

mammals, which included impacts from stationary and mobile sources, such as noise, physical obstructions, and oil spills. Based on past LOA monitoring reports, we believe that takes resulting from the interactions between Industry and Pacific walrus and polar bears has had a negligible impact on these species. Additional information, such as recorded subsistence harvest levels and incidental observations of polar bears near shore, suggests that these populations have not been adversely affected. The projected level of activities during the period covered by the proposed regulations (existing development and production activities, as well as proposed exploratory activities) are similar in scale to previous levels. In addition, current mitigation measures will be kept in place. Therefore, based on past LOA monitoring reports, we conclude that any take reasonably likely to or reasonably expected to occur as a result of projected activities will have a negligible impact on polar bear and Pacific walrus populations.

The Northstar development is currently the only offshore development in production with a subsea pipeline. Concerns about potential oil spills in the marine environment as a result of this development were raised in the Northstar FEIS. We have analyzed the likelihood of an oil spill in the marine environment of the magnitude necessary to kill a significant number of polar bears, and found it to be minimal. Thus, after considering the cumulative effects of existing development and production activities, and proposed exploratory activities, both onshore and offshore, we find that the total expected takings resulting from oil and gas industry exploration, development, and production activities will have a negligible impact on polar bear and Pacific walrus populations, and will have no unmitigable adverse impacts on the availability of these species for subsistence use by Alaska Natives during the proposed duration of this rule.

We find, based on the recent scientific information available on polar bear and walrus, the results of monitoring data from our previous regulations, and the results of our oil spill modeling assessments, that any take reasonably likely to result from the effects of oil and gas related exploration, development, and production activities through the duration of these regulations, in the Beaufort Sea and adjacent northern coast of Alaska will have a negligible impact on polar bear and Pacific walrus populations.

Even though the probability of an oil spill that will cause significant impacts to the walrus and polar bear population is extremely low, in the event of a catastrophic spill, we will reassess the impacts to polar bear and walrus and reconsider the appropriateness of authorizations for incidental taking through section 101(a)(5)(A) of the Act.

Our proposed finding of “negligible impact” applies to oil and gas exploration, development, and production activities. As with our past incidental take regulations for these actions, generic conditions would be attached to each LOA. These conditions minimize interference with normal breeding, feeding, and possible migration patterns to ensure that the effects to the species remain negligible. We may add additional measures depending upon site-specific and species-specific concerns. Generic conditions include the following: (1) These regulations do not authorize intentional taking of polar bear or Pacific walrus. (2) For the protection of pregnant polar bears during denning activities (den selection, birthing, and maturation of cubs) in known and confirmed denning areas, Industry activities may be restricted in specific locations during specified times of the year. These restrictions will be applied on a case-by-case basis after assessing each LOA request. In potential denning areas, we may require pre-activity surveys (e.g., aerial surveys) to determine the presence or absence of denning activity; in known denning areas we may require enhanced monitoring during activities. (3) Each activity covered by an LOA requires a site-specific plan of operation and a site-specific polar bear interaction plan. The purpose of the required plans is to ensure that the level of activity and possible takes will be consistent with our proposed finding that the cumulative total of incidental takes will have a negligible impact on polar bear and Pacific walrus, and where relevant, will not have an unmitigable adverse impact on the availability of these species for subsistence uses.

Impact on Subsistence Take

We find, based on the best scientific information available, including the results of monitoring data, that any take reasonably likely to result from the effects of Industry activities during the period of the rule in the Beaufort Sea and adjacent northern coast of Alaska, will not have an unmitigable adverse impact on the availability of polar bears and Pacific walrus for taking for subsistence uses.

Polar bears are hunted primarily during the ice-covered season, and the proposed activities are expected to have a negligible impact on the distribution, movement, and numbers of polar bears found during this time period in the regulation area. Walrus are primarily hunted during the open-water season, and the proposed oil and gas activities are also expected to have a negligible impact on the distribution, movement, and numbers of walrus in the region. Regular communication between the industry and native communities will further reduce the likelihood of interference with subsistence harvest.

If there is evidence during the period of the rule that oil and gas activities may affect the availability of polar bear or walrus for take for subsistence uses, we will reevaluate our findings regarding permissible limits of take and the measures required to ensure continued subsistence hunting opportunities.

Monitoring and Reporting

We require an approved plan for monitoring and reporting the effects of oil and gas industry exploration, development, and production activities on polar bear and walrus prior to issuance of an LOA. Monitoring plans are required to determine effects of oil and gas activities on polar bear and walrus in the Beaufort Sea and the adjacent northern coast of Alaska. Monitoring plans must identify the methods used to assess changes in the movements, behavior, and habitat use of polar bear and walrus in response to Industry activities. Monitoring activities are summarized and reported in a formal report each year. The applicant must submit a monitoring and reporting plan at least 90 days prior to the initiation of a proposed activity. We base each year's monitoring objective on the previous year's monitoring results. For exploration activities the applicant must submit a final monitoring report to us no later than 90 days after the completion of the activity. Since development and production activities are continuous and long-term, we will issue LOAs, which include monitoring and reporting plans for the life of the activity or until the expiration of the regulations, whichever occurs first. Prior to January 15 of each year, we will require that the operator submit development and production activity monitoring results of the previous year's activity. We require approval of the monitoring results for continued coverage under the LOA.