

activities, 10 percent (n=11) were for development, and 13 percent (n=15) were for production activities. Less than a third (32 of 115) of these activities actually sighted polar bears, and approximately two-thirds of sightings (171 of 258) occurred during production activities.

Summary of Current Request

On August 23, 2002, the Alaska Oil and Gas Association (AOGA), on behalf of its members, requested that we promulgate regulations for nonlethal incidental take of small numbers of Pacific walrus and polar bears pursuant to section 101(a)(5) of the Act. The request was for a period of 5 years, from March 31, 2003, through March 31, 2008. Members of AOGA include Alyeska Pipeline Service Company; Marathon Oil Company; Anadarko Petroleum Corporation Petro Star, Inc.; BP Exploration (Alaska) Inc.; Phillips Alaska, Inc.; ChevronTexaco Corporation; Shell Western E&P Inc.; Cook Inlet Pipe Line Company; Tesoro Alaska Company; Cook Inlet Region, Inc.; TotalFinaElf E&P USA; EnCana Oil & Gas (USA) Inc.; UNOCAL; Evergreen Resources, Inc.; Williams Alaska Petroleum, Inc.; ExxonMobil Production Company; XTO Energy, Inc.; and Forest Oil Corporation. Along with their request for incidental take authorization, Industry has also developed and implemented polar bear conservation measures. The geographic region defined in Industry's 2002 application is described later in this proposed rule in the section titled "Description of Geographic Region."

We are proposing to issue new regulations that would remain in effect for, 16 months, from date of issuance, to ensure that we have adequate time to thoroughly assess effects of Industry activities over the longer period (5 years) requested by Industry. New LOAs may be issued after the new finding is made. We will assess the effects of Industry activities for the requested period (5 years) and expect to publish a longer-term proposed rule during the term described in this proposed rule.

Prior to issuing regulations at 50 CFR part 18, subpart J, we must evaluate the level of industrial activities, their associated potential impacts to polar bears and Pacific walrus, and their effects on the availability of these species for subsistence use.

To minimize disruptions related to a lapse in the regulations, we propose developing a short-term rule, while a longer term rule is being developed to address anticipated future actions by Industry. The recent petition and discussions with Industry indicate that

industrial activities during the effective period of this rule will be similar to those analyzed in the most recent regulations, with no new major Industry developments anticipated.

Description of Proposed Regulations

The regulations that we are proposing include: permissible methods of taking; measures to ensure the least practicable adverse impact on the species and the availability of these species for subsistence uses; and requirements for monitoring and reporting. The geographic coverage and the scope of industrial activities assessed in these proposed regulations are the same as those in the regulations we issued on March 30, 2000. New LOAs will be issued if the proposed regulations become final.

These proposed regulations would not authorize the actual activities associated with oil and gas exploration, development, and production. Rather, they would authorize the incidental, unintentional take of small numbers of polar bears and Pacific walrus associated with those activities. The U.S. Minerals Management Service, the U.S. Army Corps of Engineers, and the U.S. Bureau of Land Management are responsible for permitting activities associated with oil and gas activities in Federal waters and on Federal lands. The State of Alaska is responsible for activities on State lands and in State waters.

If we issue final incidental take regulations, persons seeking taking authorization for particular projects will apply for an LOA to cover take associated with exploration, development, and production activities pursuant to the regulations. Each group or individual conducting an oil and gas industry-related activity within the area covered by these regulations may request an LOA. Applicants for LOAs must submit a plan to monitor the effects of authorized activities on polar bears and walrus. Applicants for LOAs must also include a Plan of Cooperation on the availability of these species for subsistence use by Alaska Native communities that may be affected by Industry operations. The purpose of the Plan is to minimize the impact of oil and gas activity on the availability of the species or the stock to ensure that subsistence needs can be met. The Plan must provide the procedures on how Industry will work with the affected Native communities, including a description of the necessary actions that will be taken to: (1) Avoid interference with subsistence hunting of polar bears and Pacific walrus, and (2) ensure

continued availability of these species for subsistence use.

We will evaluate each request for an LOA for a specific activity and specific location, and may condition each LOA for that activity and location. For example, an LOA issued in response to a request to conduct activities on barrier islands with known active bear dens, or a history of polar bear denning, may be conditioned to require avoidance of a specific den site by 1 mile, intensified monitoring in a 1-mile buffer around the den, or avoiding the area until a specific date. More information on applying for and receiving an LOA can be found at 50 CFR 18.27(f).

Description of Geographic Region

These proposed regulations would allow Industry to incidentally take small numbers of polar bear and Pacific walrus within the same area, referred to as the Beaufort Sea Region, as covered by our previous regulations. This region is defined by a north/south line at Barrow, Alaska, and includes all Alaska State waters and all Outer Continental Shelf waters, east of that line to the Canadian border. The onshore region is the same north/south line at Barrow, 25 miles inland and east to the Canning River. The Arctic National Wildlife Refuge is not included in the area covered by these regulations.

Description of Activities

In accordance with 50 CFR 18.27, Industry submitted a request for the promulgation of incidental take regulations pursuant to section 101(a)(5)(A) of the Act. Activities covered in this proposed regulation include Industry exploration, development, and production of oil and gas, as well as environmental monitoring associated with these activities. These proposed regulations do not authorize incidental take for offshore production sites other than the previously evaluated Northstar Production area.

Exploration activities may occur onshore or offshore and include: geological surveys; geotechnical site investigations; reflective seismic exploration; vibrator seismic data collection; airgun and water gun seismic data collection; explosive seismic data collection; vertical seismic profiles; subsea sediment sampling; construction and use of drilling structures such as caisson-retained islands, ice islands, bottom-founded structures (steel drilling caisson; SDC), ice pads and ice roads; oil spill prevention, response, and cleanup; and site restoration and remediation.