for the five years 2008 through 2012. With no subsistence whaling, the direct effects of this alternative would include the loss of tens of thousands of pounds of highly valued food, attenuation of the social cohesion occasioned by the shared work among whaling crews and other cooperators in the year round work of preparation for whaling, disruption in the bonds established through food sharing, and diminished the opportunity for young people to continue to learn the knowledge, practice, and beliefs associated with this central cultural institution (Worl, 1979). Indirectly, Alternative 1 would likely result in redirection of subsistence harvest effort to other subsistence resources, but it is unlikely that the volume of food produced in whaling could be recreated. It is likely that local residents would increase their use of imported foods, but given the high costs of imported foods, especially for frozen and fresh foods, it is likely that the increase would be in imported foods of lower nutritional value.

Eskimo leaders and institutions would likely contest the elimination of subsistence bowhead whaling, as they did in 1977 at the time of the IWC moratorium (Langdon, 1984). This might involve litigation, and highly charged efforts to petition federal agencies and the Congressional delegation seeking relief. Alternative 1 would likely be viewed by the AEWG as a failure by the U.S. government to uphold Native rights of Alaska Eskimos. Since the MMPA and ESA expressly provide for the right for Alaska Native subsistence hunting, and since there is no conservation-based rationale for denying the quota, elimination of a quota would not comport with NMFS's objective to accommodate federal trust responsibilities to the fullest extent possible consistent with applicable law. Alternative 1 could also result in confrontation between the AEWG and NMFS. Cooperative research and management efforts between the AEWG and NMFS that benefit marine mammals could be jeopardized. The loss of such an important subsistence food resource would be an impact of major magnitude. Since all AEWG communities would be similarly affected, this impact would be major in extent. The duration of such an effect is uncertain, since NMFS might revisit such a decision in a subsequent year, or it could last for the five-year period of the current authorizations for aboriginal subsistence

whaling. In all, the direct, indirect, and cumulative effects of Alternative 1 on subsistence patterns would be adverse and major (Table 4.1-3). Alternative 1 would result in major impacts to socio-cultural systems, and this contributes more to total cumulative effects than do the other activities, such as oil and gas exploration or ship strikes and fisheries entanglements.

Alternative 2 would provide for subsistence bowhead whaling at a level that would address the identified Alaska Eskimo cultural and nutritional subsistence needs. However, Alternative 2 provides for no carry-over of unused strikes. The direct effects would include continuation of the subsistence food contribution of bowhead whales, the cooperative work and food sharing practices, and crucial cultural learning opportunities for young people. Indirect effects would include continuation of the current levels of diversity in subsistence resource uses, and continuing levels of reliance on subsistence foods, supplemented by purchased foods. Alternative 2 would avoid the adverse reaction to no quota predicted under Alternative 1. With no carry-over of unused strikes, Alternative 2 would not provide the flexibility that whaling captains have been afforded for many years. When weather conditions are adverse late in a year, whaling captains have previously had confidence that unused strikes would be available in a subsequent year, although these have actually been used infrequently (i.e., once in the period 1998-2006, as shown in Figure 3.2.1-2). These direct and indirect socio-cultural effects are considered beneficial, and of major magnitude, extent, and duration.

The direct and indirect effects of Alternative 2 contribute to cumulative effects with the noise and disturbance impacts from oil and gas exploration and development as outlined in Section 4.6.1. In particular, whales tend to avoid areas of high noise, and these deflections of the migration might make subsistence whaling more time-consuming and, in periods of rough seas, more dangerous. These impacts may differ by season, and as a result of mitigation measures imposed by the MMS on industry and the cooperative Conflict Avoidance Agreements negotiated between industry and the AEWC (MMS, 2006c:170). The Conflict Avoidance Agreements include provisions for observers to sight whales and exclusion distances, so that seismic activities are stopped when whales are in the vicinity, in order to minimize disturbance. Generally, spring whaling occurs before seismic activities are underway, and mitigation measures and the Conflict Avoidance Agreement create exclusion zones to avoid seismic activities when whales are nearby. Cumulative effects on spring whaling would be rated as minor. For fall whaling, the likelihood of impacts is less certain, because it turns on the effectiveness of mitigative measures. The NSB and the AEWC have expressed on-going and more urgent concern about the potential for growing levels of seismic exploration to deflect bowhead whales further and for longer periods away from the traditional harvest areas. This would increase the displacement of traditional subsistence whaling practices, requiring greater travel distances, time and cost. On the basis of current knowledge, this analysis concludes that the deflection effects are generally limited, though not completely known, and that the potential for disturbance to the whales and to subsistence whalers result in cumulative socio-cultural effects that can be considered moderate in magnitude and extent, and minor in duration. In total, the cumulative effects of Alternative 2 on subsistence patterns would be positive and minor to moderate in magnitude, extent, and duration. The beneficial contribution of Alternative 2, in authorizing the subsistence whale hunt, is a greater proportion of total cumulative socio-cultural effects than the adverse effects resulting from other activities, including noise from oil and gas exploration and development.

Alternative 3 would provide for the same continuity in subsistence harvests and related social and cultural benefits as Alternative 2. However, Alternative 3 would provide for the longstanding flexibility to carry-over up to 15 unused strikes into a subsequent year. In contrast to Alternative 2, the carry-over feature of Alternative 3 would provide whaling captains with the continuing confidence that if adverse weather prevents a safe hunt late in the season, they will recoup the opportunity in the following year through the carry-over of up to 15 unused strikes. Direct, indirect, and cumulative effects would be the same described for Alternative 2. In total, the cumulative effects of Alternative 3 on subsistence patterns would be positive, and minor to moderate in magnitude, extent, and duration. When considered in conjunction with other cumulative effects, the beneficial contribution of Alternative 3, in authorizing the subsistence whale hunt, is a greater proportion of total cumulative socio-cultural effects than the adverse effects resulting from other activities, including noise from oil and gas exploration and development.

Alternative 4 provides for the ongoing subsistence allocation and the carry-over of unused strikes, up to half of the strike quota of 67, into a subsequent year. This might be viewed as more favorable to the AEWC because it would allow Alaska Eskimos the maximum flexibility in conducting their subsistence hunts from year to year. The direct and indirect impacts of Alternative 4 would be the same as for Alternative 2 concerning the continuing food production, social, and cultural benefits of the current levels of subsistence bowhead whaling. Direct, indirect, and cumulative effects would be the same described for Alternative 2. In total, the cumulative effects of Alternative 4 on subsistence patterns would be positive, and minor to moderate in magnitude, extent, and duration. When considered in conjunction with other cumulative effects, the beneficial contribution of Alternative 4, in authorizing the subsistence whale hunt, is a greater proportion of total cumulative socio-cultural effects than the adverse effects resulting from other activities, including noise from oil and gas exploration and development.

4.8.2 Effects on Eskimo Health and Public Safety

4.8.2.1 Nutritional Benefits and Risks

In addition to the food volume produced through subsistence bowhead whaling, nutritional benefits, and risks can be assessed, at least in qualitative terms. As a result of industrial pollution, long distance vectors for transport and deposition in Arctic environments, and high rates of persistence, many contaminants are found in Arctic subsistence resources. As described in Section 3.2.6, bowhead whale subsistence foods have been analyzed for their levels of contaminants, including PCBs, DDTs, OCs, and chlordanes and heavy metals. These contaminant levels varied with gender, length/age, and season, but were generally relatively low compared to other marine mammals. Reports by the Arctic Monitoring and Assessment Programme (AMAP) identified levels of contamination meriting closer public health attention in some parts of the Arctic, though generally not in Alaska (AMAP, 2002, 2003).

At the same time, public health officials recognize that the loss of subsistence foods would have far-reaching consequences throughout the socio-cultural system of small, predominantly indigenous communities. A report from the Alaska Division of Public Health, Section of Epidemiology in 1998 observed that:

Changes in diet, lifestyle, and the social and cultural disruption that follows the cessation of subsistence may contribute to a wide array of changes in communities from increases in obesity and diabetes, to increases in violence, alcoholism and drug abuse (Egeland et al., 1998: 9).

Moreover, highly nutritious subsistence foods are generally replaced by nutritionally inferior purchased foods. The report further stated:

The market foods that often replace locally harvested wildlife are high in saturated fat and vegetable oils and carbohydrates and often lower in nutrient value. In addition, dietary changes are complex in nature, often coinciding with a number of other lifestyle changes which also contribute to increases in chronic diseases such as heart disease, diabetes, and cancer (Egeland et al., 1998: 9).

In a 2004 update on risk and benefits of traditional foods, the Alaska Section of Epidemiology studied mercury contaminant levels in fish and marine mammals, including data on human uptake (i.e., biomonitoring through hair samples). This study reiterated the findings of the 1998 report and continued to recommend "unrestricted consumption of fish and marine mammals from Alaska waters as part of a balanced diet" (Arnold and Middaugh, 2004:2). The authors also acknowledged the AMAP work, and noted:

Public health officials from AMAP and other arctic scientists concluded that the nutritional and physiological health benefits of traditional Arctic subsistence foods outweigh potential risks in most areas of the Arctic, and advise local public health policy makers to encourage continued traditional food use when indicated by risk benefit analyses (AMAP, 2002; 2003; cited in Arnold and Middaugh, 2004:11).

In short, documented contaminant levels in bowhead whales in Alaska do not represent a threat to the health of subsistence users at current levels. Given the low levels of risk, public health officials conclude that the nutritional decline from loss of subsistence foods, like bowhead whale meat and blubber, would be far more adverse.

Under Alternative 1, there would be no federal authorization of subsistence bowhead whaling for the five years 2008 through 2012. The direct effects of this alternative, assuming no unauthorized whaling, would be to eliminate the nutritional benefits of bowhead whale consumption, and to eliminate exposure to the low contaminant levels in bowhead whale meat and blubber. Indirect effects would include consumption of a different mix of subsistence foods, as hunters redirect their harvest efforts to species not prohibited to them. However, it is unlikely that redirected subsistence hunting effort could replace the exceptional volume of bowhead whale food for most of the affected communities. Instead, it is likely that purchased food of inferior nutritional value would become a larger portion of total food consumption, with deleterious health effects. As noted above, the loss of a central subsistence harvest activity may also contribute to behavioral health problems. The AEWC considers it very important to recognize the adverse nutritional and behavioral health effects that would likely follow if bowhead subsistence whaling were prohibited (AEWC, personal communication). In their view, this category of impacts has not been previously been given sufficient attention.

Because it would affect a large portion of the all AEWC communities, the effects of Alternative 1 would be adverse and major in magnitude and extent. The duration of these effects is not known, since the NMFS could revisit its decision in a subsequent year, or the decision to deny a quota could continue for the five-year period similar to current authorizations. In all, the effects of Alternative 1 on the nutrition and health would be adverse and major (Table 4.1-3).

Alternative 2 would reauthorize subsistence bowhead whaling at a level sufficient to address the identified Alaska Eskimo cultural and nutritional subsistence needs, with no provision for carry-over of unused strikes into a subsequent year. The direct effect of this alternative would be to continue the significant positive contributions of bowhead whale foods to the nutritional level of subsistence users. Concurrently, subsistence users would continue their low levels of exposure to contaminants in bowhead meat and blubber. Few indirect or cumulative effects would be expected, as this alternative provides for continuity in bowhead harvest levels, rather than redirection to other subsistence resources or purchased foods. The lack of provisions for carry-over of unused strikes may make a very small difference in harvest levels. While carry-over provisions do provide flexibility to whaling captains late in the season, they have rarely been used. Since this alternative does reauthorize the subsistence hunt, the effects of Alternative 2 on nutrition and health would be positive and major in magnitude, extent, and duration, securing a substantial subsistence harvest opportunity for all AEWC communities for the next five years.

Alternative 3 would provide for the same continuity in subsistence harvests and related social and cultural benefits as Alternative 2. The only difference is that Alternative 3 would continue the longstanding flexibility to carry-over up to 15 unused strikes into a subsequent year. The direct, indirect, and cumulative effects of Alternative 3 on health and nutrition are the same as those in Alternative 2. The additional flexibility provided by the opportunity to carry-over unused strikes into a subsequent year is expected to have a small, but positive, effect on harvest levels. Although this flexibility has rarely been used, carry-over of unused strikes could increase the take in a year following one in which adverse weather prevented optimal hunting success. Because this alternative reauthorizes the subsistence hunt, the effects of Alternative 3 on nutrition and health would be positive and major in magnitude, extent, and duration, securing a major subsistence harvest opportunity for all AEWC communities for the next five years.

Alternative 4 provides for the ongoing subsistence allocation and the carry-over of unused strikes, up to half of the strike quota of 67, into a subsequent year. The direct, indirect, and cumulative effects of Alternative 4 on health and nutrition are the same as those in Alternative 2. The additional flexibility provided by the opportunity to carry-over unused strikes into a subsequent year is expected to have a small, but positive, effect on harvest levels. Again, carry-over provisions have rarely been used, but the flexibility could increase the harvest in a year following one in which adverse weather prevented optimal hunting success. The effects of Alternative 4 on nutrition and health would be positive and major in magnitude, extent, and duration, securing a major subsistence harvest opportunity for all AEWC communities for the next five years.

4.8.2.2 Public Safety

Subsistence whaling carries a range of inherent risks, including the dangers of small open boats in Arctic waters, shore ice breaking off and isolating whaling camps, and accidents on the ice as snow machines travel from the village to ice edge whaling camps. Inupiat and Siberian Yupik

whalers have long expressed a profound concern for safety. A rich body of oral history includes episodes of hunters thrust into life threatening situations, as lessons for survival. Cumulative traditional knowledge and ongoing close-grained observations of weather and ice conditions are topics of constant discussion, as whaling captains and crews assess safety and risks arising from these conditions (George et al., 2004b).

Another class of safety risks arises from the incorporation of new technologies into whaling, ranging from the historic adoption of the harpoon bombs in the Yankee whaling era, to more recent use of heavy equipment and steel cables to haul massive bowhead whales up onto the ice. The AEWG has implemented a village training program to promote hunter safety and effectiveness, including the use of newer penthrate projectiles.

Several recent episodes are representative of the risks involved in whaling. In a tragic accident in 2005, a skin-covered whaling boat from Gambell capsized while helping to tow a bowhead back to the community in the 8 foot swells and overnight darkness. The mayor, his two children and another adult were drowned, while two crew members survived (Spero News, 2005; Siku Circumpolar News Service, 2005). In the mid-1990s, a Nuiqsut whaling boat capsized while on a resupply run in rough seas during the fall hunt. One hunter died. In a recent report to the IWC, the AEWG referred to an accident during a recent hunt in Barrow, in which "one of the most experienced harpooners in the Arctic was killed when his board capsized while towing a whale; he was trapped under it" (AEWG, 2006). In the early 1980s, six whale hunters from Savoonga survived a capsizing accident just after harpooning a large bowhead whale (Alaska Magazine, 1982).

Two major episodes of sudden break-off of the ice are recounted in George et al., (2004b). In a famous episode of onshore ice thrust, known in Inupiat as *ivu*, in 1957, the break up of shorefast ice was so sudden and abrupt that whaling camps and equipment were abandoned and dog teams cut loose, as whalers scrambled for shore. No lives were lost, but the event became famous as a warning about setting camp on flat pans of multi-year ice, referred to as *piqaluyak*. It took many years for whaling crews to recover and obtain new equipment. In 1997, 12 whaling camps and 142 people were carried off as the shorefast ice broke off, an event referred to as *uisauniq*. Although captains recognized some signs of unstable ice, this particular episode arose suddenly, without time to retreat to shore. Fortunately, many whalers had GPS equipment and radios, and the Barrow Search and Rescue helicopters were able to retrieve all hunters with no loss of life (George et al., 2004b). In another example of risks attributable to changes in ice quality, NSB officials cite recent instances of hunters falling through ice while traveling on snow machines from the community to the camps (R. Suydam, NSB, personal communication).

Injuries involving accidental discharge of harpoon bombs are reported in earlier decades. In 1940, an anthropologist working in Point Hope reported four accidental explosions of the shoulder guns, resulting in one death and one injury (Rainey, 1940). Three members of a Barrow whaling crew sustained injuries, serious in one case, when a bomb exploded in the whale gun in May 1968 (Naval Arctic Research Laboratory, 1968). Another accident involving equipment failure was reported in Barrow in 1992, when the block and tackle gear used to haul the whale up on the ice broke, and flying cables killed two women (R. Suydam, NSB, personal communication).

In the perspective of cumulative effects, the trends of several of these dangers interact with the effects of climate change, as the shorefast ice environment becomes more unstable and less predictable. In addition, changes in open water lead patterns oblige whaling crews to pursue bowhead whales through greater distances. Weather conditions may be less predictable and therefore more dangerous to whaling crews. Declines in the thickness of shorefast ice due to global warming increase the dangers of breakoffs, in which camps are separated from land, with significant dangers to the whaling crews (George et al., 2004b).

Under Alternative 1, there would be no federal authorization of subsistence bowhead whaling for the five years, 2008 through 2012. The direct effect of this moratorium would be to avoid exposure to the risks associated with whaling. However, as an indirect effect, subsistence efforts would be redirected to other resources and these involve risks as well. Harvest of other marine mammal species, such as seals and walrus, may involve similar risks. In the cumulative case, the effects of climate change are increasing the risks associated with less predictable weather, dangerous open water conditions, and unstable ice. In all, the effects of Alternative 1 on public safety would be positive and minor to moderate in magnitude, because subsistence harvest effort redirected to other resources would involve similar risks on the ice and open water, though not through the use of harpoon guns and large block and tackle equipment. Since the effects of this alternative would reach all AEWC communities they would be rated major in extent, and since this would last for five years, this would be moderate in duration. In all, the effects of Alternative 1 on public safety would be beneficial and minor.

Alternative 2 would provide for subsistence bowhead whaling at a level that would address the identified Alaska Eskimo cultural and nutritional subsistence needs. However, Alternative 2 provides for no carry-over of unused strikes. Direct and indirect effects of this alternative would be continuing exposure to the current levels of risk inherent in bowhead whaling, and other subsistence pursuits. The provisions regarding carry-over of unused strikes would not appreciable change the effects of this alternative. The cumulative effects would be driven by the effects of climate change, as noted in the account for Alternative 1. The magnitude of effects of Alternative 2 on public safety would be minor, since the effects reach a minor proportion of the communities, and major in extent, in that all AEWC communities are affected. The safety incidents are very infrequent, and so are rated minor in duration and frequency. In all, the effects of Alternative 1 on public safety would be adverse at a minor level.

Alternative 3 would provide for the same continuity in subsistence harvests and related social and cultural benefits as Alternative 2. The only difference is that Alternative 3 would provide for the longstanding flexibility to carry-over up to 15 unused strikes into a subsequent year. The direct, indirect, and cumulative effects would be the same as those noted for Alternative 2. In all, the effects of Alternative 3 on public safety would be adverse at a minor level.

Alternative 4 provides for the ongoing subsistence allocation and the carry-over of unused strikes, up to half of the strike quota of 67, into a subsequent year. The direct, indirect, and cumulative effects would be the same as those noted for Alternative 2. The effects of Alternative 4 on public safety would be adverse at a minor level.

4.8.3 Effects on Other Tribes and Aboriginals

The IWC provided for aboriginal groups to hunt whales in the original Schedule of Regulations adopted in 1946. The Commission began regulating aboriginal subsistence hunts when it first set catch limits for bowhead whales in 1977. Revision of bowhead catch limits in furtherance of subsistence hunts by Alaska Eskimos and Chukotkan aboriginal people sets no new precedent that could increase commercial or subsistence hunts. The media has reported that Canadian Aboriginal First Nations have also conducted subsistence hunts. Canada is not a member of the IWC, and the U.S. government opposes any hunts by Canadian Aboriginal people unless Canada seeks and receives authorization from the IWC. Nonetheless, Canada has, since 1991, allowed its Aboriginal people to take bowhead whales regularly from the Davis Strait and Hudson Bay stocks of bowhead whales. Infrequently, Canadian Inuvialuit have taken bowhead whales in the eastern Beaufort Sea at the Mackenzie Delta. As noted in Section 3.2.4, successful harvests of a single whale were reported for 1991 and 1996.

Under Alternative 1, there would be no NMFS authorization of subsistence bowhead whaling for the five years, 2008 through 2012. If the Russian Federation did the same, the Chukotkan aboriginal people would also be denied a subsistence hunt. This would represent the loss of the food value of up to five bowhead whales authorized per year, although average harvests as described in Section 3.2.4 are closer to one bowhead whale per year. Since the Canadian government has withdrawn from the IWC, the very limited harvest of Western Arctic stock bowheads would continue in the Mackenzie Delta area. As an indirect effect of Alternative 1, working relationships with other tribes might be adversely affected since the tribes might view NMFS's action under this alternative as a breach of faith by the U.S. government in upholding Native subsistence rights. Most Native tribes throughout the U.S. would likely view Alternative 1 as a failure on the part of NMFS to exercise its trust responsibility with respect to Alaska Eskimos, and possibly to Native Americans in general. In light of the potential for political action by Alaska Natives to defend the bowhead subsistence hunt, described in Section 4.8 above, the potential impact on other tribes may be moderate to major, depending on the extent to which this emerges as a national issue among Native American tribes.

Alternative 2 would provide for a continuing level of subsistence bowhead whaling and would promote cultural diversity and recognize the importance of maintaining traditions for the coherence of Alaska Eskimo groups. This alternative would also make it possible for the AEWC to carry on subsistence hunts that are sanctioned by the IWC. Official recognition that traditional subsistence activities, such as whale hunts, are culturally valuable will be reassuring to Native Americans in general. Thus, Alternative 2 would avoid the adverse, indirect effects of deterioration in working relations between NMFS and other tribes. Alternative 2 does not provide flexibility to the bowhead subsistence whalers in the form of carry-over of unused strikes into a subsequent year, but this is not likely to affect the working relations of NMFS with other tribes. The effects of Alternative 2 on other tribes would be negligible.

Alternative 3 provides for continuation of the current level of flexibility with carry-over of unused strikes, in that up to 15 can be carried into a subsequent year. The direct and indirect effects of this alternative on relations with other tribes are the same as those of Alternative 2. The effects of Alternative 3 on other tribes would be negligible.

Alternative 4 provides for a greater level of flexibility in that up to half of all unused strikes could be carried over into a subsequent year. The direct and indirect effects of this alternative on relations with other tribes are the same as those of Alternative 2. The effects of Alternative 4 on other tribes would be negligible.

4.8.4 Effects on the General Public

There is a segment of the U.S. population that is opposed to whaling, particularly commercial whaling (according to letters and environmental group communications to the U.S. government). However, many citizens and non-governmental groups understand and appreciate the cultural and nutritional needs of Alaskan Natives to harvest bowhead whales in a subsistence hunt. Some citizens and groups oppose all whaling, no matter the situation.

Under Alternative 1, there would be no federal authorization of subsistence bowhead whaling for the five years, 2008 through 2012. This alternative may be supported by citizens opposed to all whaling. However, as noted above Alternative 1 is likely to result in political action by Alaska Native whalers, appealing for support to the general public. Citizens who support a limited opportunity for aboriginal whaling may be sympathetic to the claims of the Alaska Native whalers that their needs have been sacrificed for ideological reasons. Alternative 1 may be most acceptable to citizens who oppose all whaling. The effects of Alternative 1 on the general public may be seen as mixed, with countervailing tendencies, depending on the position of support or opposition to subsistence whaling held by a particular portion of the general public. The overall result is a moderate impact, beneficial in the eyes of the anti-whaling public, and adverse for those who support indigenous whaling rights.

Alternative 2 provides for an ongoing subsistence hunt for bowheads at a level that meets the nutritional and cultural needs. However, this alternative would not provide any flexibility for carry-over of unused strikes. Citizens who support aboriginal whaling would support this allocation, and would be relieved that confrontations between the subsistence whaling communities and the government agencies have been avoided. Citizens who oppose aboriginal whaling would not support this alternative. The specifics of the provisions on carry-over of unused strikes are not likely to be consequential to the general public. The effects of Alternative 2 on the general public may be seen as mixed, with countervailing tendencies, depending on the position of support or opposition to subsistence whaling held by a particular portion of the general public. The overall result is a minor impact.

Alternative 3 provides for the ongoing subsistence whaling allocation at a level that meets the identified need, and provides flexibility to whaling captains in that up to 15 unused strikes can be carried over to a subsequent year. The support and opposition to this alternative among the general public would be the same as that described for Alternative 2. The effects of Alternative 3 on the general public may be seen as mixed, with countervailing tendencies, depending on the position of support or opposition to subsistence whaling held by a particular portion of the general public. The overall result is a minor impact.

Alternative 4 provides for the ongoing subsistence whaling allocation at a level that meets the identified need, and provides flexibility to whaling captains in that unused strikes up to half of the authorized strike limit can be carried over to a subsequent year. The support and opposition to this alternative among the general public would be the same as that described for Alternative 2.

The effects of Alternative 4 on the general public may be seen as mixed, with countervailing tendencies, depending on the position of support or opposition to subsistence whaling held by a particular portion of the general public. The overall result is a minor impact.

4.8.5 Environmental Justice

In February 1994, the President issued EO 12898 on Environmental Justice (1994), which requires the federal government to promote fair treatment of people of all races, so no person or group of people bear a disproportionate share of the negative environmental effects from the country's domestic and foreign programs. Fair treatment means that no population, due to lack of political or economic power, is forced to shoulder the negative human health and environmental impacts of pollution or other environmental hazards. Environmental justice means avoiding, to the extent possible, disproportionate adverse environmental impacts on low-income populations and minority communities.

A minority is any individual classified as American Indian, Alaska Native, Asian or Pacific Islander, African American, or Hispanic. A low-income person is a person with a household income at or below the U.S. Department of Health and Human Services poverty guidelines. A minority population and low-income population are defined as any readily identifiable group of minority or low-income persons who live in geographic proximity, and if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who would be similarly affected by a proposed program, policy, or activity.

Potentially affected populations are presented below. The analysis of benefits and adverse effects on minority and low-income populations is presented in Section 4.8.5.2.

4.8.5.1 Affected Populations

The communities affected by the proposed action are the 10 member communities of the AEW. As discussed in Section 3.4, Socio-economic Environment, these are small, predominantly Alaska Native villages, with the exception that Barrow, as a regional service center, is larger and accounts for just over half of the regional population. In 2005 the AEW member communities counted a total of 8,131 residents, of whom 6,333 or 77.9% are Alaska Native or part Alaska Native.

According to the 2000 Census, the 10 AEW member communities had generally high rates of residents living below the federally-defined poverty level. Five communities (Diomed, Gambell, Kaktovik, Kivalina, and Savoonga) had comparatively high poverty rates, ranging from 26% through 35% of residents living below the poverty level. Three communities (Wainwright, Point Hope, and Wales) had intermediate rates, with 12% - 19% of residents below the poverty level. Two communities, Barrow and Nuiqsut, have low levels, with less than 9% of residents below the poverty level. All but two of these communities exceed the average rate of Alaska residents living below the poverty level, which is 9.4%, and in most cases these rates are two and three times the Alaska average.

For the purposes of the Environmental Justice analysis, all of the AEW communities qualify as predominantly minority, based on the high percentages of Alaska Native residents. The majority of these communities would qualify as having significant proportions of residents living below the poverty level, particularly when compared to the Alaska average.

4.8.5.2 Environmental Justice Effects Analysis

The analysis of Environmental Justice concerns examines whether disproportionate, adverse human health or environmental impacts would affect minority and low income communities. As shown in Section 4.8.5.1, all of the AEWC communities affected by the proposed action would qualify as minority and in most cases low income communities. For the purposes of this EIS, major impacts on bowhead whale populations or major impacts on subsistence whaling patterns would raise Environmental Justice concerns, as these would have a disproportionate adverse impact.

Under Alternative 1, no quota for subsistence bowhead whaling would be provided. As noted in Section 4.8.1, this would have major adverse direct, indirect, and cumulative effects upon the communities. Disruption of the bowhead harvest would eliminate a substantial food resource, disrupt cooperative labor and sharing practices, disrupt the learning process for young hunters, and disrupt highly valued cultural ceremonial events, particularly *Nalukatak*, the spring whaling festival. As a result of these disproportionate adverse effects, Alternative 1 would raise Environmental Justice concerns.

Alternatives 2, 3, and 4 would provide for an ongoing subsistence bowhead whaling quota, with variations in the provisions for carry-over of unused strikes into a subsequent year. Since these alternatives provide for continuity of subsistence whaling, the communities would not be affected by adverse direct or indirect effects. Concerning cumulative effects, Section 4.6 concluded that none of the alternatives, when ongoing mitigation measures are taken into consideration, would result in major adverse impacts on the bowhead whale population. Therefore, Alternatives 2, 3, and 4 would provide beneficial effects for the AEWC communities and do not raise Environmental Justice concerns that a minority population may be disproportionately impacted.

4.9 Summary of Effects

As presented in Chapter 2 of this document, four alternatives are analyzed in this EIS. Under Alternative 1, NMFS would not issue the AEWC a subsistence whaling quota for cultural and nutritional purposes. This could occur if, among other things, NMFS chose not to issue a quota based on environmental concerns.

Under Alternative 2, NMFS would (through annual quotas) grant the AEWC an annual strike quota of 67 bowhead whales per year, subject to a total of 255 landed whales over the five years of 2008 through 2012. Under this alternative, no unused strikes from a previous year would be added to the quota for a subsequent year, notwithstanding the IWC's approval, in May 2007, of a carry-over of unused strikes in the bowhead subsistence quota.

Under Alternative 3 (the proposed action), NMFS would (through annual quotas) grant the AEWC an annual strike quota of 67 bowhead whales per year (plus carry-over), subject to a total of 255 landed whales over the five years of 2008 through 2012. Under this alternative, up to 15 unused strikes from a previous year (including from the 2003 through 2007 quota block) could be added to the quota for a subsequent year, consistent with the IWC catch limits adopted in May 2007. A carry-over of up to 15 unused strikes was approved by the IWC in May 2007. A carry-

over allows for variability in hunting conditions from one year to the next within limits that conserve the Western Arctic bowhead stock.

Under Alternative 4, NMFS would (through annual quotas) grant the AEWC an annual strike quota of 67 bowhead whales per year (plus carry-over), subject to a total of 255 landed whales over the five years of 2008 through 2012. Under this alternative, up to 50% of the unused annual strike limit from a previous year (including from the 2003 through 2007 quota block) could be added to the quota for a subsequent year. The 50% carry-over (i.e., up to 33 whales struck) would not be consistent with the actions of the IWC in May 2007.

The following tables (Tables 4.9-1 through 4.9-3) summarize the direct, indirect, and cumulative effects under each alternative for all resources where environmental consequences were evaluated and found to be possible. More detailed discussions of direct, indirect, and cumulative effects can be found in Sections 4.4 through 4.8.

Table 4.9-1
Summary of Direct, Indirect, and Cumulative Effects on Bowhead Whales

Effect		Alternative 1 No Action: Do Not Grant AEWc a Quota	Alternative 2 Grant AEWc Annual Quotas (67 Strikes) with No Unused Strikes Carried Over	Alternative 3 (Preferred Alternative) Grant AEWc Annual Quotas (67 Strikes) with No More Than 15 Unused Strikes Carried Over Any One Year	Alternative 4 Grant AEWc Annual Quotas (67 Strikes) with Up to 50% of Unused Strikes Carried Over Any One Year
Direct and Indirect Effects	Mortality	Because this alternative would result in no authorized subsistence whaling, no direct or indirect mortality is likely. The magnitude, extent, and duration of effects are considered negligible to the population of bowheads.	This alternative would authorize a continuing level of direct subsistence harvests comparable to the previous five years. Given the current level of bowhead abundance, the magnitude, extent, and duration of direct mortality under this alternative is considered negligible to the population of bowheads.	Bowhead whales – (Same as Alternative 2)	Bowhead whales – (Same as Alternative 2)
	Disturbance	The noise and disturbance to bowheads under this alternative, with no subsistence whaling, would be considered negligible in magnitude, extent, and duration.	For the bowhead population, the direct and indirect effects of noise and disturbance under this alternative would be minor in magnitude, extent, and duration.	Bowhead whales – (Same as Alternative 2)	Bowhead whales – (Same as Alternative 2)
Cumulative Effects		For bowhead whales, this alternative would contribute a negligible amount of mortality and disturbance to the cumulative effects on bowheads. Overall cumulative effects, taking into account other human activities and natural factors in the project area, are considered negligible in magnitude, extent, and duration in regard to mortality. In regard to disturbance, the cumulative effects are considered minor in magnitude, extent, and duration, at the population level.	For bowhead whales, Alternative 2 would contribute a negligible amount of mortality and a minor amount of disturbance to the cumulative effects. Overall cumulative effects are the same as for Alternative 1: negligible in regard to mortality and minor in regard to disturbance.	Bowhead whales – (Same as Alternative 2)	Bowhead whales – (Same as Alternative 2)

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Table 4.9-2
Summary of Direct, Indirect, and Cumulative Effects – Other Wildlife

Effect		Alternative 1 No Action: Do Not Grant AEWc a Quota	Alternative 2 Grant AEWc Annual Quotas (67 Strikes) with No Unused Strikes Carried Over	Alternative 3 (Preferred Alternative) Grant AEWc Annual Quotas (67 Strikes) with No More Than 15 Unused Strikes Carried Over Any One Year	Alternative 4 Grant AEWc Annual Quotas (67 Strikes) with Up to 50% of Unused Strikes Carried Over Any One Year
Direct and Indirect Effects	Mortality	For other species (especially seals, walrus, and caribou), hunting pressure would increase to compensate in part for the loss of whale harvest and could lead to reductions in game populations around the whaling villages. In magnitude, extent, and duration, these effects are considered minor to moderate, depending on the importance of the species as a subsistence resource.	For ice-dependant species, this alternative would have negligible to minor direct and indirect effects, depending on the species. For other wildlife species, this alternative would have negligible to minor direct and indirect effects, depending on the species.	Ice-dependent species – (Same as Alternative 2) Other wildlife species (including threatened and endangered species) - (Same as Alternative 2)	Ice-dependent species – (Same as Alternative 2) Other wildlife species (including threatened and endangered species) - (Same as Alternative 2)
	Disturbance	Increased hunting efforts on subsistence species other than bowheads would cause noise and disturbance to other wildlife in many areas around the whaling communities and would be considered minor to moderate, depending on the social structure of the species (aggregated or dispersed).	For ice-dependant species, this alternative would have negligible to minor direct/indirect effects, depending on the species. For other wildlife (including threatened or endangered species), this alternative would have negligible to minor direct/indirect effects, depending on the species.	Ice-dependent species – (Same as Alternative 2) Other wildlife species (including threatened and endangered species) - (Same as Alternative 2)	Ice-dependent species – (Same as Alternative 2) Other wildlife species (including threatened and endangered species) - (Same as Alternative 2)
Cumulative Effects		For ice dependant species and other wildlife, increased harvest would contribute to the adverse effects of climate change on ice-dependent species and add to the difficulty of managing game populations, especially with the uncertainty of how climate change will affect different species.	To partially compensate for the loss of bowhead hunting under Alternative 1, increased harvest of other species would contribute to the adverse effects of climate change on ice-dependent species and add to the difficulty of managing other game populations, especially with the uncertainty of how climate change will affect different species.	Ice-dependent species – (Same as Alternative 2) Other wildlife species (including threatened and endangered species) - (Same as Alternative 2)	Ice-dependent species – (Same as Alternative 2) Other wildlife species (including threatened and endangered species) - (Same as Alternative 2)

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Table 4.9-3
Summary of Direct, Indirect, and Cumulative Effects – Socio-cultural

Effect		Alternative 1 No Action: Do Not Grant AEWc a Quota	Alternative 2 Grant AEWc Annual Quotas (67 Strikes) with No Unused Strikes Carried Over	Alternative 3 (Preferred Alternative) Grant AEWc Annual Quotas (67 Strikes) with No More Than 15 Unused Strikes Carried Over Any One Year	Alternative 4 Grant AEWc Annual Quotas (67 Strikes) with Up to 50% of Unused Strikes Carried Over Any One Year
Direct and Indirect Effects	Effects on Subsistence	<p>Direct effects include:</p> <ul style="list-style-type: none"> loss of an annual average of one million pounds of bowhead <i>maktak</i> and meat, a highly valued food, diminished social cohesion occasioned by the shared work among whaling crews and others cooperating in the year round work of preparation for whaling, disruption in the bonds established through food sharing, and diminished opportunity for young people to continue to learn the knowledge, practice, and beliefs associated with this central cultural institution. <p>Indirect effects include:</p> <ul style="list-style-type: none"> redirection of subsistence harvest effort to other subsistence resources, and greater recourse to purchased food, with adverse nutritional and economic implications, would result. <p>These direct and indirect effects are adverse and of major magnitude and extent, but of unknown duration.</p>	<p>Direct effects include continuation of existing subsistence practices such as:</p> <ul style="list-style-type: none"> the subsistence food contribution of bowhead whales, the cooperative work and food sharing practices, and the crucial cultural learning opportunities for young people. <p>Indirect effects include:</p> <ul style="list-style-type: none"> continuation of the current levels of diversity in subsistence resource uses, and continuing levels of reliance on subsistence foods, supplemented by purchased foods. <p>These direct and indirect effects are positive and major in magnitude, extent, and duration.</p>	(Same as Alternative 2)	(Same as Alternative 2)
	Effects on public health and safety	<p>Direct and indirect effects include:</p> <ul style="list-style-type: none"> elimination of exposure to very low levels of contaminants in bowhead whale foods, adverse effects on diet and health as nutritious bowhead foods are replaced to some extent by less nutritious purchased foods, and elimination of exposure to the safety risks associated with whaling, but increased exposure to risks in hunting of other subsistence resources, such as seals and walrus. <p>These direct and indirect effects of this alternative on health are adverse and major in magnitude and extent, but of unknown duration. The effects on safety would be minor.</p>	<p>Direct and indirect effects include:</p> <ul style="list-style-type: none"> continued high levels of reliance on nutritious bowhead whale foods, and continued exposure to the current levels of risk inherent in bowhead whaling and other subsistence pursuits. <p>Taken together, the highly beneficial nutritional effects outweigh the infrequent and therefore minor safety risks. This alternative has positive effects of major magnitude, extent, and duration.</p>	(Same as Alternative 2)	(Same as Alternative 2)
Cumulative Effects		<p>Given the important nutritional and cultural role of bowhead whale foods, under this alternative, in magnitude, extent, and duration, the cumulative effects on subsistence practices and nutrition and health would be adverse and major. This alternative would make a major contribution to overall cumulative effects on subsistence practices, when considered alongside other activities in the project area.</p> <p>Cumulative effects of climate change are increasing the risks associated with weather, open water and unstable, unpredictable ice. Subsistence harvest effort redirected to other resources would involve similar risks on the ice and open water, though not through the use of harpoon guns and large block and tackle equipment. This alternative makes a minor contribution to the cumulative effects on public safety which overall would be minor to moderate.</p>	<p>Given the important nutritional and cultural role of bowhead whale foods, under this alternative, in magnitude, extent, and duration, the cumulative effects on subsistence practices and nutrition and health would be adverse and major. This alternative would make a major contribution to overall cumulative adverse effects on subsistence practices, when considered alongside other activities in the project area.</p> <p>Cumulative effects of climate change are increasing the risks associated with weather, open water, and unstable, unpredictable ice. Subsistence harvest effort redirected to other resources would involve similar risks on the ice and open water, though not through the use of harpoon guns and large block and tackle equipment. This alternative makes a minor contribution to the cumulative adverse effects on public safety which overall would be minor to moderate.</p>	<p>For spring whaling, the cumulative effects of other activities, notably those associated with oil and gas exploration and development would be rated as adverse and minor. For fall whaling, the likely magnitude of impacts from these activities is less certain, because it turns on the timing, location and extent of oil and gas related activities and on the effectiveness of mitigative measures. Taking into account magnitude and likelihood, these impacts would be adverse and could be moderate, based on the effectiveness of current mitigation measures.</p> <p>The beneficial contribution of the proposed activities to cumulative effects, in authorizing the subsistence whale hunt, would be a greater proportion of overall cumulative effects than the contribution of noise from oil and gas exploration and development. Overall, cumulative effects on subsistence patterns would be positive and minor to moderate.</p>	(Same as Alternative 2)

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6.0 COOPERATION AND CONSULTATION

NEPA requires federal agencies to reduce delay in the NEPA process by cooperating with other affected agencies before an EA or EIS is prepared. Cooperative planning is encouraged when more than one agency (Federal, state, tribal, or local) is involved in the project or program. The USFWS and NMFS were consulted regarding potential effects on ESA listed species under their jurisdiction. A reply from the USFWS is pending. NMFS has prepared a Biological Opinion concerning issuance of annual quotas authorizing the harvest of bowhead whales to the Alaska Eskimo Whaling Commission for the period of 2008 through 2012 and concluded that the proposed action is not likely to jeopardize the continued existence of the bowhead whale. No critical habitat has been designated for bowhead whales so no critical habitat will be affected by the proposed action (NMFS, 2007b). This concludes the consultation with NMFS concerning ESA listed species. The AEWC was consulted during the scoping process and the development of alternatives. Additionally, although NMFS is the lead agency in this process and the agency with expertise on the biological aspects of bowhead whales, the AEWC was consulted about the social, economic, and cultural impacts of various alternatives. The AEWC also had an opportunity to comment on the Preliminary Draft and Preliminary Final EIS documents.

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7.0 REFERENCES

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8.0 APPENDICES

8.1 Quantification of Subsistence and Cultural Need for Bowhead Whales by Alaska Eskimos 2007 Update Based on 2000 U.S. Census Data (April 2007)

IWC/59/ASW6

QUANTIFICATION OF SUBSISTENCE AND CULTURAL NEED FOR BOWHEAD WHALES BY ALASKA ESKIMOS

2007 Update Based on 2000 U.S. Census Data

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April 2007

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08/05/07

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QUANTIFICATION OF SUBSISTENCE AND CULTURAL NEED FOR BOWHEAD WHALES BY ALASKA ESKIMOS

2007 Update Based on 2000 U.S. Census Data

INTRODUCTION

This document is essentially identical to the previously prepared *2002 Update Based on 2000 U.S. Census Data* (Stephen R. Braund & Associates [SRB&A] 2002) and is resubmitted at this time to provide a current (2007) subsistence and cultural need statement. As in 2002, this needs assessment relies on the 2000 U.S. Census. The quantification of subsistence and cultural need for bowhead whales by Alaska Eskimos has not been updated with 2007 population information because the last U.S. Census was in 2000 and the next U. S. Census will not be conducted until 2010.

In previous subsistence and cultural needs assessments submitted to the International Whaling Commission (IWC) for years between the decennial U.S. Census, the calculation depended on the most current Alaska Department of Labor Data population estimates for the communities multiplied by the percent Native from the 1980 and 1990 U.S. Census. However, the most reliable information for assessing subsistence and cultural need using the IWC accepted method is to rely on the U. S. Census. Thus, the 2007 needs assessment is based on the 2000 U.S. Census and is the same as the 2002 needs calculation.

Like the 2002 report, this document is intended to be an addendum to the *Quantification of Subsistence and Cultural Need for Bowhead Whales by Alaska Eskimos - 1997 Update Based on 1997 Alaska Department of Labor Data* (SRB&A 1997). The 1997 report should be read in conjunction with this document as the former report provides relevant discussion and references for the historic context of this report. That discussion is not repeated in this brief report.

This report provides the seventh (although identical with the sixth) calculation of subsistence and cultural need for bowhead whales by Alaska Eskimos and is based on the same methodology used in the previous six “needs” assessments. The first calculation of subsistence and cultural need submitted to the IWC was undertaken in 1983 (U.S. Government 1983). The second calculation was submitted to the IWC in 1988 (Braund, Stoker and Kruse 1988) when more extensive research provided additional historical whaling and human population data. The 1988

study used the most recent Eskimo population data available at that time, ranging from 1983 to 1987, to calculate current need. The third calculation of need, performed in 1992, was based on 1990 U.S. Census population data. This update was presented to the Alaska Eskimo Whaling Commission (AEWC), but not to the IWC (SRB&A 1992). The fourth calculation of need was conducted in 1994 based on July 1, 1992 population data generated by the State of Alaska, Department of Labor (SRB&A 1994). The fifth calculation (fourth presented to the IWC) was based on July 1, 1997 population data generated by the State of Alaska, Department of Labor (SRB&A 1997). The calculation of need for the 2002 and this report relies on 2000 U.S. Census data. This is the third time since 1983 that U.S. Census data have been used for the Alaska Eskimo needs calculation. All of the calculations of need since 1988 utilize the same method that was accepted by the IWC in 1988.

2007 UPDATE BASED ON 2000 U.S. CENSUS DATA

In preparation for the May 2007 IWC meeting, the Alaska Eskimo Whaling Commission (AEWC) requested an update of cultural and subsistence need for bowhead whales. Because the most reliable population information is from the U.S. census, this update is based on the 2000 U.S. Census data for the 10 Alaska bowhead whaling communities. The 1997 update was based on the five year old 1997 population information. Furthermore, the human population estimates used in 1997 were based on estimates provided by the Alaska State Demographer (ADOL 1997) for each year (e.g., 1991-1997) since the 1990 U.S. Census. The Alaska State Demographer prepares these updates annually and they include the total population (Native and other) in each of the communities and do not contain any information related to race. The Native population then has to be estimated from these total population data. Estimating the Native population in the ten Alaska bowhead whaling communities between decennial censuses is a complex process that relies on the Alaska Department of Labor population estimates and then applies the percent Native American from the latest (e.g., 1990 or 2000) U.S. Census to these annual population estimates (see SRB&A 1997:Tables 2 and 3). However, the 2000 U.S. Census has race information, and the Alaska Native population in each of the whaling communities is reported. For this reason, the 2000 U.S. Census is used for the 2007 needs update.

Applying the IWC accepted method of calculating need (see Braund, Stoker and Kruse 1988), SRB&A updated need based on 2000 U.S. Census data. The only variable that has changed

since 1988 for this calculation is the Alaska Native population for the ten whaling communities. Only the Native population of each community is considered. The 2000 U.S. Census Alaska Native population data represent "American Indian or Alaska Native alone or in combination with one or more other races."

Based on 2000 U.S. Census data, the number of bowheads needed by each community and by the region as a whole (all ten communities) is derived by multiplying the mean number of whales landed per capita over the base time period (1910-1969) by the 2000 Alaska Native population for each community and for the region as a whole. Using this method, the need for each community is shown on Table 1. Based on the 2000 census data, the cultural and subsistence need in the ten Alaska Eskimo communities is 56 landed bowhead whales (58 if rounded up). In 1997 and 2002, it was also 56 landed bowheads. Applying the mean of .008621 bowhead landed per capita for all ten communities for the historical period (1910-1969) to the 2000 regional Native population of 6,633 results in a 2000 **regional** cultural and subsistence need of 57 landed bowhead whales. In 1997, this regional calculation was 56 landed bowhead whales.

Table 1: Ten Alaska Eskimo Whaling Villages' Subsistence & Cultural Need For Landed Bowhead Whales, 2000.¹

Community	Number of Observations²	Total Eskimo Population for ea. yr. of a Bowhead Observation³	Number of Bowheads Landed 1910-1969⁴	Mean Landed Per Capita 1910-1969⁵	2000 Alaska Native Population⁶	2000 Bowhead Need (Landed)⁷	2000 Need (Landed) Rounded⁸
Gambell	39	11,883	68	0.005722	622	3.6	4
Savoonga ⁹	0	----	----	0.005722	614	3.5	4
Wales	42	6,907	5	0.000724	137	0.1	1
Diomedede ¹⁰	30	3,250	11	0.003678	137	0.5	1
Kivalina	7	926	3	0.003240	364	1.2	1
Point Hope	50	12,467	209	0.016764	686	11.5	12
Wainwright	49	10,723	108	0.010072	508	5.1	5
Barrow	60	44,687	379	0.008481	2,933	24.9	25
Nuiqsut ⁹	0	----	----	0.008481	386	3.3	3
Kaktovik	3	327	3	0.009174	246	2.3	2
Totals	280	91,170	786		6,633	55.9	58
Region ¹¹	280	91,170	786	0.008621	6,633	57.2	57

- \1 Subsistence and cultural need is based on historic per capita harvest per community multiplied by the 2000 Alaska Native population of each community.
- \2 The number of observations represents the number of years for which data on landed whales were available for each community (See Appendices 1 & 2 of Braund, Stoker & Kruse 1988 & Table 1 of Stephen R. Braund & Assoc. 1991).
- \3 Total Eskimo population represents the sum of the Eskimo population for each year there was an observation of a landed bowhead whale (only includes the 1910-1969 "Base Period;" see Braund, Stoker & Kruse 1988).
- \4 Number of bowheads landed represents the sum of the observed bowheads landed between 1910 and 1969.
- \5 The mean landed bowhead whales per capita is based on the total number of whales landed between 1910 and 1969 for each community divided by the sum of the total Eskimo population for each village for each year landed whale data existed between 1910 and 1969 (See Appendices 1 & 2 in Braund, Stoker & Kruse 1988 and Tables 1 and 3 in Stephen R. Braund & Assoc. 1991). The sum of the total Eskimo population was calculated by adding the Population estimates for each community for each year that there was a landed whale observation. For example, Barrow's 389 landed whales from 1910-1969 was divided by the total Eskimo population sum of 44,687 for this 60 Year period (i.e., 379 divided by 44,687 = .008481).
- \6 2000 Alaska Native population data for each community are from the 2000 U. S. Census. They represent the category "American Indian or Alaska Native alone or in combination with one or more other races."
- \7 The number of bowheads needed is derived by multiplying the mean per capita landed whales (1910-1969) by the 2000 Alaska Native population for each community. The true column total of 55.9 is shown and is less than the sum of its parts because of their being rounded up.
- \8 The number of bowhead whales needed per individual community is rounded to the nearest whole number unless the product was less than .5; such cases were rounded up to one.
- \9 Because there are no landed bowhead data for either Savoonga or Nuiqsut between 1910-1969, the mean per capita landed whales for Gambell was used for Savoonga and the mean for Barrow was used for Nuiqsut.
- \10 Due to uncertainties in the landed whale data for Little Diomedede Island, four different calculations of subsistence and cultural need, ranging from .4 to 1.0 bowheads, were presented (see Table 4 Stephen R. Braund & Assoc. 1991). The Little Diomedede mean landed whale per capita (1910-1969) in this table represents the mean of these four calculations.
- \11 The mean per capita landed whales for the region represents the total number of whales landed for all ten communities between 1910 and 1969 divided by the sum of the total Native population for all communities for each year landed whale data existed between 1910 and 1969 (i.e., 786 whales divided by 91,170 = .008621).

Stephen R. Braund & Associates, 2007.

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Prepared for the Alaska Eskimo Whaling Commission, Barrow, Alaska
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**QUANTIFICATION OF SUBSISTENCE AND CULTURAL NEED
FOR BOWHEAD WHALES BY ALASKA ESKIMOS**

1997 Update Based on 1997 Alaska Department of Labor Data

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QUANTIFICATION OF SUBSISTENCE AND CULTURAL NEED FOR BOWHEAD WHALES BY ALASKA ESKIMOS

1997 Update Based on 1997 Alaska Department of Labor Data

INTRODUCTION

Inupiat and Yup'ik Eskimos of Alaska have hunted bowhead whales for over 2,000 years as the whales migrate near the communities in the spring and fall. Hunting bowhead whales in Alaska remains a communal activity that supplies important meat and maktak for the entire community as well as for feasts and ceremonies. Formalized patterns of hunting, sharing, and consumption characterize the modern bowhead harvests. Of all subsistence activities in these communities, bowhead whaling represents one of the greatest concentrations of effort, time, money, group symbolism, and significance. In addition to providing a major source of food, bowhead whaling is a large part of these communities' cultural tradition and their modern cultural identity (Braund and Moorehead 1995).

Since the early 1980s, the International Whaling Commission (IWC) has determined the quota for Alaska Eskimo bowhead whale harvests in part by considering the subsistence and cultural need for bowhead whales by Alaska Eskimos. In 1986, the IWC adopted the only method used to date to calculate subsistence and cultural need. This method incorporates the historic and current size of the Eskimo population residing in Alaskan whaling villages and the number of bowhead whales historically landed by each community. Because bowhead whaling is a community-wide activity, it is appropriate to consider the community population in association with the historic harvest levels. Besides abundance of bowhead whales, community population levels are a critical factor that influences harvests because the community population dictates the number and size of whaling crews and the amount of meat and maktak needed to feed the community, share with others, and provide for ceremonial feasts.

The first calculation of subsistence and cultural need submitted to the IWC was undertaken in 1983 (U.S. Government 1983). The second calculation was submitted to the IWC in 1988 (Braund, Stoker and Kruse 1988) when more extensive research provided additional historical whaling and human population data. The 1988 study used the most recent Eskimo population

data available at that time, ranging from 1983 to 1987, to calculate current need. The third calculation of need, performed in 1992, was based on 1990 U.S. Census population data; this update was presented to the Alaska Eskimo Whaling Commission (AEWC), but not to the IWC (Stephen R. Braund & Associates [SRB&A] 1992). The fourth calculation of need was conducted in 1994 based on July 1, 1992 population data generated by the State of Alaska, Department of Labor (SRB&A 1994). This, the fifth calculation (and fourth presented to the IWC) utilizes the same method accepted by the IWC in 1988 for calculating need, presenting revised calculations based on July 1, 1997 population data generated by the State of Alaska, Department of Labor.

REVIEW OF THE 1988 STUDY

The objective of the 1988 study was to quantify the cultural and subsistence need for bowhead whales by Alaska Eskimos (Braund, Stoker and Kruse 1988). We viewed cultural and subsistence need as independent of any biological assessment of bowhead populations and as only one of two parts of any quota request the U.S. government made to the International Whaling Commission (the second part being the biological assessment). Prior to 1988, the estimation of cultural need for bowhead whales by Alaska Eskimos had been based on the historic relationship between the size of the Eskimo population residing in Alaskan whaling villages and both the number of bowhead whales historically landed and the number of crews engaged in whaling (U.S. Government 1983). Based on data available in 1983, the cultural need for bowhead whales was established at 26 bowheads landed per year for the nine Alaska bowhead whaling communities. Assuming 75 percent efficiency, 26 landed converted to 35 strikes requested by the U.S. government at the 1983 IWC meeting. At that time, we knew the historical data on bowhead landings and Eskimo population were incomplete. Furthermore, the Alaska Eskimo whaling community believed that the cultural need for bowheads had been seriously underestimated.

NEW SOURCES OF DATA FOR THE 1988 STUDY

The new sources of data for the 1988 analysis included additional landed bowhead data and Eskimo population data.

Bowheads Landed

The study team began with the lists of landed bowheads in Marquette and Bockstoce (1980) that provided, by location, the number of crews, bowheads landed, struck and lost, killed but lost, and total bowheads killed. Additional research to make this list more complete included hiring Bockstoce and Marquette to make additions they had learned about since 1980, performing additional archival research based on both published and unpublished information (whale ship logs, teacher reports, diaries, magazines, newspapers, books, reports, etc.), researching in libraries and archives throughout the U.S., and performing fieldwork in Wainwright, Wales, Gambell and Savoonga in November and December 1987.

This research resulted in a new, longer list of bowhead landed data for 21 different locations in Alaska representing 1) historic but not current human settlements, 2) traditional whaling sites occupied seasonally, and 3) existing communities (Braund, Marquette and Bockstoce 1988). The bowhead harvest data were presented by each specific location where the activity took place from pre-1900 to 1977. The Scientific Committee reviewed and accepted the new landed data in 1988 (IWC 1989:49).

Next, we consolidated the whale harvest data from the 21 locations within the nine Alaska Eskimo communities that currently participate in bowhead whaling (e.g., whales harvested at Icy Cape, Point Belcher and Point Franklin were attributed to Wainwright, whales harvested at Cape Halkett and Cross Island/Prudhoe Bay were consolidated with Barrow). Hence, eight of the 21 locations were reassigned or consolidated with these nine communities. The last five locations (Little Diomedes, King Island, Point Lay, Shaktoolik, and "unlocated") were not included in the analysis.

The reasons for consolidation included 1) the centralization into larger communities such that most of the people who lived and whaled at the smaller sites became residents of the nearby larger villages, and 2) residents of the nine active communities traditionally traveled to many smaller sites on a seasonal basis to hunt bowheads.

Next, the study team linked human population by consolidated location to whale hunting activity from 1910 to 1969. Thus, the human population per year by consolidated location (i.e., the nine whaling villages) was linked to whale hunting activity from 1910 to 1969. In this way, we were able to examine the relation between human population and bowhead harvest data.

Eskimo Population

The second source of new data for the 1988 analysis was more detailed information on the Eskimo population. The 1983 calculation of cultural need for bowheads was based on available decennial census population counts. In order to formally examine the relationship between bowhead landings and human population, however, it was necessary to have annual human population counts which could be compared to the number of bowheads landed on a village basis. Instead of simply assuming a uniform rate of change in population between census counts or assuming a continuation of present growth rates, the study team constructed a human population model incorporating data on 1) age and sex distributions; 2) birth rates; and 3) death rates.

1988 RESULTS: RECALCULATION OF CULTURAL NEED FOR BOWHEAD WHALES

Revision of Historical Base Period

As mentioned above, the 1983 calculation of cultural need was constrained by lack of data. The starting point for the base period used in 1983 varied by village from 1940 to 1950. The end point was uniformly 1970. Additional data gathered for this study and study team members' knowledge of the prevalent living conditions between 1940 and 1970 led the study team to conclude that the most appropriate base period was the 60 year period from 1910 to 1969.

The beginning year of 1910 was selected because data prior to 1900 becomes increasingly sporadic and unreliable related to both bowhead landed and human population, and commercial whaling had an effect on the number of whales landed at certain villages (especially Gambell,

Point Hope, and Barrow). Commercial whaling ceased in 1909 so 1910 begins a period free of commercial influence.

The two or three decades after the end of commercial whaling represent a significant period of heavy reliance on subsistence for the northern Alaska Eskimo. Conditions changed dramatically in the 1940s as military activities and government programs exerted strong influences on local lifestyles. The period 1940 to 1969 can be characterized as a time of increased local employment that conflicted with subsistence activities and of religious and government pressures to abandon traditional lifestyles. Despite these influences, the Eskimo continued to demonstrate an active interest in subsistence whaling. The year 1969 was chosen as the end of the base period because the period from 1970 to 1977 was a time of considerable economic change and cultural revival in the villages. These years (1970 to 1977) represent a time of increase in bowhead whaling effort, in the number of whales taken, and the number of whales struck and lost (Marquette and Bockstoe 1980). Hence, to avoid the influence of this increased harvest period, the study team chose to end the base period in 1969.

1988 Estimation of Cultural Need Based on the Relationship Between Bowheads Landed and Eskimo Population

Table 1 presents the recalculated cultural need for bowhead whales based on the IWC accepted method. The data base included 250 observations matching the Eskimo population with bowhead landed at the community level. As shown in the table, substantial landed whale data were compiled for the 60 year period (1910 to 1969) for Gambell (39 years), Point Hope (50 years), Wainwright (49 years), and for Barrow (60 years).

In Table 1, the number of bowheads needed by each community and by the region as a whole was derived by multiplying the mean number of whales landed per capita over the time period selected (1910 to 1969) by the best estimate of current human population for these communities and the region. "Current" population data was the most recent data available at the time, ranging from 1983 data for three villages, 1985 data for one village, 1986 data for two villages, to 1987

**Table 1: Alaska Eskimo Whaling Communities' Subsistence and Cultural Need
For Landed Bowhead Whales, 1988.¹**

Community	Number of Observations²	Total Eskimo Population for ea. yr. of a Bowhead Observation³	Number of Bowheads Landed 1910-1969⁴	Mean Landed Per Capita 1910-1969⁵	1983-87 Eskimo Population⁶	1987 Bowhead Need (Landed)⁷	1987 Need (Landed) (Rounded)⁸
Gambell	39	11,883	68	0.005722	495	2.8	3
Savoonga ⁹	0	----	----	0.005722	485	2.8	3
Wales	42	6,907	5	0.000724	154	0.1	1
Kivalina	7	926	3	0.003240	275	0.9	1
Point Hope	50	12,467	209	0.016764	534	9.0	9
Wainwright	49	10,723	108	0.010072	445	4.5	5
Barrow	60	44,687	379	0.008481	1,823	15.5	16
Nuiqsut ⁹	0	----	----	0.008481	227	1.9	2
Kaktovik	3	327	3	0.009174	154	1.4	1
Totals	250	87,920	775		4,592	38.8	41
Region ¹⁰	250	87,920	775	0.008815	4,592	40.5	41

¹ Subsistence and cultural need is based on historic per capita harvest per community multiplied by present village population.

² The number of observations represents the number of years for which data on landed whales were available for each community (See Appendices 1 and 2 in Braund, Stoker and Kruse 1988).

³ Total Eskimo population represents the sum of the Eskimo population for each year there was an observation of a landed bowhead whale.

⁴ Number of bowheads landed represents the sum of the observed bowheads landed between 1910 and 1969.

⁵ The mean landed bowhead whales per capita is based on the total number of whales landed between 1910 and 1969 for each community divided by the sum of the total Eskimo population for each village for each year landed whale data existed between 1910 and 1969 (See Appendices 1 and 2 in Braund, Stoker and Kruse 1988). The sum of the total Eskimo population was calculated by adding the population estimates for each village for each year that there was a landed whale observation. For example, Barrow's 379 landed whales from 1910-1969 were divided by the total Eskimo population sum of 44,687 for this 60 year period (i.e., 379 divided by 44,687 = .008481).

⁶ See Table 7 (in Braund, Stoker and Kruse 1988) for the source of Eskimo population data for each community.

⁷ The number of bowheads needed is derived by multiplying the mean per capita landed whales (1910-1969) by the most current Eskimo population figure available for each community.

⁸ The number of bowhead whales needed per individual community is rounded to the nearest whole number unless the product was less than .5; such cases were rounded up to one.

⁹ Because there are no landed bowhead data for neither Nuiqsut nor Savoonga between 1910-1969, the mean per capita landed whales for Gambell was used for Savoonga and the mean for Barrow was used for Nuiqsut.

¹⁰ The mean per capita landed whales for the region represents the total number of whales landed for all communities between 1910 and 1969 divided by the sum of the total Eskimo population for all communities for each year landed whale data existed between 1910 and 1969 (i.e., 775 whales divided by 87,920 = .008815).

Source: Stephen R. Braund & Associates, 1988.

Stephen R. Braund & Associates, 1997.

population data for three villages. The mean number of whales landed per capita over the time period was calculated from the total number of whales landed between 1910 and 1969 for each community (and for the region as a whole) divided by the total human population, by community and region, summed over all the years for which landed whale data exist between 1910 and 1969. In other words, the total human population by village and region is the sum of all village population estimates for years in which whales were landed. This sum was divided into the total landed whales in each community. Based on a mean of .008815 bowhead landed per capita from 1910 to 1969, the 1988 cultural need was 41 landed bowhead whales.

1992 UPDATE BASED ON 1990 U. S. CENSUS

In 1992, the Alaska Eskimo Whaling Commission (AEWC) asked Stephen R. Braund and Associates (SRB&A) to update the cultural and subsistence need for bowhead whales by nine Alaska Eskimo whaling communities based on more current human population data for the communities. Applying the same IWC accepted method of calculating need as used in the 1988 report (Braund, Stoker and Kruse 1988), SRB&A updated need based on 1990 U.S. Census data (see Stephen R. Braund & Associates 1992). The only variable that had changed for this calculation was the Alaska Native population for the nine whaling communities. The 1988 report was written between U.S. decennial census counts and current U.S. census data were not available. For the 1992 update, the 1990 U.S. Census data for each community was used (Alaska Department of Labor 1991). Only the Native population of each community was considered. Based on the 1990 census data, the cultural and subsistence need in the nine Alaska Eskimo communities was 47 landed bowheads (excluding Little Diomed; for a discussion of Little Diomed Island bowhead whaling, see Stephen R. Braund & Associates 1991).

1994 UPDATE BASED ON 1992 ALASKA DEPARTMENT OF LABOR DATA

In 1994, the Alaska Eskimo Whaling Commission again requested an update of cultural and subsistence need for bowhead whales, as the 1990 U.S. Census data were nearly four years old. Because the next U.S. census would not be conducted until the year 2000, the study team reviewed the available sources for current population data.

The Alaska Department of Labor (ADOL) makes annual population estimates for each incorporated community in Alaska for purposes of municipal planning. For 1992, ADOL made these estimates based on the relationship of the 1990 U.S. Census data to the 1990 Alaska Permanent Fund applications for each community. Using this relationship as the base period, ADOL estimated the 1992 community population by knowing the number of 1992 Permanent Fund applications and solving for the 1992 population (Personal communication, J. Gregory Williams April 28, 1994). In addition, the ADOL reviewed other information to ensure the accuracy and consistency of their population estimates. These additional analyses included a similar computation for each community using school enrollment information and a careful review of rural public health nurse records in each community.

The study team reviewed these population data for the 10 Alaska bowhead whaling communities recognized by the AEW (Alaska Dept. of Labor, Research Analysis 1994).¹ Because these data were not broken down by race, they represented the total population (Alaska Native and other races) for each location. The method accepted by the IWC for calculating need depends on having population data on Alaska Natives only. In order to disaggregate the population data by race, the study team relied on the Alaska State Demographer who provided information on the percentage of Natives in each of the ten communities based on both school enrollment and the 1990 U.S. Census (SRB&A 1994 Table 2). As suggested by the Alaska State Demographer, the study team used the 1990 percent Native American figures and applied these percentages to the 1992 population estimates to arrive at the Native population for the communities.

Using the 1992 total population estimates provided by the Alaska Department of Labor and applying the percentage Native from the 1990 U.S. Census resulted in a 1992 cultural and subsistence need of 51 landed bowhead whales for the 10 communities (SRB&A 1994, Table 3).

1997 UPDATE BASED ON 1997 ALASKA DEPARTMENT OF LABOR DATA

In preparation for the 1997 IWC meeting, the Alaska Eskimo Whaling Commission requested an

¹ This analysis includes population data for the village of Little Diomedé. For a discussion of Little Diomedé Island bowhead whaling, see Stephen R. Braund & Associates 1991.

update of cultural and subsistence need for bowhead whales. By 1997, the 1994 update was based on the five year old 1992 population information. The Alaska State Demographer (ADOL 1997a) provided population estimates for each year from the 1990 U.S. Census (Table 2). These updates are prepared annually and include the total population (Native and other) in each of the communities. To arrive at the Native population only, the percent Native American from the 1990 U.S. Census was applied to the annual population data (Table 3). This resulted in an estimated Native population for the ten Alaska bowhead whaling communities.

Using the 7/1/97 total population estimates provided by the Alaska Department of Labor and applying the percentage Native from the 1990 U.S. Census, Table 4 presents the 1997 cultural and subsistence need for bowhead whales in the ten Alaska Eskimo communities. The number of bowheads needed by each community and by the region as a whole (all ten communities) is derived by multiplying the mean number of whales landed per capita over the base time period (1910-1969) by the estimated 1997 Alaska Native population for each community and for the region as a whole. Using this method, the need for each community is shown on Table 4. Applying the mean of .008621 bowhead landed per capita for all ten communities for the historical period (1910-1969) to the estimated 1997 regional Native population of 6,472 results in a 1997 regional cultural and subsistence need of 56 landed bowhead whales.

Table 5 compares the ten Eskimo whaling communities' need in the mid-1980s (i.e., based on 1983-87 Alaska Native population estimates in each community) with the need in 1990, 1992, and 1997. The landed need increased from 41 landed in the mid-1980s (not including Little Diomed Island) to a need of 48 landed based on the 1990 U.S. Census data to 51 landed in 1992 and 56 landed in 1997. The 1990, 1992 and 1997 landed need figures include Little Diomed Island.

Table 6 compares the mid-1980s Alaska Native population for each community with Native population of 1990, 1992 and 1997 (the four years when new population data were gathered to

Table: 2 Total Estimated Population of Ten Alaska Eskimo Bowhead Whaling Communities.^{1,2}								
Community^{3,4}	4/1/90	7/1/91	7/1/92	7/1/93	7/1/95	7/1/95	7/1/96	7/1/97
Gambell	525	551	579	586	616	622	636	653
Savoonga	519	543	562	573	571	603	612	622
Wales	161	158	152	156	162	174	166	162
Diomedes ⁵	178	175	181	177	170	154	171	174
Kivalina	317	331	370	366	376	348	353	357
Point Hope	639	668	685	676	709	719	756	749
Wainwright	492	497	531	536	537	535	560	550
Barrow	3,469	3,609	3,778	3,897	4,055	4,197	4,257	4,380
Nuiqsut	354	387	422	403	411	412	427	435
Kaktovik	224	218	215	211	208	212	221	222
Totals	6,878	7,137	7,475	7,581	7,815	7,976	8,159	8,304

¹ Population numbers represent total community population.

² The 1992 population data presented in this table reflect minor differences with the 1992 population data presented to the IWC in 1994 (IWC/46/AS6) due to revisions in national and state populations by the U.S. Census Bureau. The demographer's annual update to the Alaska population data results in minor readjustments to previous years' population data back to 1990. Thus, there are minor differences in the 1992 population data as reported in 1994 compared to the 1992 data reported in 1997. These differences do not change the outcome of the needs calculation.

³ 1990 population data from the 1990 U.S. Census.

⁴ 1991-1997 population data are from the Alaska Department of Labor, Research & Analysis Section, 1997a.

⁵ Little Diomed Island was granted membership into the AEWC in 1988.

Table: 3 Estimated Native Population of Ten Alaska Eskimo Bowhead Whaling Communities, 1997.^{1,2}									
Community	Percent Native American³	4/1/90	7/1/91	7/1/92	7/1/93	7/1/94	7/1/95	7/1/96	7/1/97
Gambell	96.19%	505	530	557	564	593	598	612	628
Savoonga	95.18%	494	517	535	545	543	574	583	592
Wales	88.82%	143	140	135	139	144	155	147	144
Diomedes	93.82%	167	164	170	166	159	144	160	163
Kivalina	97.48%	309	323	361	357	367	339	344	348
Point Hope	91.86%	587	614	629	621	651	660	694	688
Wainwright	94.31%	464	469	501	506	506	505	528	519
Barrow	63.91%	2,217	2,307	2,415	2,491	2,592	2,682	2,721	2,799
Nuiqsut	92.66%	328	359	391	373	381	382	396	403
Kaktovik	84.38%	189	184	181	178	176	179	186	187
Totals		5,403	5,605	5,874	5,939	6,112	6,218	6,372	6,472

¹ The 1992 population data presented in this table reflect minor differences with the 1992 population data presented to the IWC in 1994 (IWC/46/AS6) due to revisions in national and state populations by the U.S. Census Bureau. The demographer's annual update to the Alaska population data results in minor readjustments to previous years' population data back to 1990. Thus, there are minor differences in the 1992 population data as reported in 1994 compared to the 1992 data reported in 1997. These differences do not change the outcome of the needs calculation.

² Based on Percent Native American from the 1990 U.S. Census.

³ From 1990 U.S. Census data.

Stephen R. Braund & Associates, 1997.

Table 4: Ten Alaska Eskimo Whaling Villages' Subsistence and Cultural Need For Landed Bowhead Whales, 1997.¹¹

Community	Number of Observations¹²	Total Eskimo Population for ea. yr. of a Bowhead Observation¹³	Number of Bowheads Landed 1910-1969¹⁴	Mean Landed Per Capita 1910-1969¹⁵	1997 Alaska Native Population¹⁶	1997 Bowhead Need (Landed)¹⁷	1997 Need (Landed) (Rounded)¹⁸
Gambell	39	11,883	68	0.005722	628	3.6	4
Savoonga ¹⁹	0	---	---	0.005722	592	3.4	3
Wales	42	6,907	5	0.000724	144	0.1	1
Diomedes ¹⁰	30	3,250	11	0.003678	163	0.6	1
Kivalina	7	926	3	0.003240	348	1.1	1
Point Hope	50	12,467	209	0.016764	688	11.5	12
Wainwright	49	10,723	108	0.010072	519	5.2	5
Barrow	60	44,687	379	0.008481	2,799	23.7	24
Nuiqsut ¹⁹	0	---	---	0.008481	403	3.4	3
Kaktovik	<u>3</u>	<u>327</u>	<u>3</u>	0.009174	<u>187</u>	<u>1.7</u>	<u>2</u>
Totals	280	91,170	786		6,472	54.4	56
Region ¹¹	280	91,170	786	0.008621	6,472	55.8	56

- ¹¹ Subsistence and cultural need is based on historic per capita harvest per community multiplied by the 1997 Alaska Native population of each community.
- ¹² The number of observations represents the number of years for which data on landed whales were available for each community (See Appendices 1 & 2 of Braund, Stoker & Kruse 1988 & Table 1 of Stephen R. Braund & Assoc. 1991).
- ¹³ Total Eskimo population represents the sum of the Eskimo population for each year there was an observation of a landed bowhead whale.
- ¹⁴ Number of bowheads landed represents the sum of the observed bowheads landed between 1910 and 1969.
- ¹⁵ The mean landed bowhead whales per capita is based on the total number of whales landed between 1910 and 1969 for each community divided by the sum of the total Eskimo population for each village for each year landed whale data existed between 1910 and 1969 (See Appendices 1 & 2 in Braund, Stoker & Kruse 1988 and Tables 1 and 3 in Stephen R. Braund & Assoc. 1991). The sum of the total Eskimo population was calculated by adding the population estimates for each community for each year that there was a landed whale observation. For example, Barrow's 379 landed whales from 1910-1969 was divided by the total Eskimo population sum of 44,687 for this 60 year period (i.e., 379 divided by 44,687 = .008481).
- ¹⁶ 1997 Alaska Native population data for each community are from the Alaska Department of Labor, Research & Analysis Section (1997a) 7/1/97 population estimates of these 10 communities multiplied by the percent Native American in each community from the 1990 U.S. Census. J. Gregory Williams, State Demographer, 10/6/97 and 1990 U.S. Census.
- ¹⁷ The number of bowheads needed is derived by multiplying the mean per capita landed whales (1910-1969) by the 1997 Alaska Native population for each community.
- ¹⁸ The number of bowhead whales needed per individual community is rounded to the nearest whole number unless the product was less than .5; such cases were rounded up to one.
- ¹⁹ Because there are no landed bowhead data for either Savoonga or Nuiqsut between 1910-1969, the mean per capita landed whales for Gambell was used for Savoonga and the mean for Barrow was used for Nuiqsut.
- ¹⁰ Due to uncertainties in the landed whale data for Little Diomedes Island, four different calculations of subsistence and cultural need, ranging from .4 to 1.0 bowheads, were presented (see Table 4 Stephen R. Braund & Assoc. 1991). The Little Diomedes mean landed whale per capita (1910-1969) in this table represents the mean of these four calculations.
- ¹¹ The mean per capita landed whales for the region represents the total number of whales landed for all ten communities between 1910 and 1969 divided by the sum of the total Native population for all communities for each year landed whale data existed between 1910 and 1969 (i.e., 786 whales divided by 91,170 = .008621).

Stephen R. Braund & Associates, 1997.

Table 5: Comparison of Ten Alaska Eskimo Whaling Communities' mid-1980s Subsistence and Cultural Need for Landed Bowhead Whales with 1990, 1992, and 1997 Need.¹

Community	Mean Landed Per Capita 1910-1969 ¹²	Mid-1980s Calculation Data					1990 Calculation Data			1992 Calculation Data			1997 Calculation Data		
		Est. 1983-87 AK Na. Pop. ¹³	1987 Date of Bowhead Need (Landed) ¹⁴	1987 Need (Rounded) ¹⁵	1990 AK Native Pop. ¹⁶	1990 Bowhead Need (Landed) ¹⁷	1990 Need (Rounded) ¹⁸	1992 Est. 1992 AK Native Pop. ¹⁹	1992 Bowhead Need (Landed) ²⁰	1992 Need (Rounded) ²¹	1997 Est. 1997 AK Native Pop. ²²	1997 Bowhead Need (Landed) ²³	1997 Need (Rounded) ²⁴		
		Pop. ¹³	Est. ¹³	(Landed) ¹⁴	(Rounded) ¹⁵	Pop. ¹⁶	(Landed) ¹⁷	(Rounded) ¹⁸	Pop. ¹⁹	(Landed) ²⁰	(Rounded) ²¹	Pop. ²²	(Landed) ²³	(Rounded) ²⁴	
Gambell	0.005722	495	1987	2.8	3	505	2.9	3	530	3.0	3	628	3.6	4	
Savoonga	0.005722	485	1985	2.8	3	494	2.8	3	515	2.9	3	592	3.4	3	
Wales	0.000724	154	1987	0.1	1	143	0.1	1	129	0.1	1	144	0.1	1	
Diomedes Is	0.003678	N/A	N/A	N/A	N/A	167	0.6	1	169	0.6	1	163	0.6	1	
Kivalina	0.003240	275	1987	0.9	1	309	1.0	1	356	1.2	1	348	1.1	1	
Point Hope	0.016764	534	1986	9.0	9	587	9.8	10	629	10.5	11	688	11.5	12	
Wainwright	0.010072	445	1983	4.5	5	464	4.7	5	505	5.1	5	519	5.2	5	
Barrow	0.008481	1,823	1986	15.5	16	2,217	18.8	19	2,532	21.47	21	2,799	23.7	24	
Nuiqsut	0.008481	227	1983	1.9	2	328	2.8	3	364	3.1	3	403	3.4	3	
Kaktovik	0.009174	154	1983	1.4	1	189	1.7	2	183	1.7	2	187	1.7	2	
Totals		4,592		38.8	41	5,403	45.3	48	5,912	49.7	51	6,472	54.4	56	
Region w/o Dio	0.008815	4,592		40.5	41										
Region w/ Dio	0.008621					5,403	46.6	48	5,912	51.0	51	6,472	55.8	56	

¹ Subsistence and cultural need is based on historic per capita harvest per community multiplied by the Alaska Native population of each community.

² See Table 1, footnote 15 for explanation of mean landed bowheads per capita.

³ See Braund, Stoker & Kruse (1988) Table 7 for source of mid-1980s Alaska Native population data.

⁴ The number of bowheads needed in 1987 was derived by multiplying the mean per capita landed whales (1910-1969) by the most current Alaska Native population data available for each community in 1988.

⁵ The number of bowheads needed per individual community is rounded to the nearest whole number unless the product was less than .5; such cases were rounded up to one.

⁶ 1990 Alaska Native population data for each community are from the 1990 U.S. Census.

⁷ The number of bowheads needed in 1990 is derived by multiplying the mean per capita landed whales (1910-1969) by the 1990 Alaska Native population for each community.

⁸ 1992 Alaska Native population data for each community are from the Alaska Department of Labor, Research & Analysis Section, Demographics Unit. J. Gregory Williams, State Demographer, 3/15/94.

⁹ The number of bowheads needed in 1992 is derived by multiplying the mean per capita landed whales (1910-1969) by the estimated 1992 Alaska Native population for each community.

¹⁰ 1997 Alaska Native population data for each community are from the Alaska Department of Labor, Research & Analysis Section (1997a) 7/1/97 population estimates multiplied by the percent Native American in each community from the 1990 U.S. Census.

¹¹ The number of bowheads needed in 1997 is derived by multiplying the mean per capita landed whales (1910-1969) by the estimated 1997 Alaska Native population for each community.

Stephen R. Braund & Associates, 1997.

update the calculation of subsistence and cultural need for bowhead whales). Between the mid-1980s and 1990, the Alaska Native population in these communities grew at an annual rate of a low of -2.4 percent in Wales to a high of 6.4 percent in Nuiqsut. Because the beginning population data year varied (e.g., from 1983 to 1987), it is not possible to calculate the percent change for all of the communities combined. From 1990 to 1992, the Alaska Native population in these 10 communities grew at an annual rate of a low of -4.9 percent in Wales to 7.1 percent and 7.6 percent in Barrow and Kivalina respectively. The average annual growth rate for all ten communities was 4.7 percent during this two year period. Between the mid-1980s and 1997, the annual rate of increase in the communities ranged from -.7 percent in Wales to 4.9 percent and 5.5 percent in Barrow and Nuiqsut respectively. Between 1992 and 1997, the annual growth rate ranged from a low of -.7 percent in Diomedes to a high of 3.7 percent in Gambell. The annual rate of growth for the ten communities combined during the past five years is 1.9 percent per year. This compares with an annual growth rate for the State of Alaska from 6/30/90 to 6/30/96 of 1.65 percent (Alaska Department of Labor 1997c). In addition, the 1.9 percent annual rate of growth between 1992 and 1997 for these 10 communities is substantially lower than the 4.7 percent annual rate of growth between 1990 and 1992.

In an effort to understand the growth rates in these communities, the study team collected data on the births and deaths in the communities from 1991 to 1996, the latest year for which these data are available (Table 7). These data indicate that approximately 77 percent of the regional growth from 1990 to 1996 was due to natural increase (births less deaths) and approximately 23 percent was due to migration. The annual birth rate per 1,000 persons was 26.7 while the annual death rate per 1,000 persons was 5.7. This compares with an average annual birth per 1,000 persons of 18.8 and average annual deaths per 1,000 persons of 4.0 for the State of Alaska from 1990 to 1996 (ibid.).

Table 6: Comparison of Ten Alaska Eskimo Whaling Communities' Native Population: mid-1980s, 1990, 1992, and 1997.

Community	Date of 1983-87 Pop. Est ¹	1983-87 to 1990				1990 to 1992		1992 to 1997		1983-87 to 1997	
		Est. 1983-87 AK Na Pop. ¹	Yrs fr 1983-87 to 1990 ²	1990 AK Na Pop. ³	% Change Per Yr fr 1983-87 to 1990 ⁴	Est. 1992 AK Na Pop. ⁵	% Change Per Year 1990 to 1992 ^{6,7}	Est. 1997 AK Na Pop. ⁸	% Change Per Year 1992 to 1997 ^{7,9}	Yrs fr 1983-87 to 1997 ¹⁰	% Change Per Year 1983-87 to 1997 ¹¹
Gambell	1987	495	3	505	0.7%	530	2.5%	628	3.7%	10	2.7%
Savoonga	1985	485	5	494	0.4%	515	2.1%	592	3.0%	12	1.8%
Wales	1987	154	3	143	-2.4%	129	-4.9%	144	2.3%	10	-0.7%
Diomedes Is	N/A	N/A	N/A	167	N/A	169	0.6%	163	-0.7%	N/A	N/A
Kivalina	1987	275	3	309	4.1%	356	7.6%	348	-0.4%	10	2.7%
Point Hope	1986	534	4	587	2.5%	629	3.6%	688	1.9%	11	2.6%
Wainwright	1983	445	7	464	0.6%	505	4.4%	519	0.5%	14	1.2%
Barrow	1986	1,823	4	2,217	5.4%	2,532	7.1%	2,799	2.1%	11	4.9%
Nuiqsut	1983	227	7	328	6.4%	364	5.5%	403	2.1%	14	5.5%
Kaktovik	1983	154	7	189	3.2%	183	-1.6%	187	0.5%	14	1.5%
Totals		4,592		5,403		5,912		6,472			
Region							4.7%		1.9%		

¹ See Braund, Stoker & Kruse (1988) Table 7 for source of mid-1980s Alaska Native population data.

² Number of years between the 1990 U.S. Census and the 1983-87 population figures for each community.

³ 1990 Alaska Native population data for each community are from the 1990 U.S. Census.

⁴ 1990 Alaska Native population minus 1983-87 population divided by 1987-83 population divided by the number of years from 1983-87 to 1990.

⁵ 1992 Alaska Native population data for each community are from the Alaska Department of Labor, Research & Analysis Section, Demographics Unit. J. Gregory Williams, State Demographer, 3/15/94.

⁶ 1992 Alaska Native population minus 1990 population divided by 1990 population divided by two years (the number of years from 1990 to 1992).

⁷ The percent change per year for all communities (i.e., Region) does not represent a sum of community percents, but rather the percent change per year for the total population of all ten communities (i.e., region) between the designated years.

⁸ 1997 Alaska Native population data for each community are from the Alaska Department of Labor, Research & Analysis Section (1997a) 7/1/97 population estimates multiplied by the percent Native American in each community from the 1990 U.S. Census.

⁹ 1997 Alaska Native population minus 1992 population divided by 1992 population divided by five years (the number of years from 1992 to 1997).

¹⁰ Number of years between the 1997 estimated Alaska Native population figures for each community and the 1983-87 population estimates.

¹¹ 1997 Alaska Native population minus 1983-87 population divided by 1983-87 population divided by the number of years from 1983 to 1997.

Stephen R. Braund & Associates, 1997.

Table 7: Residential Births and Deaths in Ten Alaska Eskimo Whaling Communities, 1991-96.¹¹

Community\2	Native American Population			Births		Deaths		Natural Increase (Births-Deaths) 1991-96\5	Net Migrants	% of Pop. Change Due to Natural Increase\8,9	% of Pop. Change Due to Migration\9
	Pop. Change 4/1/90 7/1/96 1990-96\3			Annual Rate/1000		Annual Rate/1000					
				Births\4 1991-96\5	Mid Period Population\6	Deaths\4 1991-96\5	Mid Period Population\7				
Gambell	505	612	107	102	30.2	17	5.0	85	22	79%	21%
Savoonga	494	583	89	102	31.2	19	5.8	83	6	93%	7%
Wales	143	147	4	20	24.1	9	10.8	11	-7	N/A	N/A
Diomedes Is	167	160	-7	4	4.0	4	4.0	0	-7	0%	100%
Kivalina	309	344	35	62	29.0	6	2.8	56	-21	N/A	N/A
Point Hope	587	694	107	97	26.0	21	5.6	76	31	71%	29%
Wainwright	464	528	64	71	23.4	19	6.3	52	12	81%	19%
Barrow	2,217	2,721	504	414	27.7	91	6.1	323	181	64%	36%
Nuiqsut	328	396	68	55	24.5	13	5.8	42	26	62%	38%
Kaktovik	189	186	-3	24	22.5	4	3.7	20	-23	N/A	N/A
Totals	5,403	6,371	968	951		203		748	220		
Region\10					26.7		5.7			77%	23%

¹¹ Population, birth and death data are for Alaska Natives only.

¹² Refers to community of mother's residence and community of decedent's residence.

¹³ 1996 Alaska Native population in each community minus 1990 population.

¹⁴ Birth and death data from the Alaska Department of Health and Social Services, Bureau of Vital Statistics (1997).

¹⁵ 1996 data are provisional and subject to change.

¹⁶ Annual Rate/1000 is calculated by dividing the total births from 1991-96 by 6 years for an average annual number of births. This number is then divided by the 7/1/93 population (the mid period population from 4/1/90 to 7/1/96) multiplied by 1,000 to determine the rate/1000 people.

¹⁷ Annual Rate/1000 is calculated by dividing the total deaths from 1991-96 by 6 years for an average annual number of deaths. This number is then divided by the 7/1/93 population (the mid period population from 4/1/90 to 7/1/96) multiplied by 1,000 to determine the rate/1000 people.

¹⁸ Net natural increase (e.g., births minus deaths) in each community divided by total population change between 1990 and 1996.

¹⁹ The percent of the population change due to natural increase and migration is not applicable when the population change is less than natural increase.

Stephen R. Braund & Associates, 1997.

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- 1991 Subsistence and Cultural Need for Bowhead Whales by the Village of Little Diomed, Alaska. Prepared for the Alaska Eskimo Whaling Commission, Barrow, Alaska.

Braund, S.R., W.M. Marquette, and J.R. Bockstoe

- 1988 Data on Shore-Based Bowhead Whaling at Sites in Alaska. Document SC/40/PS 10 submitted to the IWC Scientific Committee.

Braund, S.R. and E.L. Moorehead

- 1995 Contemporary Alaska Eskimo Bowhead Whaling Villages. (Stephen R. Braund & Elisabeth L. Moorehead). In Hunting the Largest Animals - Native Whaling in the Western Arctic and Subarctic A.P. McCartney, ed. Occasional Publication No. 36, The Canadian Circumpolar Institute, University of Alberta.

Braund, S.R., S.W. Stoker, and J.A. Kruse

- 1988 Quantification of Subsistence and Cultural Need for Bowhead Whales by Alaska Eskimos, Stephen R. Braund & Associates, Anchorage, Alaska. International Whaling Commission TC/40/AS2.

International Whaling Commission

- 1989 Report of the Scientific Committee. Report International Whaling Commission 39: 33-64.

Marquette, W.M. and J.R. Bockstoce

- 1980 Historical Shore-Based Catch of Bowhead Whales in the Bering, Chukchi, and Beaufort Seas. Marine Fisheries Review. 42(9-10):5-19. Seattle, WA.

U.S. Department of the Interior

- 1980 Interim Report on Aboriginal/Subsistence Whaling of the Bowhead Whale by Alaskan Eskimos.

U.S. Government

- 1983 Report on Nutritional, Subsistence, and Cultural Needs Relating to the Catch of Bowhead Whales by Alaskan Natives. Submitted by the U.S. Government to the International Whaling Commission at its 35th Annual Meeting.

Williams, J. Gregory

- 1997 Personal Communication 10/6/97. State Demographer, Alaska Department of Labor, Research & Analysis Section, Demographics Unit.
1994a Personal Communication 4/13/95. State Demographer, Alaska Department of Labor, Research & Analysis Section, Demographics Unit.
1994b Personal Communication 4/28/94. State Demographer, Alaska Department of Labor, Research & Analysis Section, Demographics Unit.

**Appendix A: DOCUMENTS SUBMITTED BY THE U.S. TO THE IWC RE: ALASKA
ESKIMO BOWHEAD WHALING**

1979

International Whaling Commission

- 1979 Report of the Panel to Consider Cultural Aspects of Aboriginal Whaling in North Alaska. Meeting in Seattle, WA. February 5-9, 1979 under the auspices of the International Whaling Commission.

1980

U.S. Department of the Interior

- 1980 Interim Report on Aboriginal/Subsistence Whaling of the Bowhead Whale by Alaskan Eskimos.

1983

Alaska Consultants, Inc. and Stephen Braund & Associates

- 1984 Subsistence Study of Alaska Eskimo Whaling Villages. Prepared for the Bureau of Indian Affairs, U.S. Department of the Interior.

IWC/TC/35/AB3

U.S. Government

- 1983 Report on Nutritional, Subsistence, and Cultural Needs Relating to the Catch of Bowhead Whales by Alaskan Natives. Submitted by the U.S. Government to the International Whaling Commission at its 35th Annual Meeting. International Whaling Commission TC/35/AB3.

1988

IWC/TC/40/AS2

Braund, S.R., W.M. Marquette and J.R. Bockstoe

- 1988 Data on Shore-Based Bowhead Whaling at Sites in Alaska. Appendix 1 In Braund, S.R., S.W. Stoker, and J.A. Kruse 1988 Quantification of Subsistence and Cultural Need for Bowhead Whales by Alaska Eskimos. Stephen R. Braund & Associates, Anchorage, Alaska. Prepared for the Bureau of Indian Affairs, Department of the Interior. International Whaling Commission TC/40/AS2.

Braund, S.R., S.W. Stoker, and J.A. Kruse

- 1988 Quantification of Subsistence and Cultural Need for Bowhead Whales by Alaska Eskimos. Stephen R. Braund & Associates, Anchorage, Alaska. Prepared for the Bureau of Indian Affairs, Department of the Interior. International Whaling Commission TC/40/AS2.

1992

IWC/44/AS2

Braund, Stephen R. and Associates

- 1991 Subsistence and Cultural Need for Bowhead Whales by the Village of Little Diomedes, Alaska. International Whaling Commission report IWC/44/AS 2. Prepared for the Alaska Eskimo Whaling Commission. Barrow, Alaska.

1994

IWC/46/AS6

Braund, Stephen R. and Associates

- 1994 Quantification of Subsistence and Cultural Need for Bowhead Whales by Alaska Eskimos - 1994 Update Based on 1992 Alaska Department of Labor Data. International Whaling Commission report IWC/46/AS 6. Prepared for the Alaska Eskimo Whaling Commission. Barrow, Alaska.

1997

IWC/49/AS

Braund, Stephen R. and Associates

- 1997 Quantification of Subsistence and Cultural Need for Bowhead Whales by Alaska Eskimos - 1997 Update Based on 1997 Alaska Department of Labor Data. International Whaling Commission report IWC/46/AS. Prepared for the Alaska Eskimo Whaling Commission. Barrow, Alaska.

8.2 National Oceanic and Atmospheric Administration-Alaska Eskimo Whaling Commission Cooperative Agreement (2003)

COOPERATIVE AGREEMENT
between the
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
and the
ALASKA ESKIMO WHALING COMMISSION
as amended
2003

RECEIVED
BY: *Ma*

1. PURPOSES

The purposes of this agreement are to protect the bowhead whale and the Eskimo culture, to promote scientific investigation of the bowhead whale, and to effectuate the other purposes of the Marine Mammal Protection Act, the Whaling Convention Act, and the Endangered Species Act as these acts relate to aboriginal subsistence whaling.

In order to achieve these purposes, this agreement provides for:

- (a) Cooperation between members of the Alaska Eskimo Whaling Commission (AEWC) and the National Oceanic and Atmospheric Administration (NOAA) in management of the bowhead whale hunt for 1981 through 2007; and
- (b) an exclusive enforcement mechanism that shall apply during the term of this agreement to any violation by whaling captains (or their crews) who are registered members of the AEWC of any provisions of the Marine Mammal Protection Act, the Endangered Species Act, or the Whaling Convention Act, as these acts may relate to aboriginal subsistence whaling; of the International Convention for the Regulation of Whaling, 1946; of regulations of the International Whaling Commission; of the AEWC Management Plan; or of this agreement.

2. RESPONSIBILITIES

NOAA has primary responsibility within the United States Government for management

and enforcement of programs concerning bowhead whales. The AEWC is an association governing Alaskan Eskimo whalers who hunt for bowhead whales. The AEWC adopted a Management Plan on March 4, 1981, to govern hunting for bowhead whales by Alaskan Eskimos. Under this Cooperative Agreement, the AEWC will, in cooperation with NOAA, manage the 1981 through 2007 bowhead whale hunts. The authority and responsibilities of the AEWC are contained in and limited by this agreement and the Management Plan, as amended from time to time, to the extent the Management Plan is not inconsistent with this agreement. If the AEWC fails to carry out its enforcement responsibilities or meet the conditions of this agreement or of the Management Plan, as amended from time to time, NOAA may assert its federal management and enforcement authority and will regulate the bowhead whale hunt in a manner consistent with federal law, this agreement, and the Management Plan to the extent necessary to carry out the responsibilities that are not carried out by the AEWC. Such assertion of federal authority will be preceded by notice to the AEWC of intent to regulate the bowhead whale hunt to the extent necessary to carry out those responsibilities and conditions, and will not be effected until the AEWC or its members have been given an opportunity to present their view on the need for such assertion in a public forum: provided, however, that in cases where NOAA determines that irreparable harm to the bowhead whale resource might result, the assertion of federal authority may be effected immediately after notice, in which cases the public forum on the need for such assertion will be conducted as soon as practicable thereafter.

3. INSPECTION AND REPORTING

NOAA personnel shall monitor the hunt and the AEWC shall assist such personnel with such monitoring. The AEWC shall report to NOAA regarding the number of strikes and

landings. The AEWEC shall also inform all whaling captains who are engaged in whaling activities of the number of whales struck or landed at all times. On the first of each month during the spring and fall whaling seasons, the AEWEC shall inform NOAA of the number of bowhead whales struck during the previous month. The AEWEC shall also provide a report to NOAA within 30 days after the conclusion of the spring hunt, and within 30 days after the fall hunt but no later than March 31, containing at least the following information:

- (1) The date and exact, to the extent practicable, location of strike for each whale struck or landed, including, at a minimum, the estimated distance and bearing from the village or whaling camp;
- (2) The length (as measured from the point of the upper jaw to the notch between the tail flukes) and the sex of the whales landed;
- (3) The length and sex of a fetus, if present, in a landed whale; and
- (4) An explanation of circumstances associated with the striking of any whale not landed, and an estimate of whether a harpoon or bomb emplacement caused a wound which might be fatal to the animal (e.g., the harpoon entered a major organ of the body cavity and the bomb exploded).

NOAA shall provide technical assistance in collection of the above information. The AEWEC shall assist appropriate persons in collection of specimens from landed whales. The AEWEC shall encourage whaling captains to make such specimens available to researchers upon written request to the AEWEC. NOAA personnel cooperating with the AEWEC shall work closely with the AEWEC Commissioner in each whaling village to facilitate the accurate monitoring of the hunt.

4. MANAGEMENT

- (1) No more than seventy-five (75) bowhead whales shall be struck in 2003. The AEWEC and NOAA shall determine the total number of bowhead whales that may be struck in each year from 2004 through 2007, and any applicable number of bowhead whales that may be landed, through annual negotiations during the first quarter of the year for which the quota is applicable: provided, however, that the Under Secretary may, in consultation with the AEWEC, reconsider and revise the term of this paragraph if he deems it necessary on the basis of public comments received pursuant to the Federal Register notice of the proposed allocations.
- (2) Registered whaling captains shall hunt under the provisions of the AEWEC Management Plan, and will use all practical means to improve hunting efficiency.
- (3) The AEWEC shall determine the allocation of these permitted strikes among the whaling villages.
- (4) The AEWEC Management Plan will provide that the meat and edible products of bowhead whales taken in the subsistence hunt must be used exclusively for native consumption and may not be sold or offered for sale.

5. ENFORCEMENT

- (1) The AEWEC agrees that registered whaling captains may be subject to civil monetary assessments for whales struck over the annual strike limit as set forth in this Agreement and whales landed over any landing limit that is prescribed in this agreement and the Management Plan as they may be amended from time to time. The AEWEC will collect the assessments from the whaling captains. In the event

of a dispute between NOAA and the AEWC over the number of whales landed or struck or the amount of the assessment, or other factual matters, NOAA will consult with the AEWC about the matter. If the dispute cannot be resolved, it will be referred to an administrative law judge for determination under a trial-type administrative proceeding of the facts and the amount of assessment. The procedures contained in 15 CFR sections 904.200-94.272 will control these proceedings. The decision of the administrative law judge may be appealed to the Administrator of NOAA. Whaling captains may also be liable for civil assessments for other violations of the Management Plan as determined by the AEWC or by an administrative law judge under the procedures described above.

- (2) In consideration of the AEWC's agreement hereunder, the Government of the United States agrees that the enforcement procedure described in paragraph (1) of this section shall be the exclusive enforcement mechanism that shall apply during the term of this agreement to any violation by whaling captains or their crew who are registered members of the AEWC of any provisions of the Marine Mammal Protection Act, the Endangered Species Act, or the Whaling Convention Act, as these Acts may relate to aboriginal subsistence whaling; of the International Convention for the Regulation of Whaling, 1946; of any regulations of the International Whaling Commission; of the Management Plan; or of this agreement.
- (3) The AEWC shall maintain a list containing the names of all registered whaling captains and shall make this list available to NOAA upon request.

6. AUTHORITIES

This Cooperative Agreement is concluded under the authorities governing management of living marine resources, including but not limited to the Marine Mammal Protection Act of 1972 and the Whaling Convention Act of 1949.

7. DURATION

This Agreement is in effect from March, 1981 through March 31, 2008.

8. CONSULTATION

NOAA and the AEWC shall consult during the operation of this Agreement concerning the matters addressed herein as well as all other matters related to bowhead whales which either party believes are suitable for such consultation. Specifically, NOAA shall consult with the AEWC on any action undertaken or any action proposed to be undertaken by any agency or department of the Federal Government that may affect the bowhead whale and/or subsistence whaling and shall use its best efforts to have such agency or department participate in such consultation with the AEWC.

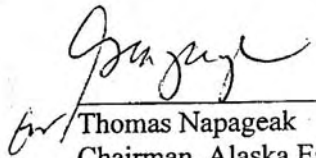
9. LIMITATION OF USE

Nothing in the Agreement shall be construed to support or contradict the position of either party regarding the jurisdiction of the International Convention for the Regulation of Whaling, 1946, or the Whaling Convention Act of 1949 with respect to aboriginal subsistence whaling by Alaskan Eskimos.

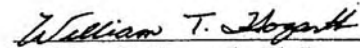
10. AMENDMENT

This Agreement may be amended from time to time by mutual written consent of the parties. Such amendments may be approved, on behalf of NOAA, by the United States Commissioner to the International Whaling Commission, or his designee.

Dated: 3/16/07



Thomas Napageak
Chairman, Alaska Eskimo
Whaling Commission



William T. Hogarth, Ph.D.
Assistant Administrator for Fisheries

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8.3 Federal Register Notice on Whaling Provisions: Aboriginal Subsistence Whaling Quotas (March 12, 2007)

10934 Federal Register / Vol. 72, No. 47 / Monday, March 12, 2007 / Rules and Regulations

[FR Doc. E7-4416 Filed 3-9-07; 8:45 am]
BILLING CODE 4310-05-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 230

[Docket No. 070302051-7051-01; I.D. 021607D]

Whaling Provisions; Aboriginal Subsistence Whaling Quotas

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

ACTION: Rule.

SUMMARY: NMFS announces the aboriginal subsistence whaling quota for bowhead whales, and other limitations deriving from regulations adopted at the 2002 Special Meeting of the International Whaling Commission (IWC). For 2007, the quota is 75 bowhead whales struck. This quota and other limitations will govern the harvest of bowhead whales by members of the Alaska Eskimo Whaling Commission (AEWC).

DATES: Effective March 12, 2007.

ADDRESSES: Office of International Affairs, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Cheri McCarty, (301) 713-9090.

SUPPLEMENTARY INFORMATION: Aboriginal subsistence whaling in the United States is governed by the Whaling Convention Act (16 U.S.C. 916 *et seq.*). Regulations that implement the Act, found at 50 CFR 230.6, require the Secretary of Commerce (Secretary) to publish, at least annually, aboriginal subsistence whaling quotas and any other limitations on aboriginal subsistence whaling deriving from regulations of the IWC.

At the 2002 Special Meeting of the IWC, the Commission set quotas for aboriginal subsistence use of bowhead whales from the Bering-Chukchi-Beaufort Seas stock. The bowhead quota was based on a joint request by the United States and the Russian Federation, accompanied by documentation concerning the needs of two Native groups: Alaska Eskimos and Chukotka Natives in the Russian Far East.

This action by the IWC thus authorized aboriginal subsistence whaling by the AEWC for bowhead

whales. This aboriginal subsistence harvest is conducted in accordance with a cooperative agreement between NOAA and the AEWC.

The IWC set a 5-year block quota of 280 bowhead whales landed. For each of the years 2003 through 2007, the number of bowhead whales struck may not exceed 67, except that any unused portion of a strike quota from any year, including 15 unused strikes from the 1998 through 2002 quota, may be carried forward. No more than 15 strikes may be added to the strike quota for any one year. At the end of the 2006 harvest, there were 15 unused strikes available for carry-forward, so the combined strike quota for 2007 is 82 (67 + 15).

This arrangement ensures that the total quota of bowhead whales landed and struck in 2007 will not exceed the quotas set by the IWC. Under an arrangement between the United States and the Russian Federation, the Russian natives may use no more than seven strikes, and the Alaska Eskimos may use no more than 75 strikes.

NOAA is assigning 75 strikes to the Alaska Eskimos. The AEWC will allocate these strikes among the 10 villages whose cultural and subsistence needs have been documented in past requests for bowhead quotas from the IWC, and will ensure that its hunters use no more than 75 strikes.

Other Limitations

The IWC regulations, as well as the NOAA regulation at 50 CFR 230.4(c), forbid the taking of calves or any whale accompanied by a calf.

NOAA regulations (at 50 CFR 230.4) contain a number of other prohibitions relating to aboriginal subsistence whaling, some of which are summarized here. Only licensed whaling captains or crew under the control of those captains may engage in whaling. They must follow the provisions of the relevant cooperative agreement between NOAA and a Native American whaling organization. The aboriginal hunters must have adequate crew, supplies, and equipment. They may not receive money for participating in the hunt. No person may sell or offer for sale whale products from whales taken in the hunt, except for authentic articles of Native handicrafts. Captains may not continue to whale after the relevant quota is taken, after the season has been closed, or if their licenses have been suspended. They may not engage in whaling in a wasteful manner.

Dated: March 6, 2007.

William T. Hogarth,
Assistant Administrator for Fisheries,
National Marine Fisheries Service.

[FR Doc. E7-4443 Filed 3-9-07; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 061109296-7009-02; I.D. 030607B]

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Quota Transfer

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

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS announces that the Commonwealth of Virginia is transferring 150,000 lb (68,039 kg) of commercial bluefish quota to the State of New York from its 2007 quota. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective March 7, 2007 through December 31, 2007, unless NMFS publishes a superseding document in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Management Specialist, (978) 281-9341, FAX (978) 281-9135.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic bluefish fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from Florida through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.160.

Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine bluefish commercial quota under § 648.160(f). The Regional Administrator is required to consider the criteria set forth in § 648.160(f)(1) in the evaluation of requests for quota transfers or combinations.

Virginia has agreed to transfer 150,000 lb (68,039 kg) of its 2007 commercial quota to New York. The Regional Administrator has determined that the

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8.4 Alaska Eskimo Whaling Commission Management Plan

ALASKA ESKIMO WHALING COMMISSION

MANAGEMENT PLAN

AS AMENDED ON

FEBRUARY 15, 1991

FEBRUARY 14, 1992

FEBRUARY 15, 1995

ALASKA ESKIMO WHALING COMMISSION

MANAGEMENT PLAN

SUBPART A

INTRODUCTION

SUBSECTION 100.1 PURPOSE OF REGULATIONS.

It is the purposes of the regulations contained herein to:

- (a) insure an efficient subsistence harvest of bowhead whales;
- (b) provide a means within the Alaska Eskimo customs and institution of protecting the habitat of the bowhead whale and limiting the bowhead whale harvest in order to prevent the extinction of such species; and
- (c) provide for Eskimo regulation of all whaling activities by Eskimos who are members of the Alaska Eskimo Whaling Commission.

SUBSECTION 100.2 SCOPE OF REGULATIONS.

The regulation contained herein apply to the subsistence hunting of whales by Eskimos who are members of the Alaska Eskimo Whaling Commission.

SUBPART B

ALASKA ESKIMO WHALING COMMISSION

SUBSECTION 100.11 POWERS.

- (a) The Alaska Eskimo Whaling Commission (hereinafter AEWC) is empowered to administer the regulations contained herein to insure that the purposes in Subsection 100.1 of these regulations are attained.
- (b) The AEWC is empowered to enforce the regulations by:
 - (1) denying any person who violates these regulations the right to participate in hunting bowhead whales.
 - (2) making civil assessments.
 - (3) acting as an enforcement agent for any governmental entity authorized to enforce these regulations.
- (c) The AEWC is empowered to promulgate interim regulations that are in addition to, but not inconsistent with regulations contained herein.

SUBSECTION 100.12 DUTIES.

- (a) The AEWC shall administer and enforce the regulations contained herein (including any interim regulations).
- (b) The AEWC shall conduct village education programs to facilitate compliance with these regulations, including training programs for whaling captains and crew.
- (c) The AEWC shall initiate research for improvement of the accuracy and reliability of weapons.

SUBPART C

REGULATIONS

SUBSECTION 100.21 DEFINITIONS.

- (a) "bowhead whale" means a whale whose scientific name is baleana mysticetus and which migrates past whaling villages in Alaska.
- (b) "captain" means the person in charge of a whaling crew.
- (c) "harvest" means to kill and bring to shore or butchering area.
- (d) "non-traditional weapons" means any instrument that could be used to harvest a bowhead whale that is not a traditional weapon.
- (e) "traditional weapon" means a harpoon with line attached, darting gun, shoulder gun, lance or any other weapon approved by the AEWG as such a weapon in order to improve the efficiency of the bowhead whale harvest.
 - (1) "harpoon with line attached" means a harpoon with a rotating head which is attached to a line and float and which has no explosive charge. (See Figures 7 and 8 of Appendix E of the FEIS on the International Whaling Commission's Deletion of Native Exemption for the Subsistence Harvest of Bowhead Whales. (October 1977) (hereinafter FEIS).

- (2) "darting gun harpoon" means a harpoon with an explosive charge and with a line and float attached. (See Appendix E of FEIS of Figure 4)
- (3) "shoulder gun" means a whaling gun, adapted from the era of commercial whaling in the 19th century, which has an explosive charge and which has no attached line and float. (See Appendix E of the FEIS in Figure 5).
- (4) "lance" means a non-explosive sharply pointed weapon without a harpoon head.
- (5) "explosive charge" as used in subparagraph (2) of this paragraph means for initial strikes a penthrite-based explosive charge developed, approved, and issued to a whaling captain by the AEWC, unless such explosive charge has not been issued or is not compatible with the darting gun harpoon in which case every effort shall be made by the AEWC to provide a compatible darting gun harpoon.
- (f) "whaling crew" means those persons who participate directly in the harvest or attempted harvest of the bowhead whale and are under the supervision of a captain.

- (g) "whaling village" means the Alaska Eskimo Whaling village in which resides a whaling captain and crew which participates in the harvest of bowhead whales and which is represented by a Commissioner of the AEWC.
- (h) "whaling season" means customary period of time during which the bowhead whale is harvested, either in the Spring or Fall.
- (i) "garbage" means anything that the whaling captains and crew brings out to the ice that is not biodegradable.
- (j) "habitat" means the waters and associated land and ice environment used by the bowhead whale.

SUBSECTION 100.22 REGISTRATION.

- (a) Each captain shall register with the AEWC on forms provided by the AEWC for that purpose which disclosed his name, address, age, qualifications as a captain, and his willingness to abide by the regulations of the AEWC and to require his crew to abide by those regulations.
- (b) The AEWC shall take into account any reading or language difficulties in developing procedures and forms for registration.

SUBSECTION 100.23 REPORTS.

- (a) Each whaling captain shall be responsible for keeping a written record of the number of whales:
 - (1) attempted to be harvested by using traditional weapons but not harvested,
 - (2) harvested by the captain or his crew, and
 - (3) sighted by the captain and his crew.
- (b) Each whaling shall report the date, place, and time of any striking not resulting in harvesting and shall describe:
 - (1) the size and type of bowhead whale,
 - (2) any known latter attempted harvest or actual harvest of said whale,
 - (3) the reason for the captain or crew not harvesting the whale, i.e., environmental factors, the failure of traditional weapons, or other reasons, and
 - (4) the conditions of the whale that was not harvested.
- (c) Each whaling captain shall make other reports as the AEWG requires in order to accomplish the purposes of the regulations herein or in order to advance the scientific knowledge of the bowhead whale.

SUBSECTION 100.24 PERMISSABLE HARVESTING METHODS.

- (a) No whaling captain or crew shall harvest or attempt to harvest the bowhead whale in any manner other than the traditional harvesting manner.
- (b) "Traditional harvesting manner" means:
 - (1) only traditional weapons shall be used as defined in Subsection 100.21 (e).
 - (2) the bowhead whale may be struck with a harpoon or darting gun with line and float attached.
 - (3) the shoulder gun may be used:
 - (i) after a line has been secured to the bowhead whale, or
 - (ii) when pursuing a wounded bowhead whale with a float attached to it.
 - (4) the lance may be used after a line has been secured to the bowhead whale.
- (c) Whaling captains and crews should harvest bowhead whales that are less than 40 feet plus (+) or minus (-) 15% in length.

Subsection 100.25 TRADITIONAL PROPRIETARY CLAIM.

The bowhead whale shall belong to the captain and crew which first strikes the bowhead whale in the manner described in Subsection 100.24.

SUBSECTION 100.26 LEVEL OF HARVEST.

- (a) The AENC shall establish the levels of harvest or attempt harvest for each whaling village during each season or seasons.
- (b) In establishing the levels of harvest or attempted harvest, the AENC shall consult each whaling village.

SUBSECTION 100.27 REGULATION TO PROTECT THE BOWHEAD WHALE HABITAT.

- (a) All whaling crew shall bring their garbage back to land and dispose of it in a proper manner.

SUBSECTION 100.28 Native Consumption.

The meat and products, except for traditional native handicrafts, of whales taken in the subsistence hunt must be exclusively for native consumption and may not be sold or offered for sale.

SUBSECTION 100.31 DENIAL OF PARTICIPATION IN HARVEST AND FINES.

- (a) Any person who the AENC determines has violated the

regulations contained in subsection 100.24 (a) and (b) and subsection 100.26 shall, after opportunity for a hearing before the AEWG, be prohibited from harvesting or attempting to harvest the bowhead whale for a period of not less than one whaling season nor more than five whaling season; and / or

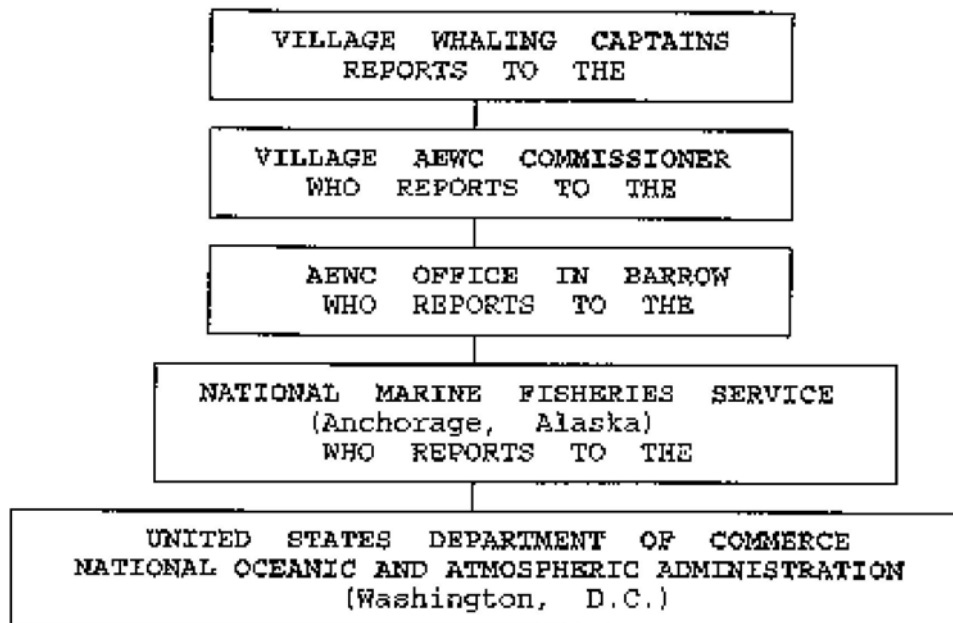
- (b) Any person who violates the regulations contained in subsection 100.24 (a) and (b) and subsection 100.26 herein shall be subject to a fine of not less than \$1,00.00 nor more than \$10,000.00 as assessed by AEWG. The AEWG shall assess other fines at levels it deems appropriate, not to exceed \$10,000.00, for other violations of this Management Plan or federal law. No person shall harvest or attempt to harvest the bowhead whale until such fine has been paid.

It is the responsibility of the whaling captains/crew to report to the Commissioner of their village on a daily basis when they are whaling. The Commissioner then reports to the AEWG Central Office in Barrow. The AEWG office takes a report which they pass on to the National Marine Fisheries Service (NMFS) office in Anchorage. Following completion of the season, the AEWG office then submits a final report to the U.S. Department of Commerce in Washington, D.C.

ALASKA ESKIMO WHALING COMMISSION

BOWHEAD WHALE HUNT

MANAGEMENT REPORTING PROCEDURES



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8.5 Mailing List

U.S. Senators		
Senator Ted Stevens	Senator Lisa Murkowski	
U.S. Representative		
Representative Don Young		
Government Agencies		
Jennifer Curtis U.S. Environmental Protection Agency Region 10	Tim Ragan Executive Director Marine Mammal Commission	Lori Quakenbush Alaska Department of Fish & Game, Habitat Division
Dr. Doug DeMaster AFSC, NOAA Fisheries	Dr. Robyn Angliss National Marine Mammal Laboratory, AFSC, NOAA Fisheries	Kaja Brix NOAA Fisheries, Office of Protected Resources
Dr. Shannon Bettridge NOAA Fisheries Office of Protected Resources	Cheri McCarty IWC Coordinator NOAA Fisheries	Shelby Mendez NOAA/Office of Program Planning and Integration
Tamra Faris NOAA Fisheries	Roger B. Eckert NOAA/GCF	Tammy Adams NOAA Fisheries
Kim Sheldon National Marine Mammal Laboratory, AFSC, NOAA Fisheries	Jim Hale NOAA Fisheries	Steve Davis NOAA Fisheries
Brad Smith NOAA Fisheries, Office of Protected Resources	Laurie Allen Former Special Assistant to the Director of NOAA Fisheries	
North Slope Borough Departments		
Mayor Edward Itta North Slope Borough	Taqulik Hepa Department of Wildlife Management	
Tribal and Native Organizations		
Charles Okakok, President Inupiat Community of Arctic Slope	Emily Frantz Inupiat Community for the Arctic Slope	Isaac Akootchook, President Kaktovik Village
Thomas Olemaun Native Village of Barrow	Fritz Waghiyi, President Native Village of Savoonga	
Other Native Groups		
Jessica Lefevre Alaska Eskimo Whaling Commission	Willie Goodwin Alaska Beluga Whale Committee	Robert Suydam For the Alaska Beluga Whale Committee
Non-Governmental Organizations		
D.J. Schubert Animal Welfare Institute	Susan Millward Animal Welfare Institute	Serda Ozbenian Animal Welfare Institute
Public		
Jeffrey W. Leppo Stoel Rivers, LLP		

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8.6 Comment Analysis Report

Final Environmental Impact Statement for Issuing Annual Quotas to the Alaska Eskimo Whaling Commission for a Subsistence Hunt on Bowhead Whales for the Years 2008 through 2012.

1. Introduction

The Public Comment Period and the Comment Analysis Report

On August 3, 2007, a Notice of Availability of the *Draft Environmental Impact Statement for Issuing Annual Quotas to the Alaska Eskimo Whaling Commission for a Subsistence Hunt on Bowhead Whales for the Years 2008 through 2012* was published in the *Federal Register*, marking the beginning of the public review period for the document. At the same time, printed copies and/or compact disc copies of the Draft Environmental Impact Statement (EIS) including appendices were made available to interested governmental agencies, non-governmental organizations, and individuals who requested copies. The Draft EIS and all of the appendices were also available for review or download online at the National Marine Fisheries Service (NMFS) Alaska Regional Office website. The public review period ended on October 12, 2007.

During the review period, a total of four comment letters were received from:

1. Marine Mammal Commission, September 20, 2007
2. Animal Welfare Institute, October 12, 2007
3. Alaska Eskimo Whaling Commission, October 12, 2007
4. Environmental Protection Agency, October 12, 2007

Comments were submitted by e-mail and mail to the project office. All comments received or post-marked by or on October 12, 2007 are included in this Comment Analysis Report (CAR).

Response to Public Comments

The National Environmental Policy Act (NEPA) requires government agencies to include in the Final EIS all the substantive comments received on the Draft EIS. The final document must include responses to the comments or comment summaries, if changes to the Draft EIS have been made because of those comments, and an indication of where such changes were made in the document. This CAR serves as the public comment summary and response to comment document for the Draft EIS. It presents the methodology used by NMFS in reviewing and sorting the comments, and it presents a synthesis of all comments that address a common theme. A careful and deliberate approach has gone into ensuring that this report reviews, considers and provides responses to all substantive public comments.

Analysis of Public Comments

All submissions on the Draft EIS were assigned identifying numbers by NMFS in the general order received, and forwarded to the NMFS and contractor analysts for replies. Each submission was read by at least two individuals to insure that all substantive comments were identified. The term substantive comment refers to an assertion, suggested alternatives or actions, data, background information, or clarifications relating to the Draft EIS document or its preparation. In the comment letters received, 34 specific substantive comments were identified. Next, 10

issue categories were developed in order to group together substantive comments with common themes (Table 1).

The comments were succinctly summarized for use in the report that follows. Comment summary statements are not intended to replace actual comment submissions, and the full comment letters may be consulted in the attachment to this report.

Table 1.

ISSUE CODE	ISSUE
ALT	Alternatives
BEW	Biological Effects of Whaling
CE	Cumulative Effects
DSN	Demonstrated Subsistence Need
ENF	Enforcement
HMT	Humane Method of Take
MON	Monitoring
NEP	National Environmental Policy Act
PPN	Public Participation
SEW	Social Effects of Whaling

This report organizes the response to comments by issue categories in alphabetical order. To find the response to a specific submission:

1. Look up the name of the organization in Table 2.
2. Note the comment code associated with the submission.
3. Turn to the section in the response to comments report for the comment code.

Table 2.

COMMENTER	COMMENT CODES
Marine Mammal Commission	BEW01, MON01,
Animal Welfare Institute	ALT01, ALT02, ALT03, BEW01, BEW02, BEW03, BEW04, BEW05, BEW06, BEW07, BEW08, BEW09, CE01, DSN01, DSN02, DSN03, DSN04, ENF01, HMT01, HMT02, NEP01, NEP02, NEP03, NEP04, PPN01, PPN02
Alaska Eskimo Whaling Commission	ALT02, CE02, CE03, CE04
Environmental Protection Agency	SEW01, SEW02

2. Public Comments and Responses

Alternatives (ALT)

This section includes comments on the adequacy of the four action alternatives included in the Draft EIS, including the basis for dismissing some alternatives not retained for analysis.

ALT01

The Draft EIS reviews an inadequate range of alternatives, notably an insufficient distinction between Alternatives 2 and 3. A lower level of strike allocation should also be evaluated as an alternative.

Response:

We disagree. The alternatives analyzed fall within the reasonable range of actions being considered by the agency. They mirror a similar range of alternatives analyzed previously in the 2002 Environmental Assessment (EA) and were again reintroduced during the scoping period of this EIS. Each alternative evaluates a maximum possible strike allocation, and a maximum possible number of whales landed, in order to inform the agency of the maximum possible effects of each alternative. In addition, the annual strike quota in each case reflects the existence of a relatively consistent harvest regime, where the likely variation might come in the amount of carry-over from one year to the next. NMFS has been cooperatively working with the AEWC for 20+ years on conservation and management of this stock of bowhead whales, and in recognition of subsistence and cultural needs of Alaska Eskimos. This stock of bowhead whales has also been extensively studied by the IWC's Scientific Committee, which has been developing a Strike Limit Algorithm for Western Arctic bowhead whales that would increase the allowable maximum carry-over to 50% of the unused annual strike limit from a previous year (as described in Alternative 4). The range of alternatives is reflective of this history and is appropriate under these circumstances.

ALT02

The agency has evaluated a reasonable range of alternatives and has selected a preferred alternative that effectively will allow an Alaskan Eskimo bowhead whale subsistence hunt sufficient to satisfy the present nutritional and cultural needs of our Arctic communities.

Response:

Comment acknowledged.

ALT03

Alternative 4 is illegal because the Whaling Convention Act (WCA) requires compliance with decisions made by International Whaling Commission (IWC). The U.S. cannot authorize a rollover of 33 unused strikes, which exceeds the rollover of 15 allowed by the IWC.

Response:

Under NEPA, a federal agency can examine an alternative that would require new action by another jurisdiction (i.e. a change in regulation or statute) and this would be analogous to an alternative, such as Alternative 4, which would require a new action by the IWC. As noted in response to comment ALT01, the IWC's Scientific Committee has been developing a Strike Limit Algorithm (SLA) for Western Arctic bowhead whales that would increase the allowable maximum carry-over to 50% of the unused annual strike limit from a previous year. While the IWC has yet to adopt a bowhead SLA, NMFS is examining the effects of this level of carry-over in recognition of the IWC's ongoing work in this area.

ALT04

The Draft EIS provides inadequate rationale for dismissal of other alternatives.

Response:

The EIS dismissed lower and higher quotas because they did not meet the stated Purpose and Need for the federal action (e.g. the aboriginal need for subsistence, or went beyond the identified aboriginal need (and the AEWEC request). In addition, as noted in response to comment ALT01, each alternative evaluates a maximum possible strike allocation, and a maximum possible number of whales landed, in order to inform the agency of the maximum possible effects of each alternative.

Biological Effects of Whaling (BEW)

This section includes comments on the accuracy of bowhead whale population estimates, the genetic structure of the stock, effects of bowhead whaling on other wildlife, and the basis for the use of the catch control rule "Q" designed by the International Whaling Commission Scientific Committee.

BEW01

The effect of the hunt under the proposed quota will be minor and will not prevent the regional bowhead population from continuing to increase toward its optimum sustainable population level. The hunt has been well managed, so the subsistence quota should be adopted as proposed.

Response:

Comment acknowledged.

BEW02

The population estimate of bowhead whales made in 2001 may no longer be valid given all the changes in the Arctic environment.

Response:

Under the current management agreement a new population estimate should be obtained every 10 years to confirm population trends (IWC, 2001:67). In 2001, the IWC Aboriginal Subsistence Whaling Sub-committee considered the Scientific Committee's suggestion that "phase out" (i.e., progressive lowering of the quota in the absence of survey data) might be appropriate to begin the 10th year after the last accepted abundance estimate. Attempts to undertake a census might begin after about seven years from the most recent success as it might require several attempts to obtain a successful abundance estimate. The sub-committee also noted that a 10-year census interval rather than 5-year interval did not diminish the performance of proposed Strike Limit Algorithms (IWC, 2001:67).

Health of the ecosystem is very important to assess, therefore, indices of calf production and assessment of body condition based on photo identification are currently in process as well (Koski et al., 2007). In terms of climate change, Moore and Laidre (2006) concluded that reduction in sea ice cover will likely benefit bowhead whales by increasing prey availability along both production and advection pathways in the western arctic.

BEW03

The Draft EIS does not disclose and evaluate the methodology and assumptions used to count whales, i.e. the correction factors for missed whales.

Response:

Details of study design and research methodology for current abundance estimates are provided in Zeh et al. (1993) and George et al. (2004a) and is summarized in the 2nd paragraph in Section 3.2.1 of the EIS. This methodology is widely accepted in the scientific community; its evaluation is unnecessary for our analysis of alternatives.

BEW04

The Draft EIS does not discuss alternative estimates in the scientific literature on pre-exploitation abundance, stated as 10,400 – 23,000 bowhead whales in the Draft EIS.

Response:

This pre-exploitation abundance estimate (10,400-23,000) is not contrary to the scientific literature as cited by the commenter, (i.e. Breiwick and Braham, 1990; Everhardt and Breiwick, 1992 [*actually* Eberhardt and Breiwick, 1992]; and Alter and Palumbi, 2007 [*actually* Alter et al. 2007]). Woodby and Botkin (1993) provide a thorough review of the models used by a number of authors, including Breiwick and many others, (see Table 10.2 in Woodby and Botkin, 1993) and the techniques these authors used to arrive at a bowhead whale stock size in 1848. The best estimate based on this study used a simple recruitment model to assess pre-exploitation size of the western Arctic population at 10,400 – 23,000, an estimate that fell within a number of the ranges presented in Table 10.2 in the cited study.

The Alter et al. (2007) interpretation of historic gray whale abundance based on the authors' analysis of genetic material is very much in debate at this time (e.g. see Baker and Clapham, 2004; Palsbøll et al., 2007; Alter and Palumbi, 2007). In 2004, in the light of a genetic modeling paper published in 2003 (Roman and Palumbi, 2003), the IWC Scientific Committee had considered the general methodological issue of estimating carrying capacity and/or pre-exploitation population size in the context of the Committee's assessment work. As a result of its discussions, the Scientific Committee agreed that such genetic methods have the potential to be one of a suite of tools that can be used to examine pre-exploitation abundance but that there are a number of limitations and uncertainties that must be considered when examining such data in a present-day management context. The Scientific Committee had agreed that the estimates of historic abundance provided in the Roman and Palumbi paper for the initial pre-whaling population sizes of humpback, fin and common minke whales in the North Atlantic have considerably more uncertainty than reported, and can not be considered reliable estimates of immediate pre-whaling population size. Particularly important in this regard is the mismatch between the time-period to which genetic estimates apply (i.e. the time period is difficult to determine and extremely wide) and the population sizes of whales immediately prior to exploitation (IWC, 2007).

BEW05

There is an insufficient discussion of the scientific disagreement over the genetic structure of the Western Arctic bowhead population, i.e., whether there is a single population or two.

Response:

Information has been added to Chapter 3 regarding the plausibility of multiple bowhead whale stocks in the Western Arctic population. At the 2007 IWC meeting in Anchorage, Alaska, the IWC Scientific Committee Sub-committee on Bowhead, Right and Gray Whales concluded after a three-year investigation of the stock structure of the Bering-Chukchi-Beaufort population of bowhead whales that the available evidence best supports a single-stock hypothesis for Western Arctic bowhead whales (IWC, 2007). This conclusion regarding the single-stock hypothesis is retained in the EIS. Moreover, this conclusion is the result of several years of research, and underlies the IWC's unanimous decision in 2007 regarding catch limits for 2008 through 2012.

BEW06

The Draft EIS inadequately discloses direct and/or indirect impacts to other wildlife, including information such as population size, trends and current subsistence rates.

Response:

Section 3.3 of the EIS contains the most recently available information about the relevant marine wildlife species other than bowhead whales, including the species' population status, trends, and representative numbers used for subsistence purposes. Additional information about these species is available in the cited references. For many species there are gaps in scientific survey data regarding populations and subsistence usage rates across the project area. These data gaps are acknowledged in the EIS. There is less background information about terrestrial birds and mammals because these species would not be disturbed by the proposed activity, bowhead whaling.

Direct and indirect effects on other wildlife species were considered to be minor or negligible based in part on the temporary and limited amount of disturbance to individuals of these species from whaling activities. The EIS acknowledges that some of these species may be hunted more or less in any given place and time depending on the success of bowhead whale hunters. However, hunting of these species would take place independently of bowhead whaling because each has its own cultural significance. The EIS acknowledges that the value of subsistence food from bowhead whales is not interchangeable with the subsistence value of other wildlife species and that hunting pressure on bowhead whales and other species is not compensatory. The contribution of the direct and indirect effects of bowhead whale hunting on the cumulative effects of other wildlife species is discussed in Section 4.7.2.

BEW07

The Draft EIS does not differentiate between the number of polar bears taken for subsistence purposes and those taken for sport hunting.

Response:

Sport hunting of polar bears has been prohibited in the U.S. since passage of the Marine Mammal Protection Act (MMPA) in 1972. The MMPA only allows coastal dwelling Alaska Natives to hunt polar bears for subsistence and handicraft purposes. The polar bear mortality data cited in Section 3.3 of the EIS therefore includes only subsistence hunting by Alaska Natives. Text has been added to Section 3.3 to clarify this issue.

BEW08

The most recent beluga whale subsistence take numbers are not provided.

Response:

Since 2003, Alaska Native hunters have landed the following number of beluga whales for the years 2004 through 2006: Beaufort Sea stock - 32, 20 and 5 whales; Chukchi Sea stock - 54, 43 and 31 whales; eastern Bering Sea stock – 132, 249, and 166 whales; Kuskokwim – 0, 2 and 9 whales; and Bristol Bay stock – 16, 19 and 20 whales (Kathy Frost, Alaska Beluga Whale Committee, personal communication, November 2, 2007). This information has been added to Chapter 3.

BEW09

NMFS must provide a more detailed explanation of the difference between potential biological removal (PBR) and Q, under what circumstances PBR or Q is appropriate for assessing the impact of human-caused mortality, and why the Q procedure supercedes the use of PBR.

Response:

As reported in Angliss and Outlaw (2007), “the development of a PBR level for the Western Arctic bowhead stock is required by the MMPA even though the subsistence harvest is managed under the authority of the International Whaling Commission (IWC). Accordingly, the IWC bowhead whale quota takes precedence over the PBR estimate for the purpose of managing the Alaska Native subsistence harvest from this stock.” The Q procedure was developed to determine subsistence harvest levels that allow continued recovery of the whale population managed under the authority of the IWC, whereas PBR was developed to limit marine mammal

incidental mortality and serious injury in commercial fisheries (Wade and Angliss, 1997), not to determine subsistence harvest levels.

BEW10

The Draft EIS provides inadequate justification for the use of 0.5 in the PBR calculation versus 0.1.

Response:

As reported in Angliss and Outlaw (2007), “the recovery factor (FR) for this stock is 0.5 rather than the default value of 0.1 for endangered species because population levels are increasing in the presence of a known take (see guidelines Wade and Angliss, 1997). Thus, $PBR = 95 \text{ animals} (9,472 \times 0.02 \times 0.5)$.”

Cumulative Effects (CE)

This section includes comments on the adequacy of analysis of cumulative effects, including the additive effects of oil and gas exploration and development, and climate change.

CE01

The Draft EIS fails to adequately evaluate the cumulative effects of various anthropogenic impacts to bowhead whales, their habitats, and their prey, such as impacts of oil and gas exploration and production activities and related noise impacts, vessel traffic and related noise impacts, and global warming.

Response:

Section 4.6.1.3 provide a discussion on the noise produced from oil and gas activities, including seismic surveys, site clearance activities, drilling and development of offshore oil and gas resources. Section 4.6.1.4 discusses the cumulative effect of noise from these oil and gas activities and well as other sources on the bowhead whale. This discussion relies heavily on the conclusion in the 2006 NMFS Biological Opinion for Beaufort and Chukchi Sea Federal Oil and Gas Leasing and exploration, and its effects on the endangered bowhead whale. Overall, the direct and indirect effect of noise and activity is believed to temporary and non-lethal. However, cumulative effects could occur if multiple activities occur simultaneously rather than consecutively.

Additional information about the contribution of the effects of oil and gas activities on bowhead whales has been included into the text by reference to other recent documents: (1) the final EIS for Beaufort Sea Planning Area, Oil and Gas Lease Sale, Sales 186, 195, and 202 (Minerals Management Service [MMS], 2002), (2) MMS’s EA for the Beaufort Sea Planning Area Lease Sale 202 (MMS, 2006), and (3) MMS’s EIS for Chukchi Sea Planning Area Lease Sale 196 (MMS, 2007). The level of analysis of the EIS regarding contribution of oil and gas activities to the overall cumulative effect is appropriate for the subject, which is bowhead subsistence whaling.

Impacts to bowhead whales from vessel traffic, including ship-strikes and noise, are discussed in Section 4.6.3 of the EIS. Impacts of vessel noise are primarily related to disturbance of migration. The effects of anthropogenic noise in general are discussed in detail in Section 4.6.1.

The past, present, and reasonably foreseeable future effects of climate change on bowhead whales and their habitat are discussed in Section 4.6.2. This section focuses on the likely effects on bowhead whales and their habitat and cites several international reports on the evidence for climate change and its general effects on the Arctic.

CE02

Concern is expressed about the apparent reliance on MMS EIS for Lease Sales 186, 195, and 202, particularly in regard to the significance thresholds for oil and gas impacts established in that EIS.

Response:

This EIS relies on NMFS and MMS environmental review documents along with original source documents for its analysis of cumulative effects on subsistence harvest practices and subsistence resources. The MMS EIS for Beaufort Sea Planning Area Lease Sales 186, 195, and 202 (MMS, 2003) and the more recent MMS EIS for Chukchi Planning Area Oil and Gas Lease Sale 196 (MMS, 2007) are both used for descriptive information concerning oil and gas exploration and development, and general conclusions about effects on subsistence harvests.

This EIS does not rely on the significance threshold established for the MMS EIS for Lease Sales 186, 195, and 202 for the effect of oil and gas activities on subsistence in its cumulative effects analysis. Instead, thresholds for direct, indirect and cumulative effects on subsistence uses in this EIS were independently developed for this analysis. These thresholds are discussed in Section 4.1.3 and displayed in Table 4.1.3.

Applying these thresholds, the analysts independently assessed the impacts of oil and gas exploration and development for this EIS. As shown in Table 4.9-3 (Alternatives 2 through 4), for spring whaling the cumulative effects of other activities, notably those associated with oil and gas exploration and development would be rated as adverse and minor. For fall whaling the likely magnitude of impacts from these activities is less certain, because it turns on the timing, location, and extent of oil and gas related activities and on the effectiveness of mitigative measures. Taking into account magnitude and likelihood, these impacts would be adverse and moderate, based on the effectiveness of current mitigation measures.

CE03

Identify the combined effects of seismic surveys, site clearance survey activities, and drilling on the subsistence hunting waters.

Response:

Section 4.6.1.1 provides a summary of past and present oil and gas activity in the Beaufort and Chukchi Sea and additional information is referenced in the recent MMS OCS five-year leasing program EIS for 2007-2012, the multi-year EIS for the Beaufort Sea and subsequent EAs (Lease sale 186, 195 and 202). The combined effects of oil and gas activity in terms of noise impacts on bowhead whales is also discussed in Section 4.6.1.3. A summary paragraph was added in Section

4.6.1.2 to provide a brief discussion on combined effects of lease sales, seismic activity, site clearance survey activity and oil and gas development.

CE04

The Draft EIS should provide more detail on the effects of oil and gas operations on the subsistence hunt.

Response:

Limited information on the views of Inupiat whalers concerning the deflection of bowhead whales due to oil and gas exploration is found in Sections 3.2.8, and 4.6.1. The discussion of cumulative effects on subsistence whaling practices in Section 4.8.1 includes a thematic account of potential effects from oil and gas development. However, regional residents have recently expressed concern that the growing level of oil and gas exploration has the potential to increase the deflection of bowhead whales during migration. As a result, subsistence whaling crews may find it more difficult to locate whales, or may have to travel greater distances and incur greater expenses to successful hunt for bowhead whales. Additional discussion has been added to Section 4.8.1 to more fully reflect recent testimony and analysis.

Demonstrated Subsistence Need (DSN)

This section includes comments on the method used to identify the subsistence need of the Alaska Eskimo Whaling Commission (AEWC) villages for bowhead whales and the appropriate level of allocation.

DSN01

The Draft EIS inaccurately asserts that the IWC definition of subsistence use was adopted by consensus in 2004.

Response:

Following the IWC's 55th annual meeting, a Small Working Group of countries, including the United States and the Russian Federation, reviewed IWC Schedule paragraph 13 regarding aboriginal subsistence whaling (See 2004 Chair's Report of the IWC at 15, IWC, 2005c). The Small Group reported its discussions and recommendations (IWC/56/4, IWC, 2004a) to the Sub-Committee on Aboriginal Subsistence Whaling at the 56th annual meeting (See IWC/56/Rep 3 at 8-9, IWC 2004b). The Small Group report, the Aboriginal Subsistence Whaling Sub-Committee Report, and the 2004 Chair's Report all contain the same definition of aboriginal "subsistence use" (See IWC/56/4 at 1; IWC/56/Rep 3 at 8; 2004 Chair's Report at 15). The Aboriginal Subsistence Whaling Sub-Committee endorsed the recommendation of the Small Group that its report (and a proposed Schedule amendment not germane to this response) be put forward to the Commission in plenary (2004 Chair's Report at 16). In the Commission's plenary meeting, the Russian Federation introduced the Small Group report, drawing particular attention to the definition of "subsistence use," and asked that it be adopted by consensus (Id.). Following discussion of the proposed Schedule amendment, the Commission then adopted both the report of the Small Group (containing the definition of "subsistence use") and a revised Schedule amendment by consensus (Id. at 17).

DSN02

Historical needs may not reflect modern needs. The subsistence need methodology adopted by IWC in 1986 makes no sense as it is based on a historical number of people and whales taken (i.e., 1910-1969) that may no longer be indicative of a level of need.

Response:

The IWC objectives concerning aboriginal subsistence whaling, noted in Section 1.2.2 of the EIS, seek to provide for an ongoing hunt “appropriate to cultural and nutritional needs,” whereas the comment appears to conclude that only the nutritional (or food) component of need is legitimate. The term “cultural need” is not further defined in the IWC Schedule nor in the studies of subsistence and cultural needs submitted to the IWC. However, it is reasonable to construe this as a matter of providing for continuity with the social and cultural practices and beliefs of previous generations. In this respect, the use of a baseline historic period in assessing the nutritional and cultural need is a rational approach.

From the early 1980s, the IWC has based catch limits on an estimate of whale harvests and Alaska Inupiat populations for a historical base period. A per capita rate of bowhead harvest for this historic period has then been applied to the current Alaska Native population of the AEWC member villages to derive a contemporary “subsistence and cultural need.” The current method, based on a historic base period of 1910 through 1969 was adopted by the IWC in 1988, and has been applied in six AEWC-commissioned studies since then. The U.S. government has relied upon the AEWC-commissioned studies developing its requests to the IWC for bowhead subsistence whaling allocations. Thus this approach is well-established in IWC decision-making.

In addition, the commenter urges use of the 2005 population data reported in the EIS show a decline of 4.5%, rather than the Census 2000 data as currently applied in the 2007 study on subsistence and cultural needs for bowhead. Over the years, the studies have used the most recent decennial census, or more current population data as available. In all cases, the estimate of the Alaska Native portion of population was based on the ratios documented in the most recent decennial census. The 2007 study (Appendix 8.1 in the EIS) is unlike the others conducted between decennial censuses (1988, 1994, and 1997) in using several years-old census data rather than more recent population developed by the Alaska Department of Labor. The study states that the 2000 U.S. Census is used because it “has race information, and the Alaska Native population in each of the whaling communities is reported.”

However, it is important to note that the U.S. request to the IWC for the subsistence bowhead whaling allocation considered the AEWC-commissioned study and other factors relevant to negotiations at the IWC meeting. Thus the 2007 study reports a subsistence and cultural need for the AEWC communities of 57 whales. However, the combined request of the U.S. and the Russian Federation was for a total of 285 bowhead whales for the five-year period from 2008 - 2012, (of which 25 would be available to the Chukotkan hunters and 255 would be available to the ten Alaska bowhead whaling communities). This represents an annual average of 51, compared to the 57 identified as the need level in the study. The U.S. request and the IWC catch limits have made adjustments to the level identified in the 2007 study.

In sum, the proposed federal action in this EIS would implement an IWC block allocation of 255 bowhead whales landed for the period 2008 - 2012. The U.S. provided to the IWC as background

information for its request a third-party report on subsistence and cultural needs that applied a methodology approved by the IWC. However, the U.S. and Russian Federation proposed, and the IWC approved, catch limits that are stable, identical to the levels authorized in the previous five-year block for 2003 - 2007. Additional language concerning the IWC approved methodology for identifying the subsistence and cultural need for bowheads has been added to the EIS in Section 3.5. Appendix 8.1 has been expanded to include the 1997 study which describes the methodology in more detail.

DSN03

A cultural need is not sufficient to allow for aboriginal whaling under IWC standards or U.S. law and the analysis of cultural patterns is not relevant.

Response:

As noted in Section 1.2.2 of the EIS, the IWC in 1994 adopted Resolution 1994-4 to reaffirm the IWC objectives concerning aboriginal subsistence whaling. The second of these objectives seeks “[t]o enable harvests in perpetuity appropriate to cultural and nutritional requirements.” Thus IWC has established a standard in which both cultural and nutritional requirements are integral. In 1983, the U.S. submitted the first such analysis in the *Report on Nutritional, Subsistence, and Cultural Needs relating to the Catch of Bowhead whales by Alaska Natives*. Since then the AEWC has commissioned six studies to quantify the “subsistence and cultural need,” and these have informed the proposal of the U.S. to the IWC concerning the allocation for the bowhead subsistence whaling. There is no assertion of a separate “cultural need” apart from the “nutritional and cultural need,” or “subsistence and cultural need.” As for the appropriateness of analyzing cultural patterns of Inupiat subsistence whaling, NEPA requires a holistic analysis of potential effects on the human environment, and this must reasonably include the social and cultural patterns associated with Inupiat subsistence whaling.

DSN04

Explain why AEWC villages need the allocated number of bowhead whales for food, when bowhead whales and other subsistence foods identified in the Draft EIS represent an average of approximately 9,483 pounds per person per year (26 pounds/person/day).

Response:

The comment asserts that the IWC allocation for subsistence harvest allocations is unreasonable in light of the commenter’s estimate that current production of subsistence foods amounts to 9,483 pounds per person per year. Since this quantity cannot be consumed, the commenter concludes that there must be significant waste of subsistence-taken food. The commenter’s estimated annual per capita production is 10.7 to 32.8 times the empirically documented figures of annual subsistence food production in the six baseline studies reported in Table 3.5-3 (i.e. 289 pounds per capita to 885 pounds per capita). The comment does not offer alternative empirical data to indicate that earlier study results were in error or that subsistence food production has changed by this order of magnitude in recent decades. Instead, the comment is likely based on alternative mathematic extrapolations.

The commenter recalculated the per capita rate of bowhead whale food production by offering an alternative figure for the Alaska Native population using bowhead whale foods. This resulted in an estimated annual per capita bowhead harvest level of 190 pounds, versus 157 pounds stated in

the EIS or a difference of 33 pounds. The commenter also expanded food production values for the four AEWC communities for which no baseline studies had been conducted. The comment states: “For the three communities of Gambell, Point Hope and Savoonga the Kivalina hunt levels were doubled since the population is more than half of the native populations recorded in Gambell, Hope and Savoonga.” However, a per capita rate already controls for different population sizes of communities. If the per capita values from Kivalina were expanded to other communities, then the resulting value would be the same, not doubled. The error of doubling the per capita harvest values from Kivalina would account for a difference on the order of 760 pounds. Together the two factors in the recalculation would represent a difference of approximately 800 pounds, not the 8,600 pounds or more stated in the comment.

In sum, the comment that the EIS fails to account for the potential over-harvest and waste of as much as 8,600 pounds of subsistence food per person per year must be set aside as lacking empirical foundation.

Enforcement (ENF)

This section includes a comment on the role of the AEWC in enforcing the regulatory conditions for bowhead subsistence whaling.

ENF01

The Draft EIS inadequately explains the enforcement role of the AEWC in relation to the MMPA, Endangered Species Act (ESA), WCA, and the International Convention for the Regulation of Whaling (ICRW) and its schedule.

Response:

The AEWC role in enforcement is established in the Cooperative Agreement between the National Oceanic and Atmospheric Administration (NOAA) and the AEWC (see appendix 8.2 of the EIS for the document). The Cooperative Agreement is signed by NOAA and so provisions of the agreement refer to NOAA. However, NMFS has been delegated the responsibility for implementation. As noted in Section 1.2.4 of the EIS, the NOAA-AEWC Cooperative Agreement establishes an “exclusive enforcement mechanism” in which the AEWC is responsible for management and enforcement of the strike limits and the provisions of the AEWC Management Plan on subsistence whaling by the AEWC member whaling captains and crews (See Sections 4 *Management*, and 5 *Enforcement* of the Cooperative Agreement). As further discussed in Section 3.6.1 of the EIS, NOAA reserves the right to assert its federal management and enforcement authorities if AEWC does not fulfill its responsibilities under the agreement (See also Section 2 *Responsibilities* in the Cooperative Agreement). As a practical matter, the AEWC has demonstrated the willingness and capacity to monitor and enforce its Management Plan, as described in Section 3.6.3 of the EIS. The Commissioners are highly knowledgeable whaling captains who hold positions of high esteem and responsibility in their communities. NOAA and NMFS (as the implementing agency) have seen no evidence that the AEWC is failing to uphold the terms of the Cooperative Agreement and the AEWC Management Plan.

Humane Method of Take (HMT)

This section includes comments about the efficiency and humaneness of contemporary whaling methods and technology.

HMT01

Additional information about hunting methods is needed to assess the humaneness of the hunt. NMFS should consider placing an observer on whaling vessels to directly document methods and time to death.

Response:

From its formation in 1977, the AEWC has taken steps to improve hunting efficiency (that is the ratio of whales landed to whales struck and lost) and effectiveness of hunting technology (that is, the certainty that a whale struck will be dispatched quickly). The original terms of the AEWC Management Plan in 1977 required registration of whaling captains, including information regarding their qualifications. The Management Plan also required that the subsistence hunt be conducted in a traditional harvesting manner, including the standard that a whale must be secured by a harpoon and line, before the dart gun explosive projectile is used. In addition, the AEWC initiated a whaling hunting technology improvement effort, known as the Weapons Improvement Program.

In the IWC 59 meeting, held in Anchorage, Alaska in May 2007, the U.S. submitted to the Subcommittee on Whale Killing Methods a report prepared by the AEWC documenting the significant increase in efficiency and improvements in whaling weapons technology. The following comments are taken from this report, and additional discussion has been added to the EIS in Section 3.5.

In summary, this report provided a detailed description of the ecological conditions of the modern hunt (i.e. the open ice leads in spring), and contemporary subsistence whaling techniques and technology. The report noted that hunt efficiency has improved steadily from a historic hunt efficiency of approximately 50%, to a recent average of 75% of whales struck being landed, and in some recent years as high as 80% of the whales struck being landed.

The report notes that a shoulder fired darting gun, using a black powder exploding projectile, has been used in Inupiat subsistence whaling for approximately 150 years, since it was introduced by the Yankee commercial whalers in the mid- 19th century. Beginning in 1987, the AEWC and its Weapons Improvement Program Committee worked with Dr. Egil Ole Øen and Henriksed Mek. Verksted of Norway to design, test, and promote use of a penthrate-loaded projectile to improve safety and certainty in use of the dart gun. The new design for penthrate projectiles and modified dart gun barrels were field tested through 2004. Beginning in 2005, training and certification for use of the new technology was phased in. As documented in this report, penthrate projectiles were successfully used in eight bowhead whale takes in 2005, and five in 2006. In these harvests the whales appeared to die instantly or quickly, following detonation of the penthrate projectile. With additional deliveries of penthrate projectiles in fall 2007 and 2008, the AEWC will complete its planned village training sessions.

HMT02

From the definition of a “strike,” and the fact that multiple strikes are made in taking a whale, it appears that the subsistence whalers have exceeded the authorized strike limit.

Response:

In paragraph 13 on aboriginal bowhead whaling, the ICRW Schedule limits the number of bowhead whales landed and the number of bowhead whales struck. This limit is implemented through the annual regulations promulgated by NOAA. The 2007 regulations for the bowhead subsistence hunt, found in Appendix 8.3 of the EIS, state:

For each of the years 2003 through 2007, the number of bowhead whales struck may not exceed 67, except that any unused portion of a strike quota from any year, including 15 unused strikes from the 1998 through 2002 quota, may be carried forward.

Thus it is clear that the regulatory restriction refers to the number of whales struck, not to the number of discrete strikes. The shorthand references to a “strike quota” and “unused strikes” introduce an element of ambiguity because within the ICRW Schedule (1946 as amended in 2007) “strike” means to penetrate with a weapon used for whaling. The text in the EIS has been revised to clarify that the regulations limit the number of whales struck.

Monitoring (MON)

This section includes a comment about ongoing monitoring of a number of bowhead whale population parameters.

MON01

Bowhead population monitoring should continue and be augmented to document any future changes in health, nutrition, reproduction, and survival of bowhead whales.

Response:

We agree. Monitoring of the Western Arctic bowhead population is an essential part of its conservation and management. As noted in the response to comment BEW01, the management agreement provides for a new population estimate every 10 years, and data on additional indices of health of the population are also gathered on an ongoing basis. This population has been extensively monitored for over two decades by Alaska Eskimos, NMFS, and the international scientific community, among others. It is one of the most extensively studied populations of whales and will continue to be so.

NEPA (NEP)

This section includes comments about compliance with NEPA provisions in the development of the Draft EIS.

NEP01

NMFS violated NEPA by seeking approval of a bowhead whale subsistence quota from the IWC prior to complying with NEPA.

Response:

NMFS properly initiated an environmental review under NEPA of its proposed issuance of annual quotas to the Alaska Eskimo Whaling Commission for a subsistence hunt on bowhead whales, consistent with the catch limits for aboriginal subsistence whaling adopted by the IWC. The proposed action by NMFS is a federal agency action subject to NEPA review. In contrast, the U.S. negotiating positions at the IWC are advanced by the U.S. Commissioner to the IWC; the U.S. Commissioner is appointed by the President and serves at his pleasure. The U.S. Commissioner is not a federal agency. Negotiating positions advocated by the U.S. Commissioner on behalf of the U.S. are not final agency actions; these positions may change during the course of negotiations. The U.S. negotiating positions advocated before the IWC, moreover, may or may not be adopted by the IWC, and any attempt to analyze effects on the human environment would be speculative. The proper application of NEPA is to actions by NOAA, not the U.S. IWC Commissioner, when NOAA acts under the Whaling Convention Act. For these reasons, the NEPA requirements for environmental review do not apply to the U.S. negotiating positions before the IWC.

NEP02

NMFS must include full disclosure of all relevant information, data, analyses, and other evidence that may be included in the documents tiered to in the Draft EIS, in order to provide for an adequate assessment of the environmental impacts.

Response:

The EIS cites the relevant scientific literature and, as appropriate, environmental reviews and technical documents produced by NMFS and other federal agencies. In preparing the EIS, data and analyses from the relevant scientific literature were examined in order to insure that the document is complete and current. References are cited to identify the source for specific points of fact or analysis, and the pertinent information is summarized in the EIS. It is not reasonable to suggest that for every reference cited there must be an extensive abstract of the entire source document. In addition, the question of “tiering” from other documents is moot, as this EIS does not purport to “tier” from other environmental reviews. See the response to NEP03 for additional information.

NEP03

The Draft EIS improperly relies on tiering to at least nine different NEPA documents and ESA biological opinions in violation of NEPA and Council on Environmental Quality (CEQ) guidance on when tiering is appropriate.

Response:

As noted in the comment, CEQ guidelines define when it is appropriate for an environmental review document to “tier” from a larger and broader environmental review document. This EIS does not purport to tier off of other environmental review documents and the term “tiering” does not appear in the EIS. More specifically, the bowhead whale subsistence harvest regulations proposed by NMFS and reviewed in this EIS are not subsidiary to a more general programmatic action in the form of MMS energy development decisions reviewed in another set of environment review documents. Instead, the MMS environmental review documents are cited for the information they provide, primarily in the area of cumulative effects - that is action outside of the proposed action which may have additive and synergistic effects alongside the proposed action. These are properly part of the cumulative effects analysis in this EIS, and the EIS would be deficient if it failed to consider these other actions, including the environmental reviews of those actions.

NEP04

NMFS must state the duration of the EIS.

Response:

As noted in Section 1.1.1, this EIS reviews a proposed action by NMFS to issue annual quotas to the AEWC for the subsistence of harvest of bowhead whales from the Western Arctic stock for the years 2008 through 2012. This corresponds to the period for which the International Whaling Commission has authorized a block quota for aboriginal subsistence whaling. The duration of the EIS is therefore for the five years of the proposed action. Any IWC block quota for the subsequent period beginning in 2013 would be implemented by NMFS in a new proposed action subject to a new NEPA environmental review. Additional language has been added to the EIS to clarify this point.

Public Participation (PPN)

This section includes comments on the adequacy of opportunity for public participation.

PPN01

By denying the request for an extension, NMFS failed to provide an adequate opportunity for the public to locate and review tiered documents cited in the Draft EIS and to comment on the Draft EIS.

Response:

We disagree. The public comment period for the Draft EIS was more than adequate. The public comment period on the Draft EIS was 70 days, well beyond the legal minimum of 45 days required under NEPA. The additional period of 25 days to submit comments on this Draft EIS

was deemed appropriate. This EIS addresses no new significant issues. NOAA proposes to reauthorize the bowhead subsistence hunt for 2008 through 2012 at the same quota level and strike-limit, as during 2002 through 2007 and endorsed by the IWC. We chose to prepare an EIS rather than an EA so as to provide the public with as much information as we could that was relevant to the decision at-hand. The commenter takes the view that the body of scientific literature cited in the EIS is such that the public could not reasonably examine and comment on the EIS in the period provided. However, the central question of this EIS concerns the population status of the Western Arctic bowhead whale stock and the soundness of the aboriginal subsistence whaling catch limits adopted by the IWC by consensus and proposed for implementation by NMFS. This topic has been the subject of a significant body of published scientific research since the late 1970s. The stock status and aboriginal whaling block quota have been reviewed by the IWC repeatedly since the late 1970s. Similarly, for the cumulative effects issues, e.g., impacts of climate change and oil and gas exploration and development in the U.S. Beaufort and Chukchi seas, these too are topics of extensive and prominent scientific debate and public scrutiny. In addition, a specialist non-governmental organization such as the commenter has reason to be well informed on the relevant issues, independent of the comment period provided for by the DEIS. Among other things, the commenter's correspondence during the scoping period and the comment period indicate that the commenter is well informed of the issues and the history of this matter. Given the modest length of this document and the issues being addressed, NMFS did not see a compelling reason to grant an extension of the comment period.

PPN02

There was inadequate opportunity for meaningful public involvement because additional documents and relevant reports were published or made available after the Draft EIS was completed.

Response:

Additional discussion has been incorporated into the analysis and presented in the appropriate sections of the Final EIS concerning new events and additional information made available to the public after the release of the Draft EIS in July 2007. However, this new information is not such that would require re-opening of the public comment period.

Socio-economic Effects of Whaling (SEW)

This section includes comments on the socio-economic effects of whaling.

SEW01

The EIS does a good job documenting the Alaskan Eskimo tradition of subsistence bowhead whale hunting. It describes in detail the history and cultural aspects of the whaling hunt including how the hunt is an integral part of the social framework of the villages involved.

Response:

Comment acknowledged.

SEW02

The Draft EIS does not discuss the exchange and purchase of non-food portions of the bowhead whale as an important commodity for the Native Alaskan villages involved.

Response:

Qualitative information concerning the exchange and purchase of non-food bowhead whale parts, such as baleen, for use in handicrafts has been developed on consultation with the AEWC and the Inupiat History, Language and Culture Commission. Additional discussion has been added to Section 3.5 in the EIS.

Public Comment Letters

Letter from Timothy J. Ragen, Ph.D., Executive Director, Marine Mammal Commission, September 20, 2007. 2 pages.

Letter from D.J. Schubert, Wildlife Biologist, Animal Welfare Institute, October 12, 2007. 30 pages, plus attachments.

Letter from Harry Brower, Chairman, Alaska Eskimo Whaling Commission, October 12, 2007. 2 pages.

Letter from Christine B. Reichgott, Manager, NEPA Review Unit, Environmental Protection Agency, October 12, 2007. 2 pages.

MARINE MAMMAL COMMISSION
4340 EAST-WEST HIGHWAY, ROOM 905
BETHESDA, MD 20814-4447

20 September 2007

Douglas P. DeMaster, Ph.D.
Attn: Ellen Sebastian
National Marine Fisheries Service
709 West 9th Street
P.O. Box 21688
Juneau, AK 99802-1668

Re: Bowhead Whale DEIS

Dear Dr. DeMaster:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the Draft Environmental Impact Statement on issuing annual quotas to the Alaska Eskimo Whaling Commission for the subsistence hunt of bowhead whales from 2008 through 2012. Based on our review, we offer the following comments and recommendation.

At its May 2007 meeting, the International Whaling Commission (IWC) adopted a five-year subsistence whaling quota for bowhead whales for the years 2008 through 2012. The quota allows up to 280 whales to be landed over that period, with up to 67 strikes per year and an additional 15 unused strikes in any given year to be carried over to the following year. This is the same quota that was adopted by the IWC for the previous five-year period. Native communities in Alaska and Russia share the bowhead whale quota, the Alaska Native share being 255 whales landed over the five-year period. Consistent with these provisions, the National Marine Fisheries Service proposes to authorize landings in accordance with the Alaska Native share of the IWC quota and its strike and carry-over stipulations.

The DEIS provides a thorough discussion of the status of the bowhead whale population; subsistence whaling by Alaska Natives; local, federal, and international management of the harvest; and the likely effects of whaling under the proposed quota on the bowhead whale population, the environment, and the Alaska Native whaling communities. Among other things, the DEIS notes that the most recent census of western Arctic bowhead whales, conducted in 2001, resulted in an estimated abundance of 10,545 whales. This reflects an increase of about 3.4 percent a year between 1978 and 2001. Given this abundance and trend, we believe the effect of the hunt under the proposed quota will be minor and will not prevent the regional bowhead whale population from continuing to increase toward its optimum sustainable population level. The hunt has been well managed, and the Marine Mammal Commission therefore concurs with the proposed action and recommends that the National Marine Fisheries Service adopt the bowhead whale subsistence quota as proposed.

We also note that the monitoring program for bowhead whales has done an excellent job of providing reliable information on the population's abundance and trends. Continuing this program

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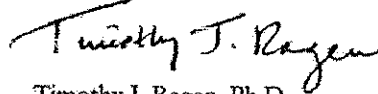
PHONE: (301) 504-0087
FAX: (301) 504-0099

Douglas P. DeMaster, Ph.D.
20 September 2007
Page 2

is particularly important given the dramatic effects of climate change and shrinking sea ice coverage off Alaska and other arctic areas in recent years and the anticipated changes in future years. These changes will no doubt alter bowhead whale habitat, both directly and as a consequence of growing human activities in the region. Bowhead whale reproduction, nutrition, health, and survival may be affected and, for that reason, the Marine Mammal Commission also recommends that (a) monitoring efforts to assess population size and trends be maintained through the upcoming quota period, and (b) those efforts be augmented to document any future changes in health, nutrition, reproduction, and survival of bowhead whales.

Please contact me if you or your staff has questions regarding these recommendations.

Sincerely,

A handwritten signature in black ink that reads "Timothy J. Ragen". The signature is written in a cursive style with a large, stylized 'T' and 'R'.

Timothy J. Ragen, Ph.D.
Executive Director



ANIMAL WELFARE INSTITUTE

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September 25, 2007

BY ELECTRONIC AND REGULAR MAIL

Dr. Douglas P. DeMaster
Attn: Ellen Sebastian
National Marine Fisheries Service
709 W. 9th Street
P.O. Box 21688
Juneau, AK 99802-1668

Dear Dr. DeMaster:

On behalf of the Animal Welfare Institute (AWI), I am writing to request a 60-day extension in the deadline for public comments on the Draft Environmental Impact Statement for Issuing Annual Quotas to the Alaska Eskimo Whaling Commission for a Subsistence Hunt on Bowhead Whales for the Years 2008 through 2012 (hereafter DEIS). This request is needed to ensure that the public has a sufficient opportunity to properly review, and evaluate the DEIS and to subsequently prepare substantive comments in response to the analysis. Additional justifications for this request are presented below.

The current deadline for public comment on the DEIS is October 12, 2007. If this request is granted – as it should be – the revised deadline for public comment would be December 12, 2007. If, however, a 60-day extension is deemed unacceptable, then, at a minimum, AWI would ask that the National Marine Fisheries Service to extend the comment deadline for 30 days or until November 12, 2007 to facilitate public review and to satisfy the intent of the National Environmental Policy Act (NEPA).

This request is warranted and justified for the following reasons:

1. The opportunity for public review and comment on federal agency plans and projects that impact the quality of the human environment is the most important component of the NEPA process. Regulations implementing NEPA that were promulgated by the Council on Environmental Quality and which are applicable to all federal agencies both require that “environmental information is available to ... citizens before decisions are made and before actions are taken” and that “public scrutiny (is) essential to implementing NEPA.” 40 CFR §1500.1(b). In addition, it is the responsibility of each federal agency to “encourage and facilitate public involvement in decisions which affect the quality of the human environment.” *Id.* at §1500.2(d). In recognition of these requirements, the requested 60-day extension is entirely consistent with the intent of NEPA which, first and foremost, is to involve the public in an agency’s decision-making process.

2. The existing comment period is inadequate given the large scope of issues and impacts discussed in the DEIS or relevant to the subject matter analyzed in the DEIS. The current comment period of 70-days is not sufficient to provide the public with an adequate opportunity to fully review the DEIS, to obtain and review the studies and/or other planning documents cited or referred to in the DEIS, to identify and evaluate other information – including newly published reports – of relevance to the Arctic environment and the bowhead whales that were not cited in the DEIS, and to facilitate the preparation of substantive comments in response to the DEIS. An additional 60 day extension in the comment deadline until December 12, 2007 is justified to ensure that interested members of the public, including scientists, representative of non-governmental organizations, and Native Alaskans can all fully participate in this decision-making process.

More specifically, the requested 60-day extension in the deadline for comments on the DEIS is essential to facilitate public involvement in this process because:

A. The document under review is an environmental impact statement which, theoretically, provides the most comprehensive level of review of the environmental impacts of an agency's proposed action and other reasonable alternatives to that action. This is the first time that NMFS has prepared an EIS on this particular subject. In 2002, when it first evaluated the impact of the aboriginal subsistence whaling on bowhead whales, NMFS did so in an environmental assessment which, by regulation, does not provide as comprehensive an analysis as an EIS.

B. The DEIS cites to several scientific studies that are relied on to substantiate many of the facts or claims in the analysis. Some of these studies are available in more common scientific journals (e.g., Marine Fisheries Review, Report to International Whaling Commission) while others are available from more obscure journals (i.e., Journal of the Acoustical Society of America, Artherosclerosis, Ekologiya) that can be difficult to find or access.

C. The DEIS refers or tiers to at least four other environmental impact statements, environmental assessments, or biological opinions relevant to the discussion and analysis of the direct, indirect, and cumulative effects of oil/gas exploration and development activities on whales and their habitat in the Arctic. See DEIS at 27, Section 3.2.8. Though NMFS provides the relevant URLs where these documents can be accessed, each is lengthy and detailed requiring considerable time to review and evaluate. Moreover, each of these documents cite to other studies/reports that also may be relevant for consideration in preparation of comments on the DEIS.

D. Several lawsuits challenging the legality of oil/gas exploration activities and/or questioning the sufficiency of environmental impact analyses or the adequacy of government decisions have been filed. Recently, a court ruled in favor of plaintiff organizations who challenged a decision made by the government to allow Shell to engage in oil/gas exploration activities in the Beaufort Sea. The public needs additional time to investigate such lawsuits and to acquire the factual evidence relied on by both plaintiffs and defense in substantiating their claims in order to determine if such evidence is relevant to the analysis in the DEIS.

E. The Mineral Management Service (MMS) is responsible for managing the nation's natural gas, oil, and other mineral resources on the Outer Continental Shelf. The MMS

website (www.mms.gov) contains an abundance of information relevant to oil and gas exploration in Alaska within the habitat of the bowhead whale. The public requires an extension in the DEIS comment deadline to allow for a sufficient examination of the information on the website that may be relevant to the issues under review in the DEIS.

F. An abundance of new information has recently become available in regard to the significant adverse impacts of global climate change or global warming on the Arctic environment, the wildlife of the Arctic, and the ecology of the entire region. For example, in a press release dated September 6, 2007, the National Oceanic and Atmospheric Administration announced the availability to two new reports on the impacts of global warming on the Arctic ecosystem and its ecology (e.g., State of the Arctic 2006, Arctic Climate Impact Assessment). Moreover, the Norwegian government also recently issued a series of studies on climate change and the Arctic environment. Since the Arctic is already experiencing changes as a result of global climate change, considering that all experts agree that the such changes will be most dramatic and rapid at the poles, and given the direct, indirect, and cumulative effects of climate change on bowhead whales, their habitat and ecology, and Alaskan native whaling, such information is directly relevant to the analysis in the DEIS. An extension in the comment deadline is essential to ensure that the public has a sufficient opportunity to access, obtain, review, and rely on these studies when preparing substantive and informed comments on the DEIS.

3. There is no legitimate justification for not extending the comment deadline by the requested 60 days and any potential inconvenience to NMFS is easily outweighed by likely benefits. Alaskan natives are authorized to hunt, kill, and land bowhead whales under both U.S. law and pursuant to an aboriginal subsistence whaling quota approved by the International Whaling Commission at a special intersessional meeting in October 2002. The existing NEPA analysis and approved quota is valid through the end of 2007 allowing Alaskan natives to hunt bowhead whales during the fall migration. The spring 2008 bowhead whale hunt, if approved by NMFS after completion of this NEPA process, will not begin until April at the earliest. Consequently, if NMFS extends the deadline for the requested 60 days it would still have approximately 120 days to complete the NEPA and quota allocation processes. Moreover, such an extension will benefit NMFS by ensuring that its decision-makers have access to and can consider a full complement of substantive and informed comments submitted by the public upon which to base their final decision. In addition to benefiting the decision-makers, this would also ensure that NMFS has endeavored to provide as much opportunity for public comment as is possible and as is consistent with the intent of NEPA.

For the foregoing reasons, AWI again requests that NMFS extend the deadline for public comments on the DEIS by 60-days or until December 12, 2007. As an alternative, should this request be denied then, at a minimum, NMFS is asked to extend the comment deadline by 30-days or until November 12, 2007. By extending the deadline NMFS will provide the public with additional time to fully evaluate the DEIS, to access and review many of the supporting studies/reports, and to obtain and examine other evidence of relevance to the action. In addition, considering that there is no legitimate reason why the extension should not be granted, that additional time will only improve the decision-making process, and given the intent of NEPA in

*Animal Welfare Institute
Dr. Douglas P. DeMaster
September 25, 2007
Page 4*

regard to facilitating public participation as an "essential" element in the NEPA process, the requested extension should be granted.

Thank you in advance for considering this request. Please contact me by e-mail (susan@awionline.org), telephone (703-836-4300), or telefax (703-997-1134) should you have any questions about this matter and/or with your response to this request. If possible, please notify me as to your decision in response to this request by September 28, 2007.

Sincerely,



Susan Millward
Research Associate

cc: Dr. William Hogarth, Director, National Marine Fisheries Service
Mr. Steven K. Davis, Project Manager, National Marine Fisheries Service

From Susan Millward <susan@awionline.org>
Sent Tuesday, September 25, 2007 2:25 pm
To bowhead-DEIS@noaa.gov , Douglas.Demaster@noaa.gov
Cc Steven.K.Davis@noaa.gov , william.hogarth@noaa.gov
Subject Draft Bowhead Whale EIS
Attachments AWI_DEIS_ExtRequest09-25-07.pdf 62K

Please see the attached letter requesting an extension to the comment period for the Draft Bowhead EIS.
I would appreciate an acknowledgement of receipt of this email.

Thanks,

Susan Millward
Research Associate
Animal Welfare Institute

<https://vmail4.nems.noaa.gov/frame.html?&security=false&lang=en&popupLevel=undefined&char...> 9/28/2007



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October 12, 2007

BY ELECTRONIC AND REGULAR MAIL

Dr. Douglas P. DeMaster
Attn: Ellen Sebastian
National Marine Fisheries Service
709 W. 9th Street
P.O. Box 21688
Juneau, AK 99802-1668

Dear Dr. DeMaster and Ms. Sebastian:

On behalf of the Animal Welfare Institute (AWI), we submit the following comments on the Draft Environmental Impact Statement for Issuing Annual Quotas to the Alaska Eskimo Whaling Commission for a Subsistence Hunt on Bowhead Whales for the Years 2008 through 2012 (hereafter DEIS).

Based on a careful review of the DEIS and the process and procedures relevant to its preparation and publication, AWI asserts that the National Marine Fisheries Service has violated federal law by:

1. Prematurely seeking approval of a bowhead whale quota from the International Whaling Commission (IWC) prior to complying with the National Environmental Policy Act;
2. Impairing the ability of the public to meaningfully participate in this decision-making process by failing to extend the comment period on the DEIS as requested and is consistent with the intent of NEPA;
3. Failing to consider a reasonable range of alternatives in the DEIS;
4. Improperly relying on tiering to past environmental documents thereby failing to properly disclose in the DEIS all of the relevant information pertinent to a comprehensive review of the environmental impacts of the proposed action and its alternatives;
5. Failing to adequately evaluate the direct, indirect, and cumulative impacts of the proposed action and its alternatives in the DEIS by, in particular, downplaying the significant potential adverse impacts of oil/gas exploration and acquisition activities including ocean noise, non-oil and gas exploration and production related ocean noise, vessel traffic and its associated noise impacts, and climate change;

6. Ignoring other critical information and/or failing to provide an analysis of discussion of other relevant legal and scientific issues in the DEIS.

For these reasons, the DEIS fails to meet the legal standards imposed by NEPA and, at a minimum, either must be withdrawn and replaced with a far more substantive and comprehensive analysis or a supplement to the DEIS must be published to address the deficiencies in the current document.

As a preface to its comments on the DEIS, AWI desires to clearly articulate that it opposes whaling. Unlike many organizations that distinguish between aboriginal and commercial/scientific¹ whaling, AWI does not. AWI's opposition to whaling is due to the indisputable fact that it is impossible to "humanely" kill a whale. Indeed, despite years of research by those attempting to devise a more rapid means of killing whales, no technique or tool has proven effective in "humanely" killing a whale by instantaneously or nearly instantaneously rendering the animal incapable of feeling pain. Given the proven intelligence of whales, their sentience, their communication skills and complex social organization, whaling has no place in the modern world and should be relegated to the history books. Moreover, considering that the majority of the great whales have not recovered to so-called pre-exploitation population sizes, considering that our estimates of such pre-exploitation sizes may not be accurate and/or represent "best guesses," recognizing that despite years of study we still know relatively little about the life histories, biology, ecology, and behaviors of whales, and in light of the myriad and increasing anthropogenic threats to whales and their habitats (i.e., climate change, pollution, coastal development, vessel traffic, oil/gas exploration, ocean noise including active sonar use), whaling represents an ongoing threat that is most easily mitigated.

This is not to say that AWI has no respect for the needs of the Inuits or native Alaskan Eskimos who, as reported in the DEIS, have engaged in whaling for subsistence purposes for over 2000 years. AWI recognizes the need for some native people to engage in whaling in order to survive and consequently, does not oppose aboriginal subsistence whaling provided that the following conditions are met:

- (A) such whaling fulfills a legitimate and continuing subsistence need;
- (B) such killing is limited to only the number of whales need to satisfy the legitimate subsistence needs of the people conducting the hunt, their immediate family members, and other native people in their village of residence who also have a legitimate subsistence need for whale products;
- (C) the targeted whale population can sustain such kills;

¹ Though some may distinguish between commercial and scientific whaling, AWI does not. Considering that the products of whales killed allegedly for "scientific" research are sold, such killing constitutes commercial whaling.

- (D) the killed whale or whales be fully utilized by those responsible for his/her death as specified in (B) and provided that none of the meat, blubber, or other edible portions of the whale can be sold and that none of the non-edible portions, including native handicrafts, are sold in violation of the MMPA, ESA, or the Convention on International Trade of Endangered Species of Wild Flora and Fauna;
- (E) that whaling be done using the least cruel techniques available;
- (F) continuing efforts are made to reduce the time till death and thus the cruelty of the hunt.

At present, based on the best available information, some of these conditions are satisfied by the Alaskan bowhead whale hunt while others are not. Some of the conditions of concern will be subject to further discussion and analysis in this comment letter.

In regard to the issue of legitimate subsistence need, while we question whether there remains a true subsistence need for whaling and whale products for all inhabitants of all villages that currently kill bowhead whales, we understand that the IWC and U.S. government has recognized such a need and has permitted the killing of bowhead whales under internationally established quotas for nearly 30 years. We also question whether all of the traditional practices relevant to whaling by the Inuits or native Alaskan Eskimos continued to be followed at present. For example, the DEIS indicates that during the autumn hunts the Inuits/Eskimos use aluminum skiffs or small boats with outboard motors during the whale hunts while, during the spring hunts the traditional umiaks (seal or walrus-skin covered boats) are used. In addition, there is concern that some of the whaling vessels may be equipped with outboard motors to facilitate the hunt. Such motorized crafts were not available historically to hunt whales and, if the traditional cultural aspects of whaling are as important as they are portrayed to be, then the application of such modern conveniences which simplify and expedite whaling should not be used.

Conversely, if the Inuits/Eskimos are allowed to whale AWI fully supports their use of the most modern killing tool to reduce the cruelty of the hunt. While this distinction between using traditional methods to pursue a whale and using modern weapons to kill a whale may appear to be a double standard, it is not. Federal law, including both the Endangered Species Act and Marine Mammal Protection Act, requires the humane killing of bowhead whales (a federally listed endangered species) necessitating the use of modern killing equipment. There is no federal law, however, that allows the use of outboard motors or modern vessels in pursuing whales during so-called traditional subsistence hunts.

Though AWI opposes whaling, including subsistence whaling unless specific conditions are met, it recognizes that subsistence whaling by Inuits/Eskimos has occurred, it has

been virtually uninterrupted for over 2000 years, and that international and national approval has been given authorizing the continuation of such killing.² AWI, however, shares the serious concerns expressed by the Inuits/Eskimos in regard to the short and long-term threats to bowhead whales, other marine mammals in the region, the Arctic ecosystem, and their indigenous lifestyles as a result of threats of global climate change, oil/gas exploration and development, pollution, and increased vessel traffic. AWI commends the Alaska Eskimo Whaling Commission, individual villages, native village leaders, local politicians, and individual native villagers for their ongoing efforts through the courts, media, and public opinion to contest the destruction of the Arctic environment and their very way of life.

The remainder of this comment letter will address both general and specific deficiencies in the DEIS and the process/procedures followed by NMFS in developing this document.

1. NMFS violated NEPA by failing to satisfy its NEPA obligations prior to seeking IWC approval of its bowhead whale quota:

NMFS contends that it had no obligation to comply with NEPA before seeking IWC approval for its bowhead whale quota at IWC/59 in May 2007. Specifically, it claims that US negotiating positions at the IWC are not subject to NEPA. DEIS at 12. This self-serving interpretation of the requirements of NEPA is simply wrong. The basic premise or mandate of NEPA is that federal agencies are required to examine the environmental impacts of their actions before implementing those actions. In other words, an agency is supposed to "look before it leaps." NEPA does not permit an agency to "look while leaping" or to "look after it has leapt." In this case, requesting a bowhead whale quota from the IWC was inextricably intertwined with the U.S. government's interest in allowing the Inuits/Eskimos to continue to kill bowhead whales after 2007.³ While the act of requesting the quotas may not have had any significant environmental impacts, the indisputable and inextricable connection between the request and action mandated NMFS to complete its NEPA obligations prior to IWC/59.

Information in the DEIS further demonstrates the connection between the request and the action providing additional evidence that NMFS blatantly violated NEPA by attempting to satisfy its NEPA obligations only after seeking the quota. For example, throughout the DEIS NMFS indicates that the Whaling Convention Act (WCA) is the preeminent statute

² In contrast, the Makah tribe located in northwest Washington have no legitimate subsistence need to kill whales, have not engaged in whaling (with the exception of killing one whale in 1999 and the illegal killing of another in 2007) in over 80 years and the IWC has not recognized its subsistence needs.

³ NMFS was advised of its violation of NEPA by seeking IWC approval of its aboriginal subsistence whaling quotas prior to completing its NEPA obligations in a letter submitted by Friends of the Gray Whale and other organizations in May 2007. A copy of that letter, which is hereby incorporated by reference in its entirety, is appended to this comment letter as Attachment 1.

that governs whaling. The WCA very clearly specifies that any whaling allowed in the US must be in compliance with the International Convention for the Regulation of Whaling (ICRW). The WCA, however, does not take precedence over NEPA which is a separate statute requiring agencies to consider the environmental impacts of their plans, projects, or programs before approving any action. By seeking IWC approval for the bowhead whale quota to comply with the terms of the WCA, the US has effectively predetermined the outcome of the NEPA process since it is irrational and illogical to believe that the US would expend the resources and time⁴ to obtain the quota from the IWC only to deny allocation of the quota as a result of its post-IWC NEPA compliance efforts. The repeated reference to the IWC approval of the bowhead whale quota in the DEIS, including in support of the proposed action, provides additional evidence that the NMFS decision to allow the Inuits/Eskimos to kill bowhead whales from 2008 through 2012 was made at the IWC meeting and that the current NEPA process is simply a make-work exercise designed to justify a decision already made.

By publishing its DEIS after IWC/59 NMFS has not only predetermined the outcome of the process but has also illegally segmented the analysis and denigrated the role of the public in the process. Indeed, in this case, NMFS proceeded with efforts to meet its NEPA obligations only after securing the bowhead whale quota from the IWC. By doing so, the public had absolutely no means of participating in the NMFS decision-making process as to whether to seek a quota from the IWC at all or what size quota it should have requested. To suggest, as NMFS has, that the public has no legitimate right to participate in the NMFS decision to even seek a quota from the IWC is indicative of an intentional misinterpretation of NEPA to purposefully avoid public input on how, what, or if the US should have sought a quota in an international fora. The fact that the IWC is an international body is irrelevant since the decision to be made – whether to seek a quota required to allow the Inuits/Eskimo to whale and what size quota to seek – is strictly up to NMFS.

Had NMFS complied with NEPA and solicited public comment on the DEIS prior to IWC/59, the public would have had an opportunity to submit additional evidence on, for example, the various and increasing anthropogenic threats to the bowhead whale and its habitat that may have provided NMFS with cause to, at a minimum, consider requesting a smaller quota. Similarly, had the DEIS been subject to public review prior to IWC/59 the

⁴ Though not specifically quantified, anecdotal information suggests that NMFS expended considerable time and resources, including significant amounts of federal tax dollars, to obtain the bowhead quota at IWC/59. Indeed, obtaining the quotas (primarily bowhead but also gray whale) was the primary objective of the US at IWC/59 and was used by the US as an excuse not to take the lead in advocating for resolutions to provide greater protection for whales throughout the world. Because of the failure of the US to secure the bowhead quota at the IWC's 2002 meeting in Shimonoseki, Japan it appeared to spare no expense in sending its representatives around the world to meet with and influence other governments to support its aboriginal subsistence whaling quota requests at IWC/59.

public could have provided comment on the Inuit/Eskimo needs statement possibly causing NMFS to either increase or decrease its requested quota. By illegally delaying the release of the DEIS, NMFS has effectively undermined the public's opportunity to critique the needs statement as NMFS is likely to disregard such comments by claiming that the statement has already been accepted and approved by the IWC.

Had NMFS not repeatedly referenced the IWC's approval of the quota in the DEIS, it would have provided the appearance that the DEIS represented a fresh and objective examination of the environmental impacts associated with the proposed action and its alternative. Instead, by including the IWC references, NMFS simply confirmed the illegality of the procedures used in this case, demonstrated its disregard for the public comment provisions of NEPA, and demonstrated that it has predetermined the outcome of this NEPA process.

2. NMFS has Failed to Provide an Adequate Opportunity for Public Comment on the DEIS.

The Council on Environmental Quality's regulations implementing NEPA (which are applicable to all federal agencies) make clear that "public scrutiny are essential to implementing NEPA," 40 C.F.R. 1500.1(b), and that federal agencies must "encourage and facilitate public involvement in decision which affect the quality of the human environment." *Id.* at 1500.2(d). Even NMFS recognizes the importance of public involvement in this decision-making process. For example, on page 10 of the DEIS, NMFS claims that its decision to prepare an EIS to evaluate the impacts of the bowhead whale hunt was "to take advantage of the EIS's longer process and to provide greater transparency and opportunity for public review of its administration of the bowhead subsistence whaling program."

In this case, NMFS has failed to provide an adequate opportunity to allow meaningful public involvement in this decision-making process by limiting the time available for the public to review and analyze the DEIS. This failure is particularly troublesome since: 1) this is the first time ever that NMFS has evaluated the environmental impacts of the bowhead whale hunt in an environmental impact statement (and only the second time NMFS has subjected the hunt to review under NEPA); 2) because the DEIS cites to a large number of studies including highly technical documents requiring additional time to review and analyze; 3) because the DEIS tiers to nine other NEPA documents or ESA consultation reviews to substantiate many of its claims; and 4) because additional documents/reports of relevance to the DEIS were published or made available after the DEIS was completed and during the comment period.

AWI requested a 30-60 day extension in the comment deadline in a letter dated September 25, 2007. Though it requested a decision on that request by September 28,

2007, only on October 10 did NMFS respond to the request and a subsequent e-mail seeking a decision. At that time, Steve Davis, of the NMFS Alaska Regional Office, indicated that the request was denied because NMFS has to complete the Final EIS by January in order to publish a Record of Decision (RoD) before a planned meeting with the AEWC and others in Alaska in February and because NMFS believes the DEIS is adequate and complies with NEPA. Neither of these reasons justifies the denial of the request for an extension in the comment deadline.

First, the public's opportunity to comment on the DEIS should not be impaired or hindered to satisfy a meeting schedule imposed by NMFS. Considering that the spring whale hunt, if authorized, wouldn't begin until April at the earliest, there is no compelling reason why a RoD has to be published in February. Furthermore, there is no reason why NMFS could not delay the February meeting and/or schedule a second meeting in March or early April to engage the AEWC and others in discussions pertaining to its decision, to finalize any management plans or cooperative agreements relevant to the decision, or to take other actions depending on the final decision made.

Second, while it is not surprising that NMFS believes the DEIS to be comprehensive and legally sufficient, that has nothing to do with whether the comment period should have been extended. Indeed, the entire purpose of the comment period is for the public, including scientists and those who support or opposed the proposed action, to review and critique the adequacy of the DEIS. NMFS is then required to consider such input and to make such input available to its decision-makers before they make a final decision on how to proceed. The fact that NMFS would reject a reasonable request for an extension in the comment deadline based, in part, on the claim that its DEIS is legally sufficient provides additional evidence that NMFS has predetermined the outcome of the NEPA process, that it has no intention of seriously considering public comments, and that its solicitation of public comments was done only to meet its legal obligations under NEPA.

Though AWI disagreed with this initial rejection of its request for a 30-60 day extension in the comment deadline, it subsequently sought a minimal two-week extension in the deadline in separate letters to Dr. William Hogarth and Secretary of Commerce Carlos M. Gutierrez and NOAA Administrator Conrad Lautenbacher dated October 10 and 11, respectively. AWI has received no response to these requests.⁵

AWI continues to believe there is ample support for extending the comment deadline or, as is the case now, for reopening the comment period for at least 30 additional days. In addition to the extra time necessary to review the literature cited in the DEIS (and the relevant studies that may have not been cited), the decision by NMFS to tie to several

⁵ AWI has attached all three letters to this comment (Attachments 2, 3, and 4) and asks that they be included in the official administrative record for this NEPA process.

other NEPA and ESA related documents though likely illegal (see below) further justifies the reopening of the comment period. In addition, the release of several studies relevant to the threats of global warming to the arctic environment which are directly relevant to the viability and management of bowhead whales after completion and publication of the DEIS and during the comment period necessitates that the public be given additional time to review the studies and to integrate its findings into substantive and informed comments on the DEIS. Ironically, the availability of the majority of these reports, including the Arctic Climate Impact Assessment were publicized by a September press release issued by NOAA. More recently, the U.S. Fish and Wildlife Service provided notice in the Federal Register of the availability of a series of U.S. Geological Service reports on polar bears and arctic ecosystems which may also contain information relevant to bowhead whales particularly in regard to climate change and its impact on sea ice and the arctic food web which is of such significant importance both to bears and to bowhead whales and other marine mammals.

For these reasons, for the reasons articulated in Attachments 2, 3, and 4, and in deference to the importance of public comment to the NEPA process, AWI requests that NMFS immediately publish notice in the federal register reopening the comment period on the DEIS for at least 30 but preferably 60 days. If NMFS chooses not to comply with this request, AWI reserves the right to submit supplementary comments after the current deadline and/or to submit comments in response to the Final EIS. Please note that NEPA explicitly allows the public to submit comment after publication of the Final EIS and before a final decision is made (i.e., RoD). See 40 C.F.R. 1503.1(b).

3. NMFS has Failed to Consider a Reasonable Range of Alternatives:

The CEQ's NEPA implementing regulations specify that the development and consideration of alternatives "is the heart of the environmental impact statement." 40 C.F.R. 1502.14. The NEPA process is to be used "to identify and assess the reasonable alternatives to proposed action that will avoid or minimize adverse effects of these actions upon the quality of the human environment." *Id.* at 1500.2(e). To do this, federal agencies must "rigorously explore and objectively evaluate all reasonable alternatives..." "devote substantial treatment to each alternative considered in detail ..." and "include reasonable alternatives not within the jurisdiction of the lead agency." *Id.* at 1502.14(a, b, c).

Contrary to this legal standard, the DEIS essentially considers only two alternatives – killing whales (Alternatives 2, 3, and 4) or not killing whales (Alternative 1 – No Action Alternative).⁶ Though there are slight differences between Alternatives 2, 3, and 4 each

⁶ Alternative 1, which would not authorize any subsistence killing of bowhead whales, is identified as the environmentally preferred alternative.

of these alternatives allows at least 67 bowhead whales to be killed each year. The sole difference between these alternatives is in regard to how many unused strikes can be rolled over to the following year with Alternative 2 allowing none, Alternative 3 allowing up to 15, and Alternative 4 allowing up to 33.

As an initial matter, Alternative 4 is not a reasonable alternative because it is illegal. Since the WCA is the US law that regulates whaling and since it apparently requires compliance with decisions made by the IWC⁷ and does not explicitly provide the US with any discretion to implement decisions more liberal than those adopted by the IWC, the US cannot independently elect to allow for a rollover of up to 33 unused strike as this is inconsistent with what was approved by the IWC (i.e., 67 strikes per year, cap of 255 whales over the course of 5 years, with provision for up to 15 unused strikes to be rolled over to following year). If NMFS believes it has the discretion to implement decisions more liberal (i.e., allowing more whales to be killed) than approved by the IWC, it must disclose and discuss its authority for doing so including, but not limited to, citing to the relevant laws providing it with such authority. Otherwise, NMFS must concede that Alternative 4 is unreasonable and remove it from consideration.

Conversely, though AWI supports neither Alternative 2 nor 3, both are reasonable alternatives but are, for all intents and purposes, the same because they both permit at least 67 whales to be killed. The fact that Alternative 2 is more conservative than that which was approved by the IWC is not an issue since its selection would ensure that the number of whales killed each year is below the maximum number authorized by the IWC (compared to Alternative 4 which could potentially exceed that maximum number). In addition, since the Inuits/Eskimos have not killed anywhere near 67 whales in recent years, Alternatives 2 and 3 are not sufficiently distinct to represent separate Alternatives. NMFS concedes this point in Tables ES-2 and ES-3 in the DEIS (pages ES-9 and ES-11) which specifies that the impact of Alternative 3 for each variable or factor considered is identical to the impacts listed for Alternative 2. Had NMFS actually provided a reasonable range of alternatives, the impacts of each would be variable and different.

For example, NMFS should have seriously evaluated alternatives that set different limits on the number of strikes to be authorized each year and/or on the number of whales killed. Instead of limiting its analysis to alternatives that allowed a minimum of 67 whales to be struck and killed, it should have included an alternative limiting the strike/kill amount to 25, 35, or 45 whales. Or, it should have considered the number of actual number of strikes and whales killed by year over the past 10 years, obtained an average, and considered an alternative proposing to allow that average numbers of strikes and/or whales to be killed. Such alternatives, if considered, would have resulted in a

⁷ As summarized in the DEIS, page 6, "The Whaling Convention Act defines aboriginal subsistence whaling as whaling authorized by paragraph 13 of the Schedule annexed to and constituting a part of the ICRW (International Convention for the Regulation of Whaling)."

range of different environmental impacts depending on the variable or factor under consideration and, therefore, would have provided the public with a more distinct set of alternatives to review and would have facilitated the public's understanding of the continuum of environmental impacts ranging from no action to the most liberal of the alternatives evaluated.

The disclosure and analysis of a set of distinct alternatives (versus the current set of nearly identical alternatives) is consistent with the intent of NEPA which explicitly requires the assessment of "reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment." 40 C.F.R. 1500.2(e). Since the proposed action in the DEIS is to allow up to 67 strikes per year resulting potentially in the mortality of up to 67 whales, to "avoid or minimize adverse effects" of the proposed action any alternative (independent of the no action alternative) would logically have to allow for far less strikes and consequently less potential whale mortality. The current set of action alternatives (2, 3, and 4) do not meet this standard.

Instead of seriously considering a distinct set of alternatives, NMFS "considered but discarded" alternatives that both substantially decrease and increase the annual and five-year bowhead whale subsistence quotas for Alaska Eskimos. DEIS at 14. For reasons articulated above, any alternative that significantly increases the quota would not be reasonable and, therefore, would be impermissible. NMFS failed to provide any additional explanation or rationale for why an alternative that substantially cut the annual quota should not have been seriously considered preferring instead to simply discard any further consideration of such an option.

The only way that NMFS can correct this deficiency is to publish a new EIS providing analysis of a truly reasonable range of alternatives or provide a supplement to the existing DEIS addressing this deficiency. Alternatively, if NMFS believes there is a legitimate reason why it need not consider an alternatives that significantly reduces the annual quota, it is required to provide that rationale. If NMFS elects instead to finalize the DEIS and issue a RoD it will have violated the very "heart" of the NEPA process by avoiding the consideration of reasonable alternatives that would minimize the impacts of its proposed action.

4. NMFS has Failed to Disclose all Relevant Information as to the Direct, Indirect, and Cumulative Impacts of the Proposed Action and its Alternatives and has Improperly Tiered to Other Environmental Documents

A. NEPA requires that "environmental information is available to public officials and citizens before decisions are made and before actions are taken." 40 C.F.R. 1500.1(b). Such information is to be of "high quality" and its analysis must be

scientifically accurate. *Id.* The primary purpose of an EIS is to “provide full and fair discussion of significant environmental impacts and ... (to) inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.” *Id.* at 1502.1. Under NEPA impacts are synonymous with effects and include the direct, indirect, or cumulative effects (or impacts) of the action and its alternatives on the environment.⁸

When preparing an EIS, agencies are encouraged to avoid duplication, repetition, or needless detail. Yet, the agencies must ensure detailed discussion and focus on the actual issues ripe for decision. One way to avoid amassing needless detail is to tier to previously published environmental documents. The CEQ regulations provide the following requirements regarding tiering:

“Whenever a broad environmental impact statement has been prepared (such as a program or policy statement) and a subsequent statement or environmental assessment is then prepared on an action included within the entire program or policy (such as a site specific action) the subsequent statement or environmental assessment need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action.” 40 CFR 1502.20.

Additional guidance on tiering is provided in the CEQ’s 40 most Frequently Asked Questions about NEPA:

“Tiering is a procedure which allows an agency to avoid duplication of paperwork through the incorporation by reference of the general discussions and relevant specific discussions from an environmental impact statement of broader scope into one of lesser scope or vice versa. In the example given in Question 24b, this would mean that an overview EIS would be prepared for all of the energy activities reasonably foreseeable in a particular geographic area or resulting from a particular development program. This impact statement would be followed by site-specific or project-specific EISs. The tiering process would make each EIS of greater use and meaning to the public as the plan or program develops, without duplication of the analysis prepared for the previous impact statement.”

⁸ Effects include “ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative.” 40 CFR 1508.8. Direct effects are caused by the action and occur at the same time and place. *Id.* Indirect effects are caused by the action but occur later in time or farther removed in distance but are still reasonably foreseeable. *Id.* Cumulative effects refers to the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.” *Id.* at 1508.7. Cumulative effects “can result from individually minor but collectively significant actions taking place over a period of time.” *Id.*

Finally, even more guidance on the use of tiering to minimize the duplication or repetition of information in environmental documents was provided by the CEQ in a memorandum entitled "Guidance Regarding NEPA Regulations" published in the Federal Register in 1983 (48 FR 34263). Relevant sections of this guidance is provided here.

"Tiering of environmental impact statements refers to the process of addressing a broad, general program, policy or proposal in an initial environmental impact statement (EIS), and analyzing a narrower site-specific proposal, related to the initial program, plan or policy in a subsequent EIS."

"Tiering, of course, is by no means the best way to handle all proposals which are subject to NEPA analysis and documentation. The regulations do not require tiering; rather, they authorize its use when an agency determines it is appropriate. It is an option for an agency to use when the nature of the proposal lends itself to tiered EIS(s)."

"In the context of NEPA, 'major Federal actions' include adoption of official policy, formal plans, and programs as well as approval of specific projects, such as construction activities in a particular location or approval of permits to an outside applicant. Thus, where a Federal agency adopts a formal plan which will be executed throughout a particular region, and later proposes a specific activity to implement that plan in the same region, both actions need to be analyzed under NEPA to determine whether they are major actions which will significantly affect the environment. If the answer is yes in both cases, both actions will be subject to the EIS requirement, whether tiering is used or not. The agency then has one of two alternatives: Either preparation of two environmental impact statements, with the second repeating much of the analysis and information found in the first environmental impact statement, or tiering the two documents. If tiering is utilized, the site-specific EIS contains a summary of the issues discussed in the first statement and the agency will incorporate by reference discussions from the first statement."

"In summary, the Council believes that tiering can be a useful method of reducing paperwork and duplication when used carefully for appropriate types of plans, programs and policies which will later be translated into site-specific projects."

It is clear both from the language of the relevant CEQ regulations and from the additional CEQ guidance that the use of tiering is appropriate when an agency is evaluating identical or closely related actions at different scales (i.e., broad and site-specific). For example, tiering would be appropriate for the Minerals Management Service in regard to its proposal to facilitate oil/gas exploration and development activities through lease

sales. While AWI strongly opposes such sales, the development of a broad programmatic EIS evaluating the environmental impacts of several proposed lease sales over a large geographic areas followed by the publication of site-specific environmental documents for individual sales is precisely the type of circumstance where the MMS could tier to the programmatic EIS to avoid replication and duplication in the site-specific documents.

In regard to the DEIS, NMFS tiers to a minimum of nine different NEPA documents and ESA Section 7 biological opinions presumably to avoid duplication of information. Specifically, it tiers to these documents to provide "extensive information about the effects of oil and gas activities on bowhead whales"⁹ and in regard to the past actions relevant to the cumulative effects analysis.¹⁰ In reality, since NMFS failed to provide sufficient time for the public to locate, obtain or print, and review each document (all of which are lengthy and technical) tiered to in the DEIS, NMFS has avoided disclosure of information critical to understanding and assessing the environmental impacts of the proposed action and its alternatives. To make matters worse, NMFS simply tiers to the document, identifies the document by names and/or provides a citation, but fails to provide specific page numbers for the relevant information in each document to facilitate and expedite the public review.

Of course, NMFS was not permitted to avoid disclosing such information by tiering to these documents since the DEIS on bowhead whale killing is not sufficiently related to any of those documents. For example, though there may be some areas of commonality between the DEIS and those documents to which it is tiered, those documents represent separate decisions on separate issues (e.g., killing whales versus allowing oil/gas developments). Contrary to both the NEPA regulations and CEQ guidance on tiering (which allow tiering only when an agency prepares both a broad, programmatic environmental document and related site-specific documents), the DEIS is not a site-specific version of any of the document that NMFS has tiered to in the DEIS. Had NMFS prepared a programmatic EIS on bowhead whale hunting throughout northern Alaska and then prepared site-specific environmental documents to assess the impacts of whaling by individual villages, tiering would be appropriate. That is not the case here.

⁹ The documents identified in the DEIS are (1) a Biological Opinion prepared by NMFS for the MMS pursuant to section 7 of the Endangered Species Act on Oil and Gas Leasing and Exploration Activities in the Beaufort Sea, Alaska (NMFS, 2006); (2) Environmental Impact Statement prepared pursuant to NEPA for the Beaufort Sea Planning Areas, Oil and Gas Lease Sale, Sales 186, 195, and 202 (MMS, 2002); (3) an Environmental Assessment prepared by the MMS for proposed Outer Continental Shelf (OCS) Lease Sale 202 – Beaufort Sea Planning Areas (MMS, 2006b); and (4) Final Programmatic Environmental Assessment Arctic Ocean OCS Seismic Surveys 2006 (MMS, 2006c).

¹⁰ The documents identified in the DEIS are (1) Arctic Ocean OCS Seismic Surveys Programmatic EA (MMS, 2006c); (2) Chapter 4 of the Alaska Groundfish Draft Programmatic SEIS (NMFS 2004); (3) Steller Sea Lion Protection Measures SEIS (NMFS 2001b); (4) Setting the Annual Subsistence Harvest of Northern Fur Seals on the Pribilof Islands EIS (NMFS 2005); and (5) the Draft Steller Seas Lion and Northern Fur Seals Research Programmatic EIS (NMFS 2007).

Consequently, NMFS has no choice but to issue a new EIS or supplement the existing EIS to include full disclosure of all of the relevant information, data, analyses, and other evidence that may be included in the documents tiered to in the DEIS. This would benefit NMFS and its decision-makers by ensuring that all relevant information was included in a single document. Though the new document would be more substantive and lengthy, the public would also benefit by not having to locate, copy, and review nine other documents to understand and evaluate the full range of impacts relevant to the proposed action and its alternatives in the DEIS. At present, the DEIS is woefully deficient because NMFS has illegally tiered to unrelated documents to avoid disclosure of information critical to the analysis and, as a result, has compromised, perhaps purposefully, the public's ability to sufficiently analyze the impacts of the proposed actions and its alternatives and to prepare and submit informed and substantive public comments on the DEIS.

B. NMFS estimates that there are currently 10,545 bowhead whales in the Western Arctic population. DEIS at ES-1, 1, and 18. This estimate was made in 2001 or approximately 6 years ago. Considering the ongoing and increasing changes to the Arctic environment as a result of anthropogenic influences, namely global climate change, increased oil/gas exploration and development, increase in invasive species, etc... this estimate may no longer be valid. While the population size could have increased it also may have decreased as is the case with the Eastern North Pacific gray whale population.¹¹ In the case of the gray whale, though there are different interpretations of the data, many are cautioning that what is happening to the gray whale is indicative of substantial shifts in the health of the arctic ecosystem as a consequence of global warming which is altering the entire food web forcing gray whales to swim further in search of adequate supplies of amphipods and other foodstuffs. Could similar impacts be affecting the bowhead whale? Are more bowhead whales being identified as skinny? Has calf production increased or decreased in recent years? None of these issues are evaluated in the DEIS.

NMFS claims that the current estimated bowhead population size is between 46 and 101 percent of the Western Arctic population's pre-exploitation abundance of 10,400 – 23,000. What NMFS fails to disclose is any explanation of the specific methodology it uses to count whales, any assumptions inherent to that methodology, strengths and weaknesses of the techniques used, or how the pre-exploitation abundance was calculated. The limited information that is provided suggests that bowhead population estimates are based largely on ice-based counts of spring-migrating whales passing Point Barrow and Barrow, AK supplemented with the use of acoustic arrays. DEIS at 18.

¹¹ As disclosed in the DEIS, abundance estimates for gray whales have declined from 29,758 in 1997/98 to 18,178 in 2001/02. Recent reports of a number of skinny whale and reduced calf numbers suggest that the population has declined even more since 2001.

What is not disclosed is what correction factors are used (and how such factors were calculated) to compensate for whales missed by observers (i.e., whales not recorded, whales traversing Point Barrow at night, or whales migrating further off-shore) or how NMFS translates bowhead whale acoustical data into population estimates. NMFS does cite to various studies that may or may not contain this information but it fails to even summarize such critical information. This is not to suggest that NMFS must recite every specific detail of every cited study, but it must, at a minimum, provide a basic summary of such key issues so that the public, including lay people, can understand how such estimates are developed.

Furthermore, contrary to the obvious bias of NMFS in regard to its belief that the current estimate of Western Arctic bowhead whales may be at or near its pre-exploitation level, its own evidence suggests that the population may in fact not even be half as large as the pre-exploitation levels. The fact that the population is showing no evidence of being near carrying capacity (i.e., density dependent impacts on population growth rates) would suggest that the current population is not near its pre-exploitation high. In addition, the range of 10,400-23,000 disclosed in the DEIS is not the only range of estimates of the pre-exploitation stock size in the scientific literature. For example, Breiwick and Braham (1990) estimated the pre-exploitation population size to be 14,000 to 27,000 while Everhardt and Breiwick (1992) set the pre-exploitation size at 12,000 to 18,000. Finally, considering the recent determination by Alter and Palumbi (2007) that the pre-exploitation size of the Eastern Pacific gray whale population may have been as high as 118,000 or more than five times higher than estimated by NMFS, it is entirely conceivable that the pre-exploitation estimates of the size of the Western Arctic bowhead whales may also be significant underestimates. At a minimum, NMFS needs to concede that this is a possibility or provide additional evidence to substantiate its belief that the current bowhead population may be at or near its pre-exploitation size.

NMFS also fails to provide a sufficient discussion of the genetic structure of this stock of whales and the fact that there remains some scientific disagreement over whether the Western Arctic bowhead whale population constitutes a single population or two. This has been a subject to debate within the Scientific Committee of the IWC in the past and, while many scientists may not agree with the two stock theory, there remain some naysayers. Even NMFS continues to explore the possibility of the two stock theory. See National Marine Mammal Laboratory Cetacean Assessment & Ecology Program, Bowhead abundance, trends, and life history ("the principal hypotheses to be addressed by this study are whether apparent genetic differences reflect the presence of more than one stock of bowhead whales around Alaska."). At a minimum, NMFS has to discuss and disclose the scientific evidence that supports both theories (i.e., one stock versus two stocks) and must consider each possibility when assessing the impact of subsistence whaling on the population or populations.

C. NMFS has failed to disclose and discuss the specific standards relied on by the IWC in regard to aboriginal subsistence whaling and how those standards are applicable to the alleged subsistence needs of the Inuits/Eskimos.

The IWC's 1982 ad hoc Technical Committee Working Group on Development of Management Principles and Guidelines for Subsistence Catches of Whales by Indigenous (Aboriginal) Peoples, defines "*Aboriginal subsistence whaling*" as whaling "*for purposes of local aboriginal consumption carried out by or on behalf of aboriginal, indigenous or native peoples who share strong community, familial, social and cultural ties related to a continuing traditional dependence on whaling and on the use of whales*". The key determinant as to whether a group can qualify for aboriginal subsistence whaling is whether the group can demonstrate a continuing traditional dependence on whaling and the use of whales. While the IWC's definition does not discount community or cultural benefits of whaling, it is the alleged subsistence need that is most important and relevant. An alleged cultural need alone does not allow for whaling either under IWC standards or US law.

In the DEIS, NMFS claims that IWC member countries adopted, by consensus, the following definition of subsistence use at the 2004 annual meeting.

1. The personal consumption of whale products for food, fuel, shelter, clothing, tools, or transportation by participants in the whale harvest.
2. The barter, trade, or sharing of whale products in their harvested form with relatives of the participants in the harvest, with others in the local community or with persons in locations other than the local community with whom local residents share familial, social, cultural, or economic ties. A generalized currency is involved in this barter and trade, but the predominant portion of the products from each whale are ordinarily directly consumed or utilized in their harvested form within the local community.
3. The making and selling of handicraft articles from whale products, when the whale is harvested for the purposes defined in (1) and (2) above.

AWI questions the assertion in the DEIS that the definition above was adopted by consensus at the 2004 IWC meeting. AWI was present at the meeting and did not observe such the IWC member countries adopting this definition by consensus and can find no evidence to suggest that the definition was adopted at all. Based on its research and observations at the relevant meetings, AWI believes that the aboriginal subsistence whaling subcommittee discussed the definition but did not agree on formally adopting it nor did it recommend to the IWC plenary that it adopt the definition. The Chair's report from the meeting states that the subcommittee acknowledged a definition of 'subsistence use' that had been developed by a panel in 1979 and which was included in the

subcommittee's report. The subcommittee then asked the plenary to adopt its report by consensus but, other than adopting the report by consensus, there is no evidence that the subcommittee or plenary explicitly agreed to the definition of subsistence use reiterated above and contained in the DEIS. Even if this definition was adopted, it must be noted that it doesn't contain any allowance for whales to be taken to satisfy cultural needs as part of a subsistence hunt.

While the IWC's alleged definition of subsistence use would seemingly allow the sale of whale products with relatives, local residents, or others with various connections to the local residents, regulations implementing the WCA prohibit any person from selling or offering for sale whale products from whales taken in aboriginal subsistence hunts, except for articles of Native handicrafts which may be sold or offered for sale. DEIS at 7. The prohibition against selling whale meat/blubber and other products, with the exception of native artifacts is also included in the DEIS at 51 ("meat and edible products must be used exclusively for consumption and not be sold or offered for sale") and in the Cooperative Agreement between the AEWC and NMFS ("The AEWC Management Plan will provide that the meat and edible products of bowhead whales taken in the subsistence hunt must be used exclusively for native consumption and may not be sold or offered for sale"). DEIS at 145.

The DEIS claims that the Inuits/Eskimos have a subsistence need for whaling and whale products based on a more than 2000 year tradition of whaling. The fact that Alaskan Inuits/Eskimos may have a 2000 year old tradition of whaling is one thing but providing that each of the ten whaling villages has a legitimate and ongoing subsistence need for whales and whale products is entirely different. Historical needs may or may not reflect modern day needs. For example, Barrow, AK can hardly be considered a traditional whaling village. It is the largest community, both in terms of geography and human population in Northern Alaska. Barrow residents have access to many of the same foodstuffs as individuals living in the lower 48 states. For these reasons, it is unclear if the native residents of Barrow continue to have a legitimate subsistence need for bowhead whales and whaling. Instead of simply claiming that the ten whaling villages all have a legitimate subsistence need for whale products and expecting the public to agree, NMFS must disclose additional information about each village to prove that whale products are crucial to meet the subsistence need of the village natives.

Of equal concern is the repeated reference to the cultural importance of whaling in the DEIS. For example, on page ES-13 of the DEIS NMFS cites to the "diminished social cohesion occasioned by the shared work among whaling crews" as a potential adverse impact of the no action alternative. Another example is found on page 3 of the DEIS, "the bowhead subsistence hunt is a large part of the cultural tradition of these communities and their modern cultural identity." Such statements, though possibly accurate, are irrelevant to the analysis at hand since cultural needs alone are not grounds

to permit whaling under either international standards or US law. It is imperative that NMFS make this distinction to ensure that the relevant standard – subsistence – is the focus of the analysis in the DEIS. Any attempt by NMFS (beyond its efforts to date to amend the IWC's 1982 ad hoc Technical Groups definition of subsistence use) to blur the lines between subsistence use and cultural needs is inappropriate and unacceptable given the dangerous precedent such efforts may cause both within the US and internationally.

Cultural issues can be summarized but should not be considered by the NMFS decision-makers when making a final decision on the proposed action or in evaluating any of its alternatives. For example, if NMFS determines that the Inuits/Eskimos could meet their subsistence needs by killing a maximum of 45 whales per year, it should not allow up to 67 whales to be killed per year to address some alleged cultural need.

D. NMFS must provide a more detailed description of the whaling strategies and killing methods used by the Inuits/Eskimos. The DEIS provides only minimal information about the methods/strategies used by the Inuits/Eskimos to kill whales including the use of traditional harpoons and/or modern weapons. What is not disclosed is any information about how long it takes struck/shot whales to die and whether such whaling is conducted in a humane manner. The DEIS does describe the fall and spring migration of the bowhead whales, indicates that different whaling villages tend to whale at different times of the year depending on whale availability, that autumn/fall hunts involve the use of aluminum skiffs or small boats with outboard motors while spring hunts involve the use of the more traditional umiaks (seal or walrus-skin covered boats). DEIS at 47. Since 1973 the annual number of bowhead whales landed by Alaskan natives has ranged from 8 in 1982 to 55 in 2005 while the number struck and lost (i.e., not landed) has ranged from 5 in 1999 to 82 in 1977. DEIS at 24. The percentage of whales struck and lost has decreased from approximately 50 percent before 1978 to about 75 percent more recently. DEIS at 49.

Federal law requires that whaling, including subsistence whaling carried out by Alaskan Inuits/Eskimos, be conducted humanely. Without additional information as to the methods used by the Inuits/Eskimos it is impossible for the public or the NMFS decision-makers to assess the "humaneness," or lack thereof, inherent to the hunt.

In particular, NMFS must provide a description of the specific weapons used and disclose whether the specific weapons are capable of killing or only injuring a whale when used alone or in combination with other weapons, and the time to death of each whale killed by weapon or combination of weapons. Since NMFS, by law, is supposed to receive information for each whale killed, presumably time to death and weapon information would be available. If such information is not presently required, NMFS must include the requirement that such evidence be collected in its revised cooperative agreement with the AEWC. Moreover, even if the information on time to death and weapons used is not

currently collected, NMFS must request that the AEWG survey its registered whaling captains to collect such information for disclosure and analysis in the Final EIS, in a new EIS, or in a supplement to the DEIS. Neither NMFS nor the public should assume that the Inuit/Eskimo whale hunt is humane – as is required by federal law – based solely on any statements provided by the AEWG or whaling village captains. Ideally, NMFS must consider placing an observer on village whaling vessels to directly document the methods used to kill whales and to collect time to death data.

The DEIS, citing to the Code of Federal Regulations, defines a strike as “hitting a whale with a lance, harpoon or explosive device.” What’s unclear is whether, for example, each strike to the same whale is counted as a single strike (based on the single whale being struck) or if all strikes are counted even if it takes more than one strike to mortally wound and kill a whale.¹² In addition, if the technique used by Inuit/Alaskan whalers is to use a traditional harpoon as the first weapon followed by a explosive-tipped harpoon or large caliber bullet, would this constitute one or multiple strikes? Based on the description contained in the DEIS of the methods used by Alaskan Inuits/Eskimos to hunt bowhead whales it would appear that, at a minimum, each whale killed is struck twice – first with a harpoon with a line and float attached with the “shoulder gun” used as a backup. DEIS at 47. If this is the case then with 75 strikes allocated to the Inuit/Eskimos the maximum number of whales that would be killed each year would be 37.5 and, thus, if more whales are killed then it is possible that the strike limit has been exceeded. AWI believes that the intent of the IWC in establishing a strike limit is for each strike to be counted individually even if it requires multiple strikes to kill a single whale.

This is crucial information since it directly affects the number of whales that can be landed each year. If the Alaskan Inuits/Eskimos are limited to 75 strikes (as they were in 2006 (see 71 FR 7539)), and a minimum of two strikes (e.g., traditional harpoon followed by large caliber ammunition or explosive-tipped harpoon) are used per whale, then only a maximum of 37 whales could be killed each year. If more than two strikes are required to kill each whale then the number of whales that can be killed each year is reduced even further. Without such strike data and/or without disclosure of the methods the Inuits/Eskimos use to kill whales, neither the public nor decision-makers can determine if the whaling is “humane” as required by US law and/or assess the actual impact of the whale hunt on the whale population.

E. NMFS fails to disclose sufficient information about other wildlife potentially directly or indirectly impacted by the proposed action or its alternatives. In its analysis of the no-action alternative, NMFS claims that a cessation of bowhead whale hunting would

¹² In the September 8, 2007 incident involving the illegal killing of a gray whale by five members of the Makah tribe, the whale was reportedly struck with 5-10 harpoons and 16-21 bullets which eventually led to the whale’s death. Depending on how strikes are counted, this corresponds to either one strike (because only a single whale was struck) or 21-31 strikes if each strike was counted individually.

increase pressure on other marine and terrestrial wildlife including caribou, moose, brown bear, Dall sheep, musk ox, arctic fox, red fox, porcupine, ground squirrel, wolverine, weasel, wolf and marmot. DEIS at 40. The DEIS discloses information about some of the potentially affected marine mammals and marine birds but fails to provide any information about the estimated population size, population trends, current subsistence hunting rates, and anthropogenic threats for any of the terrestrial mammals listed above and other whale species (e.g., belugas, orcas, gray whales).

Such information is crucial if the public and decision-makers are to be able to adequately evaluate the consequences, both positive and negative of the no action alternative. For example, if terrestrial wildlife populations in and around the ten whaling villages are in decline due to excessive killing, impacts of global warming, disease, etc... some could believe that allowing whaling would reduce pressure on such populations. If such terrestrial wildlife populations were healthy, however, this could support a cessation in bowhead whale hunting or a reduction the allocated quota given to the AEWC to distribute to the whaling villages. The same would be applicable to other whale species (i.e., belugas, orcas, minke whales) that may be present permanently or seasonally off the northern and northwestern coast of Alaska.

Without such data, the public is expected to trust the analysis of NMFS and to believe its conclusions. NEPA is not intended to be used to force feed alleged facts to the public without providing evidence to substantiate such claims. The DEIS presently fails to provide much of that evidence.

Information about current subsistence hunting rates and trends is also critical to assess the veracity of the NMFS claim that a reduction or cessation in whaling will lead to an increase in pressure on other marine mammal or terrestrial species. Since the number of whales taken each year in the past is not consistent, the NMFS theory would suggest that when whale take is down, the killing of other wildlife should increase. If such a cause and effect relationship is not seen, then the NMFS theory is likely wrong. If hunting trend data suggests that subsistence hunters have increased their hunting/killing activities across the board, this would call into question whether a cessation of whaling would substantially increase pressure on other wildlife.

The data that is provided in the DEIS is not sufficient to answer these questions. In some cases, according to NMFS, population estimates are not available though its not clear if NMFS even attempted to contact the Alaska Department of Fish and Game to determine if it has any current population estimates. In other cases, NMFS provides both population estimates and past and/or present subsistence hunting takes.

For spotted seals, NMFS states at a reliable estimate of spotted seal numbers, trends, and stock structure is not available. DEIS at 32. Subsistence kills of spotted seals has

increased from 850-3,600 seals taken annually between 1966 and 1976 (DEIS at 32 citing Lowry 1984) to 5,265 seals per year as of August 2000 (DEIS at 32 citing Angliss and Outlaw 2005). Similarly, no abundance, trend, or stock structure information is available for bearded seals though the species is important for Alaskan subsistence hunters with an estimated annual kill of 6,788 seals (DEIS at 33 citing Angliss and Outlaw 2005). For ribbon seals, no reliable estimate of abundance, trend, or stock structure is available but subsistence kills have increased from less than 100 seals annually between 1968 to 1980 (DEIS at 33 citing Burns 1981b) to an estimated 193 per year more recently (DEIS at 33 citing Angliss and Outlaw 2005). The same lack of population information is applicable to the ringed seal though its annual subsistence kill rate is estimated to be 9,567 seals. DEIS at 34. For the Pacific walrus, whose population size is unknown, subsistence kill rates are estimated at 5,789 animals per year.

Population estimates are available for the polar bear populations in the area evaluated in the DEIS including 2000-5000 bears estimated in 1998 from the Chukchi/Bering seas population and 2,272 bears in the southern Beaufort Sea stock. The number of bears killed from the former stock was nearly 45 bears annually through 2000 but the current kill rate is not disclosed. For the Beaufort Sea stock, 55.1 bears are killed annually. The DEIS does not specify if this killing is done for subsistence purposes or by trophy hunters as well. DEIS at 35.

Beluga whale population estimates range from 2,133 whales in the Bristol Bay stock to 39,258 whales in the Beaufort Sea stock. An additional 3,710 whales are estimated to exist in the eastern Chukchi Sea with another 18,142 in the eastern Bering Sea. Subsistence hunters are estimated to have killed a minimum of 65 and 53 beluga whales annually between 1999 and 2003 though more recent kill statistics are not provided. DEIS at 37. For minke whales, an estimated 936 whales were observed in the central Bering Sea in 1999 though this is only a small portion of their total range. Minke whale abundance trend data is not available for Alaskan water (DEIS at 37 citing Angliss et al., 2001). Similarly, population trends for killer whales or orcas are unknown for the eastern North Pacific Alaska resident stock though the estimated number of whales is 1,123. NMFS reports no subsistence killing of orcas or harbor porpoise in Alaska. DEIS at 38. Harbor porpoise population trends are also not known.

The lack of complete lack of data on some of the species including caribou, moose, brown bears, musk ox, fox, Dall sheep, porcupines, wolf, ground squirrels, wolverines, weasels and marmots that could be affected by a shift in subsistence kills if bowhead whale hunting was stopped or reduced is problematic and illegal as it prevents an accurate assessment of potential impacts. Though NMFS lists all of these species as being subject to hunting by subsistence hunters it provides no explanation as to why it failed to provide any population data, trend data, current subsistence kill data, or threat information for any of the species. In other cases, such as for many of the seal species,

the amount of subsistence kills including, in some cases, a sizable increase in kill numbers in combination with the reported subsistence kills of bowhead whales raise questions about the sheer amount of edible product being produced, who is consuming all of that edible material, and whether the killing of all of those animals is necessary to satisfy a legitimate subsistence need. The level of subsistence killing is particularly alarming considering that the number of Alaskan natives has declined by 300 people from 2000 to 2007. DEIS at 40. Additional analysis of the kill statistics is provided below.

F. NMFS must provide a more detailed explanation of the difference between Potential Biological Removal and Q, under what circumstances PBR or Q is appropriate for assessing the impact of human-caused mortality, and why, in this case, the Q procedure supercedes the use of PBR.

The determination of PBR is considered an upper limit guideline for fishery related mortality. It is defined in the MMPA as "...the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population." DEIS at 54. Though originally intended to be a measure of the impact from fisheries related mortality to marine mammals, the PBR has been used as the basis for measuring the magnitude of mortality from other anthropogenic sources. The PBR calculation ($PBR = N_{min} \times 0.5 R_{max} \times Fr$) ostensibly identifies the level of mortality (excluding natural mortality) that is considered to be sustainable. Based on the most recent (2001) population estimate, the PBR for the Western Arctic bowhead population is 95 whales ($9472 \times .02 \times 0.5$). Though the recovery factor is normally set at .1 for any endangered species (such as the bowhead whale), NMFS has elected to use .5 in its PBR calculation because the bowhead whale population continues to allegedly increase in size despite subsistence killing. NMFS provides no further justification for the use of .5 instead of .1 despite the fact that the resulting PBR values are significantly different (15 when .1 is used and 95 when .5 is used). These values, of course, assume that the population estimate is accurate which, without further disclosure of the methodologies and assumptions used in making such estimates, is questionable.

Another deficiency in the PBR value is that it does not encompass natural mortality. It is assumed that the division of the R_{max} value by .5 is intended to compensate for any natural mortality ensuring that as long as human caused mortality does not exceed the PBR the level of mortality will be sustainable. Considering how little is known about age-specific survivorship or mortality in bowhead whales, DEIS at 25 citing Heidel and Albert (1994), it is unclear if the PBR equation adequately compensates for or considers natural mortality. As a result, until age and sex-specific mortality rates are known, any PBR may overestimate the amount of human-caused mortality that is sustainable when such mortality is combined with natural mortality.

A second method for determining a catch limit for whale populations is referred to in the DEIS as "Q." The Q catch control rule "allows the proportion of net production allocated to recovery to increase as a population becomes more depleted and decrease for a population above MSY (maximum sustained yield) and approaching carrying capacity (K)." DEIS at 20. NMFS claims that the use of the Q rule is more appropriate for the bowhead whale than the use of the replacement yield value because the Western Arctic population of bowhead whales is believed to be close to K with a high probability of being above the MSY level based on the 2001 population estimate. DEIS at 20. This determination ignores the fact that, as even NMFS concedes, the current Western Arctic bowhead whale population may not even be 50 percent as large as its pre-exploitation size. Not surprisingly, the Q rule results in a so-called sustainable removal number of up to 257 bowhead whales a year, higher than the replacement yield value of 108-123 whales, and the PBR of 95 whales.

It is not at all clear why NMFS has elected to utilize the Q value as its baseline estimate of sustainable off-take in the DEIS except for the obvious reason that by using the Q value of 257 whales (range of 155 to 412) NMFS can claim that the current level of subsistence take is far lower than the Q value (averaging 41 whales over the past decade) and, therefore, is of little consequence to the population. If, however, NMFS intends to take a precautionary approach to the analysis of the impacts of the subsistence hunt as it has done in other areas of the DEIS (e.g., assuming that all 67 strikes permitted each year result in 67 whale mortalities) it is inexplicable why NMFS would not use the PBR as its baseline value.¹³ NMFS must provide a more detailed analysis of why it chose to use the Q value over the PBR and how that choice is consistent with the legal mandates governing the management of marine mammals. In addition, if it continues to rely on the Q value, it must provide a more detailed and clear description of how it is calculated, what assumptions are inherent in the calculation, and how it provides a more useful baseline than the values provided by using replacement yield or PBR. Again, simply citing a study in the DEIS to substantiate the existence of the Q value is not sufficient. NMFS must provide a summary of the background of the Q value and explain how it is calculated in the text of the DEIS.

NMFS also claims that because subsistence whaling is managed under the authority of the WCA "the aboriginal subsistence whaling provisions in the IWC Schedule take precedence over the PBR estimate for the purpose of managing the Alaska Native subsistence harvest from this stock." This statement would suggest that the WCA take precedence over the MMPA in regard to the management of marine mammals subjected to a subsistence hunt authorized by the IWC. There is no explicit provision of either the

¹³ In contrast to the DEIS, NMFS does rely on the PBR in assessing the impact of human-caused mortality on the Western Arctic stock of bowhead whales in its 2006 bowhead whale stock assessment (Angliss and Outlaw 2006).

WCA or MMPA that substantiates this statement and NMFS has failed to provide any additional discussion or analysis of the relationship between the WCA and MMPA. Such an explanation is clearly mandated and must provide a legal basis for this claim that the WCA takes precedence over the MMPA thereby facilitating the use of the more liberal Q value in place of the PBR.

G. The analysis of the socio-economic environment is incomplete. NMFS reports that there are 6,333 Alaskan natives (including people who are part native) currently residing in the ten AEWC whaling villages including 2,687 who reside in Barrow, AK. DEIS at 40. Over the past ten years the ten communities combined have killed 410 bowhead whales for an average of 41 per year. Over half of the total whales killed were killed by the Native villages of Barrow, AK. DEIS at 42. According to the DEIS this number of whales produced 1,030,113 pounds of edible products which corresponds to 157 pounds of edible product per capita of the Alaskan native population (including part natives) living in the ten communities in 2000. Based on the lower 2007 number of Alaskan natives (6,333), the updated per capita estimate is actually 162.66 pounds (1,030,113/6333) which corresponds to .44 pounds of meat per day/native (man, woman, or child). If it is assumed that 85.5 percent of households in each of the ten villages use bowhead whale products (average of 74 and 97 percent of bowhead use as disclosed on page 44 of the DEIS) and that and that only households with Native Alaskans (including part Native Alaskans) consume bowhead whale products then approximately 5415 of the 6333 Native Alaskans consume bowhead whale products. For those persons the total amount of edible bowhead product available per capita is 190 pounds which corresponds to .52 pounds per person per day.

When total amount of meat for all species killed by subsistence hunters is considered (DEIS at 43, Table 3.5-3), the per capita (Alaska natives and part natives) amount is significant and, frankly, far more than can possibly be consumed each day. If all ten villages are considered¹⁴ and assuming all 6,333 Native Alaskans consume the meat

¹⁴ To estimate subsistence kill levels by species group for Diomedea, Gambell, Point Hope, and Savoonga the native populations of those villages was compared to the villages with similar population sizes listed in Table 3.5-3. The population of Diomedea was comparable to Wales. While the population in Gambell, Point Hope, and Savoonga was comparable to double the population in Kivalina. Based on the population comparison it was assumed that similar number of people would kill similar numbers of species from the different species groups. For Gambell, Point Hope and Savoonga the Kivalina hunt levels were doubled since the population in Kivalina is more than half of the native populations recorded in Gambell, Point Hope and Savoonga. Admittedly, since the doubling the population in Kivalina results in a number that is approximately 100 more than the populations in Gambell, Point Hope, and Savoonga this assumption will slightly overestimate the amount of meat from subsistence hunt available per capita.

obtained from subsistence kills, the total amount of meat available each year per person is approximately 9,483 pounds which corresponds to nearly 26 pounds per person per day.¹⁵ The daily consumption of that amount of meat is simply impossible for any human being including those living in the far north who may not have access to other foodstuffs taken for granted by those in the lower-48 states and the larger cities in Alaska. This calculation raises serious questions about the alleged subsistence need for bowhead whales and other wildlife species. Such questions include who is consuming such a significant quantity of meat? Is meat being wasted and discarded? Is meat being fed to sled dogs or other domestic animals? Can meat obtained for subsistence purposes, including the edible products from bowhead whales, be used to feed dogs and other domestic animals? At a minimum, NMFS must provide additional information about the sheer quantity of meat apparently produced as a result of the subsistence killing of bowhead whales and other animals and, based on such an analysis, revisit the alleged subsistence need for bowhead whales.

Though the relevant laws allow for the sharing of edible products of bowhead whales with Alaskan natives who reside in Alaska but not in any of the ten whaling villages but who continue to be integrated in "sharing networks," DEIS at 55, the calculation of subsistence need is limited to the Native Alaskans residing in the ten whaling villages. See DEIS, Appendix 8.1). The alleged needs of those natives who do not reside in any of the ten whaling villages are thus irrelevant in terms of the calculation of need.

At present, the subsistence need of an aboriginal village is allegedly based on a method adopted by the IWC in 1986. DEIS at 46. Efforts to find any official IWC document describing this method have been unsuccessful to date. The citation provided in the DEIS (Appendix 8.1) is not to the actual IWC document but rather refers to the 2007 supplement to the "Quantification of Subsistence and Cultural need for Bowhead Whales by Alaska Eskimos" produced by Braund et al. The alleged IWC approved method "incorporates the historic and current size of the Eskimo population residing in Alaskan subsistence hunting villages and the number of bowhead whales historically landed by each community." DEIS at 46. To calculate said need, the mean number of whales landed per capita over the base time period (set as 1910-1969) is multiplied by the number of Alaskan natives in each whaling village. See Appendix 8.1, DEIS at 139.

This methodology makes no sense as it is based on historical number of people and whales killed that may no longer be indicative of a level of need. Indeed, many factors may have changed over time. For example, without data on the historical kill of other marine or terrestrial mammal species, it is impossible to compare current subsistence kill rates for all species to the historical data. Moreover, there is little question that modern-

¹⁵ Even if the assumptions made for Diomedea, Gambell, Point Hope and Savoonga were excluded from the analysis, the amount of meat per person per day for the six remaining villages (based on the data presented in Table 3.5-3) is nearly 11.5 pounds.

day Alaskan natives, particularly in the larger villages, have access to additional foodstuffs that were not available historically. This would correspond to a reduced need for bowhead whale products compared to the historical need. It is also unclear why the baseline for the calculation of the Eskimo population and the number of whales landed is set using data from 1910-1969 versus using more recent human population estimates and landed whale data.

For example, as indicated in Table 1, the need for landed whales was based on the human native population in each village for the past ten years along with the number of whales landed over that time period, the resulting need is far less than that calculated in Appendix 8.1.

Table 1: Landed bowhead whales needed based on human native population and landed bowhead whale data from 1997 – 2006.

Community	Total ¹⁶ Eskimo Population	Number ¹⁷ of Landed Bowhead Whales	Mean Landed Whales Per Capita	2007 Alaska Native Population	2007 Bowhead Need Landed (rounded)
Barrow	26870	234	.0087	2687	23.4
Diomedes	1240	2	.0016	124	.2
Gambell	6320	14	.0022	632	1.4
Kaktovik	2320	32	.014	232	3.2
Kivalina	3720	0	0	372	0
Nuiqsut	3660	33	.0090	366	3.3
Point Hope	6360	30	.0048	636	3.1
Savoonga	6640	25	.0037	664	2.5
Wainwright	4840	38	.0078	484	3.8
Wales	1360	2	.0015	136	.2
Total	63330	410	.0533	6333	41.1

As indicated in Table 1 the total number of landed whales needed to meet the subsistence need of the ten whaling villages, using the formula allegedly approved by the IWC with a

¹⁶ This number was calculated by multiplying the 2007 Alaska native population estimate (see DEIS at 41; Table 3.4-1) by ten. This assumes that the native population in each village has remained stable over the past ten years. This assumption may underestimate but likely overestimates the total Native Alaskan population size in each village over the decade since, in most cases, the Native population has likely increased over time. For the purpose of this demonstration, however, this assumption is acceptable. This calculation also assumes that at least one whale was landed in each village in each of the years during the past decade.

¹⁷ From DEIS at 42, Table 3.5-1.

new baseline of the last decade (1997-2006) is 41 instead of the 57 identified in Appendix 8.1. Even if 3 whales were added to this total for the community of Nuiqsut (based on its Native Alaskan population size which is nearly identical to Kivalina) the total of 44 is still well below 57 whales. In addition to providing additional evidence proving that the IWC has approved a methodology for calculating need and explaining that methodology, NMFS must also provide some rationale for why a 1910-1969 baseline is more appropriate for determining need versus a calculating the baseline from data collected during the past decade. Moreover, NMFS must also provide some explanation as to how the alleged need for bowhead whales increased from 56 landed whales per year in 1997 to 57 in 2007 even though the number of native Alaskans in the whaling villages decreased by 300 person between 2000 and 2005.

H. NMFS has failed to adequately disclose or evaluate the direct, indirect, and cumulative impacts of various anthropogenic impacts on the bowhead whales and their habitat. Such anthropogenic impacts include, but are not limited to, oil and gas exploration and production activities and its related noise impacts, vessel traffic and its related noise impacts, and global warming. The adverse implications of each of these threats are serious and significant individually and potentially disastrous when the cumulative effects of each are considered together.¹⁸

The scientific evidence demonstrating that global warming is a threat to the planet is overwhelming. It is no longer a matter of when such impacts will be experienced but, rather, how serious the impacts will be, whether the warming trend can be slowed or stopped, and when, if ever, this will be achieved. Impacts of global warming to arctic ecosystems are and will continue to be particularly severe. Such impacts include: the thawing of permafrost; significant reductions in sea ice; increased frequency of storms; alterations in species distribution, movement, and habitat use patterns; increase in invasive species; increase in disease prevalence and impacts as immunologically naive animals are exposed and infected; changes in ocean circulation patterns and chemistry profiles; increased opportunities for oil/gas exploration and development activities as ice-free conditions expand in duration; increase in vessel traffic due to the reduction in sea

¹⁸ For more information about these impacts AWI has attached a number of reports, petitions, or other comment letters and hereby incorporates these documents in their entirety into this comment letter. The attached documents Chapter 9 on Marine Species from the Arctic Climate Impact Assessment (Attachment 5); the February 22, 2000 Petition to Designate Critical Habitat for the Bering-Chukchi-Beaufort Stock of the Bowhead Whale Under the Endangered Species Act submitted by the Center for Biological Diversity and the Marine Biodiversity Protection Center (Attachment 6); the October 9, 2007 scoping comments of the Center for Biological Diversity on the MMS's notice of intent to prepare a programmatic environmental impact statement for proposed oil and gas lease sales in the Beaufort Sea and Chukchi Sea for years 2007-2012 (Attachment 7); the May 10, 2006 comments of the Natural Resources Defense Council and other on the Draft Programmatic Environmental Assessment for Arctic Ocean Outer Continental Shelf Seismic Surveys - 2006 (Attachment 8); and the Arctic Climate Impact Assessment report on the Impact of a Warming Arctic (Attachment 9).

ice; a disruption to indigenous lifestyles; and a complete disruption of both aquatic (fresh and marine) and terrestrial foodwebs with potentially disastrous consequences to primary producers through the largest terrestrial and marine mammals, including bowhead whales.

In the arctic, many if not all of these impacts are already occurring with no indication that such trends will be reversed anytime soon. These impacts compelled a number of Inuit natives to submit a petition to the Inter American Commission on Human Rights to obtain relief from the inaction by the United States to seriously address climate change impacts, particularly in the arctic.

While global warming has both short term and long term implications to bowhead whales and their habitat, oil and gas exploration and production activities have immediate, direct, and adverse impacts on bowhead whales. In the past several years, oil and gas exploration and production activities in the Bering, Chukchi, and Beaufort Seas have increased exponentially and, based on information contained in the DEIS, will continue to expand as more offshore areas are made available for lease by the MMS. In addition to the inevitable potential for an oil spill due to increased production capacity, exploration activities including the use of 2D and 3D seismic surveys create substantial amounts of ocean noise that can, under certain circumstances, travel significant distances under water and which, as evidenced in the DEIS, results in avoidance behaviors by bowhead whales. Depending on the study, such avoidance behaviors have been detected dozens of kilometers away from the location of the survey. Other behavioral impacts that have been observed include increased swimming speeds, increased breathing frequencies, and a reduction or cessation of feeding activities. These behavioral impacts all affect the bioenergetics of the bowhead whales forcing the animals to use more energy or consume less energy in response to impacts from such seismic surveys. Seismic surveys are not the only source of significant noise associated with oil and gas exploration and production activities. Other sources include noise generated through the act of drilling exploratory or production wells, noise associated with site clearance activities, and noise from vessel traffic including that attributable to oil/gas exploration and other non-oil/gas vessel traffic.

All such noise sources are likely to increase both in intensity and duration in Alaska. Since much of the noise is produced in the spring and summer when bowhead whales are calving, raising their young, and feeding extensively, the potential adverse impacts to the whales is significant and are not limited to behavioral impacts. Such noise impacts can cause the temporary or permanent loss of hearing in bowhead whales and other marine species, can directly or indirectly result in the mortality of many marine species depending on the type of sound, the maximum decibels produced, the frequency and duration of the noise, and how close the victim is to the sound source. For bowhead whales, excessive noise can adversely impact their migration patterns, breeding, feeding,

nursing, and mating activities, their navigational abilities, their ability to avoid predators, and communications between bowhead whales including mothers and their calves. The importance of hearing and communication for bowhead whales is summarized by the National Park Service in a fact sheet on bowhead whales produced by the Bering Land Bridge National Preserve.

"Bowheads evidently sense their surrounding mainly by sound, which travels five times faster and much farther in water than in air. Sounds produced by the environment or by the whales reverberate differently under different ice conditions. Bowheads are excellent navigators of ice-choked waters, although they sometimes get trapped by ice and drown. Bowheads make a wide variety of sounds with a voice covering seven octaves. Like humpbacks, they may "sing" in deep undulating tones, often with two notes at once. During migration they evidently call not only to help navigate but also to maintain cohesion of small herds dispersed over perhaps a dozen square miles."

Unfortunately, we don't know enough to accurately predict the impact of increased and excessive ocean noise on bowhead whales or other marine species. As a result, the precautionary principle must be applied in this situation requiring NMFS to consider worst-case scenarios when evaluating the direct, indirect, and cumulative of industrial and transportation related activities on bowhead whales, their habitat, and their prey.¹⁹

Specific comments/questions/corrections:

Page	Section	Correction/question
8	1.2.4	The DEIS specifies that the AEWC provides the first line of enforcement of the MMPA, the ESA, the WCA, and the ICRW and its schedule as specified in the cooperative agreement between the AEWC and NMFS. NMFS offers no further discussion of this specific provision of the agreement and whether it is, in fact, even legal. AWI is aware of no legal authority that would allow NMFS, a federal agency, to transfer federal law enforcement authority to what is a private coalition representing the interest of traditional Alaskan whaling villages. Does the AEWC have law enforcement officers? Are they provided with the same training as police officers or NMFS enforcement agents? NMFS must disclose more

¹⁹ Given the insufficient opportunity for public comment on the DEIS, AWI intends to submit an amended version of this comment letter on Monday, October 15 which will contain a much more in depth examination of the adverse effects of ocean noise, oil and gas exploration and production impacts, vessel traffic, and global warming. Considering the earlier erroneous decision by NMFS not to extend the comment deadline, AWI requests that NMFS fully consider the amended comment letter.

information about this arrangement and, in particular, cite to the statute or regulation which allows NMFS to delegate the enforcement of federal laws to a private party.

15 2.5

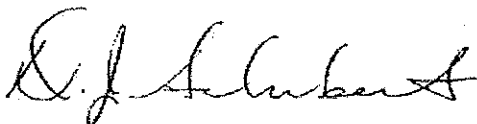
In regard to the duration of the DEIS, NMFS must explicitly state how long this particular DEIS will be in force and/or when it will prepare a new or supplemental analysis. Based on the language in the DEIS it would appear that, although NMFS considered making the EIS applicable to a ten-year time frame, it believes it more appropriate to limit the applicability of the EIS to the standard five-year duration of the IWC approved quotas. If this is the case and assuming the current NEPA process is not successfully challenged in court, NMFS would be well advised to complete any new or supplementary NEPA analysis before the IWC meeting in 2012 when it will presumably seek IWC approval for another 5-year bowhead whale quota.

Conclusion:

For the foregoing reasons, AWI believes that the DEIS is woefully inadequate and fails to satisfy the legal standards imposed by NEPA. In response, NMFS must decide whether to forge ahead and risk legal action challenging the adequacy of its Final EIS and RoD or it can issue a new EIS or a supplement to this DEIS in order to correct the inadequacies in this document.

Though AWI continues to believe that NMFS erred in failing to agree to an extension of the comment deadline, it appreciates the opportunity to submit these preliminary comments.

Sincerely,



D.J. Schubert
Wildlife Biologist

Attachments (submitted by electronic and regular mail)



Alaska Eskimo Whaling Commission

P.O. Box 570 · Barrow, Alaska 99723 · Phone: (907) 852 2392

October 12, 2007

VIA E-MAIL bowhead-DEIS@noaa.gov

Douglas P. DeMaster
Attn: Ellen Sebastian
National Marine Fisheries Service
709 W. 9th Street
P.O. 21688
Juneau, AK 99802-1668

RE: Comments on the Draft Environmental Impact Statement for Issuing Annual Quotas to the Alaska Eskimo Whaling Commission for a Subsistence Hunt of Bowhead Whales for the Years 2008 through 2012.

Dear Dr. DeMaster:

The Alaska Eskimo Whaling Commission appreciates the opportunity to submit the enclosed comments on the bowhead quota Draft EIS.

If you have any questions or would like to discuss these matters, please call me at my office: 907-852-0350.

Sincerely,


/s/ Harry Brower
Chairman

cc: Edward Itta, Mayor North Slope Borough
AEWC Commissioners

**COMMENTS OF THE ALASKA ESKIMO WHALING COMMISSION ON THE
NATIONAL MARINE FISHERIES SERVICE'S DRAFT ENVIRONMENTAL IMPACT
STATEMENT FOR ISSUING ANNUAL BOWHEAD WHALE QUOTAS
TO THE ALASKA ESKIMO WHALING COMMISSION
FOR THE YEARS 2008 THROUGH 2012.**

October 12, 2007

The National Marine Fisheries Service ("NMFS") has done a comprehensive and accurate job of analyzing its proposed issuance of a bowhead whale quota to the Alaska Eskimo Whaling Commission and the Association of Marine Mammal Hunters of Chukotka. The agency has evaluated a reasonable range of alternatives and has selected a preferred alternative that effectively will allow an Alaskan Eskimo bowhead whale subsistence hunt sufficient to satisfy the present nutritional and cultural needs of our Arctic communities. We are pleased that NMFS plans to issue the quota at the level authorized this past spring by the International Whaling Commission.

Our concerns about this EIS are relatively few. First, we disagree with NMFS' decision to rely on Minerals Management Service ("MMS") environmental studies, including studies that fail to account for the adverse impacts of offshore oil and gas development on our subsistence hunt. We are particularly concerned about NMFS's decision to cite MMS 2003, an EIS prepared for Lease Sales 186, 195, and 202. Among its flaws, that EIS crystallized a set of significance thresholds relative to our subsistence communities that are unrealistic and potentially very harmful to the health and well-being of our subsistence communities.

Second, we believe it would be appropriate and helpful if NMFS included a section in the Bowhead Quota EIS detailing, as much as possible in the time between the close of the comment period on the draft and the issuance of the final EIS, the effects of oil and gas operations on our subsistence hunt. Such a review and analysis would help support and explain the need for the carryover strikes, since the introduction of seismic and other industrial noise in the OCS affects whale behavior and makes hunting more dangerous and success less certain. Indeed, as the industrialization of the Arctic Ocean accelerates, we can expect to need the allowed carryover strikes as a consequence of skittish, spooked whales that we find farther and farther from shore.

Finally, we note that NMFS has included a few summary sentences under the document's headings "Seismic Surveys," "Site Clearance Survey Activities," and "Drilling," that indicate the serious intrusion of OCS operations into our hunting waters, but it would be fitting for NMFS to accumulate and report the information in a single section. DEIS pp. 29-30.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

OCT 12 2007

Reply To
Attn Of: ETPA-088

Ref: 07-032-NOA

Douglas P. DeMaster
National Marine Fisheries Service
709 W. 9th Street
P.O. Box 21688
Juneau, AK 99802-1668

Dear Mr. DeMaster:

The U.S. Environmental Protection Agency has reviewed the draft Environmental Impact Statement (EIS) for **Issuing Annual Quotas to the Alaska Eskimo Whaling Commission for a Subsistence Hunt on Bowhead Whales for the Years 2008 through 2012** (CEQ No. 20070315) in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. Section 309, independent of NEPA, specifically directs EPA to review and comment in writing on the environmental impacts associated with all major federal actions. Under our policies and procedures we evaluate the document's adequacy in meeting NEPA requirements.

The EIS proposes to issue annual quotas to the Alaska Eskimo Whaling Commission (AEWC) to allow continuation of its subsistence hunt for bowhead whales from the Western Arctic stock. The proposed action would allow the National Marine Fisheries Service (NMFS) to fulfill its Federal trust responsibilities to Alaskan Natives, and to ensure that any aboriginal subsistence hunt of whales does not adversely affect the conservation of the Western bowhead whale stocks.

The EIS contains three action alternatives that meet the International Whaling Commission's (IWC) two components of no more than 255 whales to be landed during the period of 2008 through 2012 and no more than 67 whale strikes per year with a provision to carryover unused strikes from the previous year. The preliminary preferred alternative would allow for the landing of no more than 255 whales for the 5 year period and 15 unused strikes from the previous year to be added to the annual strike quota.

The EIS does a good job documenting the Alaskan Eskimo tradition of subsistence bowhead whale hunting. In particular, the EIS describes in detail the history and cultural aspects of the whale hunt including how the hunt is an integral part of the social framework of the villages involved. The EIS discusses the widespread sharing of financial resources and equipment to support the hunters, and the sharing of labor in harvesting, processing and distributing subsistence foods. While the EIS discusses the use of non-food portions of the whales for handicrafts such as

baleen baskets, scrimshaw and carvings, it does not discuss the exchange of the non-food portions between villages. The exchange and purchase of non-food portions of the bowhead whale can be an important commodity for Native Alaskan villages involved. This activity should be discussed in the final EIS.

We have assigned a rating of LO (Lack of Objections) to the draft EIS. This rating and a summary of our comments will be published in the Federal Register. A copy of the rating system used in conducting our review is enclosed for your reference.

Thank you for the opportunity to review this draft EIS. If you would like to discuss these issues, please contact Mike Letourneau at (206) 553-6382 or feel free to contact me at (206) 553-1601.

Sincerely,



Christine B. Reichgott, Manager
NEPA Review Unit

Enclosure

cc: M. Combes, EPA-AOO