



*NOAA's Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammals is not a rule or regulation just as far-reaching. (AP Photo)*

## NOAA efforts to protect dolphins threaten to hurt Gulf drilling

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A new threat to the oil and gas industry is emerging that could curtail offshore drilling in the Gulf of Mexico.

The latest impediment to drilling is emerging from the National Oceanic and Atmospheric Administration, which is trying to guard whales, dolphins and other marine mammals from the harmful noises produced by human activity.

NOAA's Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammals is not a rule or regulation, but its impact will be just as far-reaching.

The guidance provides updated data on the noise levels that can harm marine mammals. It is intended to be used by NOAA analysts and others, including other federal agencies, "when seeking to determine whether and how" activities are expected to result in hurting marine mammals via the noise they create.

NOAA doesn't regulate the oil and gas industry. But the guidance would make it harder for human activity to continue in certain areas. The agency is also developing a sound "roadmap" for reducing ocean noise.

A coalition of oil and gas groups have laid out detailed comments in the past two years citing several key factors for why the guidance is scientifically and factually unjustified.

Jim Tozzi, the man who started the White House's regulatory review office under President Ronald Reagan, said he has begun raising the specter of the NOAA actions with the administration through his watchdog group the Center for Regulatory Effectiveness, which is backed partly by the oil industry.

He said NOAA's guidance seeks to circumvent the White House's Office of Management and Budget and Information and Regulatory Affairs, which can be the only defense in judging the impact of a proposed government action and stopping it.

"Inching its way through the NOAA bureaucracy is an arcane document titled Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammals (Acoustic Guidance), which will force many oil and gas companies to terminate their operations in the Gulf of Mexico," Tozzi wrote in a letter Commerce Secretary Penny Pritzker earlier this month.

"Since it is guidance, it has not [been] reviewed by the White House Office of Management and Budget, and since it's very complex, it has not been called to the attention of policy officials," he wrote to Pritzker, who oversees NOAA.

Tozzi says he is elevating the issue and asking Pritzker for her "timely intervention" on the matter and to stop the guidance from going into effect. It was originally slated to be final in May, but the comment period was extended to later this summer.

The guidance threatens to kill off nearly 20 percent of the nation's crude oil supply, he told Pritzker.

It would "arbitrarily increase" the size of the exclusion zone for oil and gas production by a factor of 10, Tozzi said. The guidance sets limits for seismic surveying that the industry uses to map the sea floor in preparation for drilling. Seismic operations include the use of underwater explosions to create the waves of sound needed to create a detailed sonar map.

The "acoustic exclusion zone" must be kept clear of mammals, and if a whale or dolphin enters that area, exploration or drilling must end, he wrote.

"This artificially large zone means seismic operations will have to be continuously shut down, even though a marine mammal is nowhere near the seismic operation," Tozzi said.

The zone has been unchanged and fixed for many years, and numerous peer-reviewed studies have shown that oil and gas seismic exploration has not injured marine mammals.

On top of that, the agency is looking to put out regulations on the number of whales, dolphins and other marine mammals the industry can accidentally injure or kill through its activities.

"Even more troubling is the fact that the Acoustic Guidance will be issued jointly with the 'take' regulations, regulations which will determine the number of supposed injuries to marine mammals, which in fact do not exist," Tozzi wrote.

The guidance and the "take" rules are the latest in a long line of Obama administration actions meant to contain offshore drilling. The Interior Department is finalizing the administration's five-year offshore drilling plan that the

industry fears will roll back the number of federal leases available for drilling on the outer-continental shelf, especially in the Arctic.

The oil and gas industry has been pressing the administration to not backtrack from its proposed plan that does include Arctic leasing. But the administration had made proposals in the past to include drilling for the first time off the Atlantic Coast, which it reneged on.

They fear is it will continue that trend when it finalizes the drilling plan later this year, especially with environmental groups lobbying harder than ever to kill all leases in the Arctic and impose a moratorium.

Groups such as the Natural Resources Defense Council also are lobbying for the administration to take strong action to control the harmful sounds that many industries make in the open ocean, unaware of its effects on the hearing and health on marine mammals.

"From the Atlantic to the Pacific to the wild Arctic, this endless barrage of noise impairs the ability of our planet's vulnerable marine life to communicate, find food, navigate and breed," says the group on its website. "Ocean noise is harming and even killing whales, dolphins and other creatures in water bodies all around the world."

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