

U.S. Department of
Homeland Security

United States
Coast Guard



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5700
30 JAN 2013

Dear Arctic Marine Mammal Coalition Members:

I would like to provide a response to your letter of September 20, 2012, which included a variety of questions and concerns regarding vessel operations in Arctic waters. I fully understand the importance of your concerns, and hope that you recognize this understanding through our ongoing Coast Guard efforts to engage with Tribes, Alaska Native Organizations, and other groups and residents of the Arctic region.

As you noted in your letter, we have been working to obtain input for the International Maritime Organization (IMO) Polar Code revision, as well as the Bering Strait Port Access Routing Study (PARS). It is important to note the role that the Coast Guard's 17th District plays in both of these initiatives as they are not quite the same. Coast Guard Headquarters in Washington, DC serves as the "action office" that is responsible both for soliciting input for the IMO Polar Code initiative as well as eventually promulgating any resulting regulations that are developed.

In contrast, District 17 in Alaska has the lead role in completing the Bering Strait PARS. Once completed, the PARS study recommendations will need several additional levels of approval within the Federal Government before it can be considered for adoption at the IMO. We continue to work with other federal agencies on topics of importance in the Arctic, and I will also forward this letter to those relevant agencies for specific items noted below that are under their jurisdiction. Due to the range of issues in your letter, I will specifically address each item below for clarity:

- 1. Migration and Vessel Transit Routes near Saint Lawrence Island:** The Coast Guard does anticipate that Areas to be Avoided (ATBA) will be included as PARS study recommendations, although the precise locations and sizes are still being developed. In addition to minimizing impacts to marine mammals, Areas to be Avoided also provide additional response time in the event that a vessel becomes disabled and may drift aground. The Coast Guard understands the rationale for your input to route all traffic to the east of St. Lawrence Island, but the commercial traffic in this area includes vessels destined for both the United States and Russia, including a significant amount of traffic that runs along both the US/Russian maritime border and along the Russian Coast. Routing more traffic to the East of St. Lawrence Island will add significant distance to some transits and we do not have a good sense yet if this type of ship routing scheme would be supported by the Russian Federation or at the IMO.
- 2. Open Water Transits in the Beaufort/Chukchi 35 Miles Offshore to Avoid Open-Leads:** The Coast Guard is familiar with the subsistence uses in these areas, as well as other initiatives such as the Conflict Avoidance Agreement, that are in place to mitigate

impacts. Amplifying information regarding the specific types of vessels that this type of measure would apply to would be very useful. There are instances in some locations where Areas to be Avoided are established to provide a “buffer zone” this wide, or even wider for certain types of vessels, such as tank vessels carrying petroleum products. We request clarification if your recommendation is intended to include all destination traffic, such as research vessels, or tugs/barges delivering supplies to coastal villages. Please keep in mind that most IMO approved ship routing measures are not mandatory, and if overly cumbersome routing measures are adopted, there is the possibility that vessels will elect not to participate.

The Coast Guard does believe that there is a need for an enhanced level of governance regarding the issues associated with growing levels of marine traffic throughout Arctic waters. In many other areas of the country, Harbor Safety Committees have been established that bring together stakeholders from industry, the Coast Guard, Ports, other government agency representatives, and stakeholders that represent local interests. This might be a future alternative that the AMMC would like to consider and help establish. The Coast Guard would be very willing to participate in a project of this nature if initiated by the AMMC or other stakeholders.

3. **Avoiding Marine Mammal Feeding Areas:** The measures you list, where vessels reduce speed and/or divert away from marine mammals are part of the commonly accepted practices for managing vessel interactions with these species. “Takes” of marine mammals by vessels operating in U.S. territorial waters under both the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA) are liberally defined and include vessel operations which disrupt feeding behavior patterns, so laws and regulations are already in place to deal with vessels that fail to take appropriate actions upon encountering aggregations of or feeding marine mammals.
4. **10 Knot Seasonal Speed Restrictions in the Anadyr and Bering Straits:** The Coast Guard understands the rationale for additional protections during times when whale migrations occur. We are also well aware that ship strikes are of particular concern for the Bowhead Whale, based on many conversations in which your members have imparted traditional knowledge on the topic. Based on our conversations with our headquarters staff who routinely work with the IMO, we believe that an attempt to impose a vessel speed limit through an international instrument will not likely be successful, as the IMO does not recognize speed restrictions as an accepted ship routing measure. In locations elsewhere in the country where speed restrictions have been imposed, those regulations were promulgated by NOAA’s National Marine Fisheries Service, and not the Coast Guard. We will continue to work with NOAA as our PARS process continues and forward your comments to the appropriate office here in Juneau. Please also keep in mind that before any recommendations resulting from PARS are forwarded to IMO, the recommendations will also undergo a review under the National Environmental Policy Act which will include consultations with NOAA and USFWS under both the MMPA and Section 7 of the ESA.

5. **Bering, Chukchi, and Beaufort Sea Discharge Zones:** We have submitted your letter to Coast Guard Headquarters for addition to the docket for the Polar Code initiative. .
6. **Vessel-Subsistence Hunter Communications:** Regulations such as the Bridge to Bridge Radiotelephone Act and communications equipment carriage requirements promulgated under the Safety of Life at Sea Convention (SOLAS) already ensure that nearly all commercial vessels maintain and use VHF marine band radios in order to facilitate safe vessel operations worldwide. While the Coast Guard is not currently contemplating an IMO sanctioned vessel reporting system as part of the PARS recommendation, we do believe that a voluntary set of practices, such as ships making "Securite" calls to announce their presence at defined points along their route would go a long way toward ensuring that anyone engaged in subsistence activity could remain aware of commercial vessels in the area through use of a VHF radio. Any additional input on specific locations where vessel Securite calls would be most beneficial would be appreciated.
7. **Automatic Identification System (AIS):** The Coast Guard generally supports deployment of AIS systems as they enhance navigation safety and provide the agency with enhanced awareness of what is occurring in our maritime domain. These systems cost money, however, and at some point, a balance point is reached where the cost/benefit of deploying these systems on smaller vessels may not be warranted. At present, the Coast Guard intends to require AIS on all commercial vessels greater than 65 feet in length. This is not to say that smaller vessels would be prohibited from installing AIS. On the contrary, we would encourage voluntary use of AIS on all vessels operating in the region. The question of who has access to the AIS information can also be contentious. Your comments will also be included in the docket for the Polar Code.
8. **Bering Strait Subsistence Impact Fund:** The Bering Strait is an international strait, so there are limits to the jurisdiction that can be exerted over foreign vessels that enjoy the rights of freedom of navigation outside 12 nautical miles, and innocent passage through the Bering Strait within 12 nautical miles of the coast. Thus, development of a management authority with jurisdiction over all vessel traffic in the Bering Strait or mandating Subsistence Impact Fund contributions would be problematic. Additionally, establishing this type of fund is outside the Coast Guard's authority.
9. **Emergency Response Training and Equipment Funding:**
Funding for emergency response equipment and training is available to Alaska communities through grants to local government entities from the Alaska Division of Homeland Security and Emergency Management, which manages certain grant funds as available from the U.S. Department of Homeland Security, Federal Emergency Management Agency. We recommend that you work with local community governments regarding this opportunity. More information can be found on the Alaska Division of Homeland Security and Emergency Management Website at: <http://www.ready.alaska.gov>.
10. **Alaska Marine Mammal Observers:** While the Coast Guard does enforce laws pertaining to marine mammal observers, typically on board fishing vessels, new requirements for marine mammal observers are not within the Coast Guards regulatory

purview. Your comments will be forwarded to NOAA's National Marine Fisheries Service.

As discussed above, I recognize that increased maritime activity in the Arctic may have an impact on residents of the Arctic region. I appreciate your candid acknowledgement that the Bering Strait PARS and development of the Polar Code will not fully address every concern. You may rest assured that your concerns about impacts to subsistence are heard and understood, and that where possible, the Coast Guard will work within our processes to protect subsistence activities to the extent that these two policy tools allow. In those areas where the Coast Guard's jurisdictional role or responsibility is not exclusive, we will work our partnerships with other agencies to stress the importance of subsistence activities as decisions are made.

Please feel free to contact me regarding further issues, or my Tribal Liaison, Ms. Sudie Hargis, who can be reached by email at: Susan.D.Hargis@uscg.mil, or by phone at: 907-463-2034. Additionally, Commander James Houck of my Waterways Management Branch is the Action Officer for the Bering Strait PARS. He is available to discuss this particular initiative in greater detail at: James.P.Houck@uscg.mil, or by phone at: (907) 463-2263.

Sincerely,



THOMAS P. OSTEBO
Rear Admiral, U.S. Coast Guard

Copy: Alaska Eskimo Whaling Commission
Alaska Beluga Whale Committee
Eskimo Walrus Commission
Alaska Nanuuq Commission
Ice Seal Committee