

Time to Modernize the Marine Mammal Protection Act

The Marine Mammal Protection Act (MMPA) was enacted in 1972 in response to increasing concerns about the decline in some species of marine mammals. Unfortunately, some anti-energy activist organizations have abused the intent of the MMPA to curtail offshore exploration, extending restrictions to geophysical science and mapping.

- The original intent of the act was to help declining marine mammal species caused by human activities, such as overhunting, overfishing and unscrupulous trade. It was not designed to regulate sound in a marine ecosystem.
- Seismic surveying technology has been used extensively for over 50 years around the world, including in U.S. waters, with no known detrimental impact to marine life or to commercial fishing.
- According to the Bureau of Ocean Energy Management (BOEM), "To date, there has been no documented scientific evidence of noise from acoustic sources used in seismic activities adversely affecting marine animal populations or coastal communities."

The MMPA authorization process is broken and has led to 1,170 days of regulatory inaction.


- The current regulatory process functions as a de facto ban on geophysical surveys in some U.S. waters.
- The process for issuing MMPA authorizations is routinely delayed by the implementing agencies, because there is little accountability in current procedural requirements. These requirements are either ambiguous or fail to prevent unreasonable delays in agency action.
- In January 2018, the Government Accountability Office (GAO) released a report on offshore seismic surveys, detailing the bureaucratic dysfunction that has contributed to the current quagmire surrounding the issuance of MMPA authorizations. This unwarranted and continued stalling represents a complete bureaucratic breakdown in an otherwise straightforward process by federal agencies.

Vague statutory language, such as "incidental take," is abused by parties intent on curtailing offshore development.

- "Negligible impact" is not defined in the statute and is vaguely defined in the regulations. "Small numbers" is also not defined in the statute and the regulatory definition has been struck down by the courts. Nevertheless, there is significant overlap between these two ambiguous standards. These problems have led to regulatory uncertainty, inconsistent application by agencies, endless delays and much litigation.
- "Least practicable impact" is also not defined in the statute or in the implementing regulations. As a result, it is not consistently applied by agencies or courts, and gives little guidance to operators.

The members of the IAGC urge changes to the MMPA to clarify existing language, enable timely application decisions and modernize to reflect technological advancements.

 For more information, go to <https://www.iagc.org/dc-fly-in.html>

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