Statement of Principles
Marine Mammal Protection

This document includes the Statement of Principles, a description of the issues (with examples) and contractual language.

Key Words:
- Client
- Contract
- Contractor
- IAGC
- Marine Mammals
- Tender
- Seismic Operations
- Standby Rate
- Third Party(ies)

Terms that are in bold type are defined in the Glossary of Terms which forms part of this family of Statements of Principles.

Statement of Principles

Seismic Contractors should meet all Marine Mammal protection requirements as specified by government agencies responsible for offshore concessions.

The Client will be responsible for making sure the selected Contractor is aware and equipped to meet local Marine Mammal protection regulations. This information should be provided during the Tender process.

Whatever additional hardware, software, and/or personnel are required to meet these requirements shall be identified during Contract negotiations as additional costs to be borne by the Client.

Any additional operation time attributable to the Contractor’s compliance with Marine Mammal protection requirements (i.e. soft starts, shut down periods, or area restrictions) should be chargeable to the Client at full production rate.

In the event that performance of work is delayed or prevented by compliance with relevant local Marine Mammal mitigation regulations, the Contractor should be entitled to request for suspension of the work and be remunerated at the Standby Rate provided. Should such suspension period exceed a contractually agreed time period, the Contractor’s vessel should be authorized to leave the work site without any liability to the Client in order to perform its other commitments towards other Clients. Upon vessel departure, the Client or Contractor should be allowed to terminate the Contract without any right of recourse of Client against Contractor, or both parties should mutually agree on a remobilisation time.
Commercial Context

During the last decade there has been a growing public concern about the impact of man-made acoustic emissions on the health and behavior of Marine Mammals. There are several sources for these emissions ranging from general shipping, fishing operations, naval active sonar systems, scientific investigations using sound in the oceans, and hydrocarbon exploration and production (E&P) activities.

Of all the E&P activities, the acoustic sources used in marine Seismic Operations have become the main target for scrutiny and regulation by national and international regulating bodies. Therefore, the marine seismic Contractors are on the front line in having to conform to restrictions and regulations dealing with Marine Mammal protection. Since compliance with the various restrictions and regulations have a direct financial impact on the viability of the industry's economic health it is important for the IAGC to provide context for what additional costs will be required for Marine Mammal protection and how those costs will be equitably incorporated into Contract negotiations.

In 1996 seismic Contractors undertaking Seismic Operations within the United Kingdom Continental Shelf (UKCS) agreed to operate under a set of guidelines for marine mammal protection measures drafted by the Joint Nature Conservation Committee (JNCC). Among other things, these guidelines required each survey to have JNCC approved Marine Mammal Observers (MMO) on board each vessel and the implementation of a “soft start” or ramp-up procedure prior to the full activation of the survey seismic source. In some, if not most, instances the MMO requirements result in Third Party observers being used in lieu of existing members of the seismic survey vessel crew. In addition source “soft start” procedures require additional operational time at the start of each survey line or whenever the seismic source is activated after being shut down. The additional financial expense for each of these endeavors has to be accounted for in the overall survey costs.

Lately, the degree of restrictions and mitigation guidelines in some parts of the world have become much more severe and expensive compared to the JNCC recommendations. For instance, Australia has a set of mitigation guidelines ranging from visual survey and “soft start” procedures to requirements for aerial surveys and standoff vessels. The restrictions are progressively enforced depending on the mammal species and inferred behavioral activities (i.e. feeding, breeding, resting, migrating, etc.).

In the USA, the Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement, the government agencies tasked with regulating offshore E&P activities, has adopted mitigations under an NTL and is undertaking a complete revision of the G&G permitting scheme for the Gulf of Mexico, with an emphasis on Marine Mammal protection. We are already experiencing the consequential additional costs required to conduct Seismic Operations.

Recent Examples:

Sakhalin 2001

In an effort to minimise the environmental impact of a seismic survey, a 5 kilometer safety buffer relating to the proximity of observed Grey Whales to the seismic vessel was imposed. The survey area was further divided into two zones with differing restrictions regarding visibility and times of the day in which it was permissible to shoot. As a result, production time was severely limited and the size of the survey finally acquired was reduced.
Gulf of Mexico 2012

Following the Deepwater Horizon incident, new mitigation regulations have been implemented as part of the Seismic Operations permitting process in the United States Gulf of Mexico. These mitigations including controls on sound sources, a 30 or 40 kilometer buffer between concurrent Seismic Operations and seasonal limitations on shooting in Marine Mammal potential breeding grounds.

Contractual Language

See language examples under Standby Rates.