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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 151113999-6950-02]

RIN 0648-BF55

Designating the Sakhalin Bay-Nikolaya Bay-Amur River Stock of Beluga Whales as a Depleted Stock Under the Marine Mammal Protection Act (MMPA)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: We, NMFS, issue a final determination to designate the Sakhalin Bay-Nikolaya Bay-Amur River Stock of beluga whales (*Delphinapterus leucas*) as a depleted stock of marine mammals pursuant to the Marine Mammal Protection Act (MMPA). This action is being taken as a result of a status review conducted by NMFS in response to a petition to designate a group of beluga whales in the western Sea of Okhotsk as a depleted stock. The biological evidence indicates that the group is a population stock as defined by the MMPA, and the stock is depleted as defined by the MMPA.

DATES: This final rule is effective [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: Copies of supporting documents, including the status review, the proposed rule, and a list of references cited in the final rule, are available via the Federal e-rulemaking Portal, at *www.regulations.gov* (search for Docket ID NOAA-NMFS-2015-0154), or at

http://www.fisheries.noaa.gov/pr/species/mammals/whales/beluga-whale.html. Those documents are also available from NMFS at the following address: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3226.

FOR FURTHER INFORMATION CONTACT: Shannon Bettridge, *Shannon.Bettridge@noaa.gov,* Office of Protected Resources, 301-427-8402.

SUPPLEMENTARY INFORMATION:

Background

Section 115(a) of the MMPA (16 U.S.C. 1383b(a)) allows interested parties to petition NMFS to initiate a status review to determine whether a species or stock of marine mammals should be designated as depleted. On April 23, 2014, we received a petition from the Animal Welfare Institute, Whale and Dolphin Conservation, Cetacean Society International, and Earth Island Institute (petitioners) to "designate the Sakhalin Bay-Amur River stock of beluga whales as depleted under the MMPA." We published a notification that the petition was available (79 FR 28879; May 20, 2014). After evaluating the petition, we determined that the petition contained substantial information indicating that the petitioned action may be warranted (79 FR 44733; August 1, 2014). Following the determination that the petitioned action may be warranted, we convened a status review team and conducted a status review to evaluate whether the Sakhalin Bay-Amur River group of beluga whales is a population stock and, if so, whether that stock is depleted. On April 5, 2016, we published a proposed rule to designate the Sakhalin Bay-Nikolaya Bay-Amur River Stock of beluga whales as a depleted stock of marine mammals pursuant to the MMPA (81 FR 19542), and solicited comments from all interested parties

including the public, other governmental agencies, the scientific community, industry, and environmental groups.

Authority

Although the Sakhalin Bay-Nikolaya Bay-Amur River stock of beluga whales does not occur in waters under the jurisdiction of the United States, we have authority to designate the stock as depleted if we find that the stock is below its optimum sustainable population (OSP). Section 115(a) of the MMPA provides NMFS with the authority to designate "a species or stock" of marine mammals as depleted and sets forth the procedures the agency must follow to make such a designation. 16 U.S.C. 1383b(a)(1). The MMPA defines "depleted" as *any case* in which: (1) NMFS determines that a species or population stock is below its optimum sustainable population; (2) a state to which authority has been delegated makes the same determination; or (3) a species or stock is listed as threatened or endangered under the Endangered Species Act (ESA). 16 U.S.C. 1362(1). These provisions draw no distinction between marine mammals based on their geographic location. Rather, NMFS' authority to designate as depleted a species or stock occurring outside of waters under the jurisdiction of the United States is supported by the express link to the ESA found in the MMPA's definition of "depleted." Species of marine mammals that occur outside of waters under the jurisdiction of the United States are regularly listed as threatened or endangered under the ESA. Pursuant to the MMPA's definition of depleted, these species are automatically designated as depleted when they are listed under the ESA. The definition of depleted, therefore, demonstrates Congressional support for depleted designations for foreign marine mammals. NMFS' authority is also supported by the MMPA's import prohibition, which makes it "unlawful to import into the United States any marine mammal if such mammal was…taken from a species or population stock which [NMFS] has, by regulation

published in the Federal Register, designated as a depleted species or stock." *Id.* section 1372(b). By its plain terms, the import prohibition recognizes NMFS' authority to designate a species or stock that occurs outside of waters under the jurisdiction of the United States as depleted.

NMFS has previously used its authority under section 115(a) to designate as depleted, two stocks of marine mammals that occur entirely outside of waters under the jurisdiction of the United States: the northeastern stock of offshore spotted dolphin and the eastern stock of spinner dolphin. *See* 58 FR 58285 (Nov. 1, 1993); 58 FR 45066 (Aug. 26, 1993). NMFS believes that the exercise of this authority is consistent with Congress's intent in enacting the MMPA that marine mammal "species and population stocks should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part," and that "they should be protected and encouraged to develop to the greatest extent feasible…" 16 U.S.C. 1361.

Status Review

A status review for the population stock of beluga whales addressed in this rule was conducted by a status review team (Bettridge *et al*., 2016). The status review compiled and analyzed information on the stock's distribution, abundance, threats, and historic take from information contained in the petition, our files, a comprehensive literature search, and consultation with experts. The draft status review report was submitted to independent peer reviewers, and comments and information received from peer reviewers were addressed and incorporated as appropriate before finalizing the report.

As required by the MMPA, we consulted with the Marine Mammal Commission (Commission) related to the petition to designate the Sakhalin Bay-Amur River group of beluga whales as a depleted population stock. In a letter dated December 7, 2015, the Commission

recommended we take a precautionary approach and define the Sakhalin Bay-Amur River stock to include whales in Nikolaya Bay and promptly publish a proposed rule under section 115(a)(3)(D) of the MMPA to designate this stock as depleted.

Sea of Okhotsk Beluga Whales

Beluga whales are found throughout much of the Sea of Okhotsk, including Shelikov Bay in the northeast and throughout the western Sea of Okhotsk including the Amur River estuary, the nearshore areas of Sakhalin Bay, in the large bays to the west (Nikolaya Bay, Ulbansky Bay, Tugursky Bay and Udskaya Bay), and among the Shantar Islands. Use of the bays and estuaries in the western Sea of Okhotsk is limited primarily to summer months when belugas may molt (Finley 1982) and give birth to and care for their calves (Sergeant and Brodie 1969). The whales move into the ice-covered offshore areas of the western Sea of Okhotsk in the winter (Melnikov 1999). In the status review and the preamble to the proposed rule, we refer to the beluga whales found in the Amur River estuary and the nearshore areas of Sakhalin Bay during summer as the Sakhalin Bay-Amur River beluga whales.

The preamble to the proposed rule summarized additional general background information on the Sea of Okhotsk beluga whales' natural history, range, reproduction, population structure, distribution, abundance, and threats. That information has not changed and is not repeated here.

Stock Determination

The MMPA defines "population stock" as "a group of marine mammals of the same species or smaller taxa in a common spatial arrangement, that interbreed when mature" (MMPA section 3(11)). NMFS' guidelines for assessing stocks of marine mammals (NMFS 2005) state that many different types of information can be used to identify stocks, reproductive isolation is

proof of demographic isolation, and demographically isolated groups of marine mammals should be identified as separate stocks. NMFS has interpreted "demographically isolated" as "demographically independent" (see, for example, Weller *et al*., 2013, Moore and Merrick (eds.) 2011), and recently updated the guidelines for assessing stocks of marine mammals to reflect this interpretation (NMFS 2016).

NMFS considered the following lines of evidence regarding the Sakhalin Bay-Amur River beluga whales to answer the question of whether the group comprises a stock: (1) genetic comparisons among the summering aggregations in the western Sea of Okhotsk; (2) movement data collected using satellite transmitters; and (3) geographical and ecological separation (site fidelity). This information was discussed in detail in the preamble to the proposed rule and is not repeated here. In summary, multiple lines of evidence indicate that Sakhalin Bay-Amur River beluga whales are their own stock or are a stock that also includes whales that summer in Nikolaya Bay. The status review team's evaluation of whether the Sakhalin Bay-Amur River stock is discrete or includes whales in Nikolaya Bay was almost evenly divided, based on the lines of evidence reviewed. Given the currently available information, it is equally plausible that the beluga whales in Nikolaya Bay are part of the demographically independent population stock of Sakhalin Bay-Amur River beluga whales than not. Including Nikolaya Bay in the delineation and description of the stock would be a more conservative and precautionary approach, as it would provide any protection afforded under the MMPA to the beluga whales in Sakhalin Bay-Amur River to those beluga whales in Nikolaya Bay.

None of the information regarding the identification of the Sakhalin Bay-Nikolaya Bay-Amur River group of beluga whales as a population stock has changed since we published the proposed rule, and we received no new information through the public comment period that

would cause us to reconsider our previous finding as reflected in the preamble to the proposed rule. Thus, all of the information contained in the preamble to the proposed rule with respect to identifying the Sakhalin Bay-Nikolaya Bay-Amur River group of beluga whales as a population stock is reaffirmed in this final action. Therefore, based on the best scientific information available as presented in the status review report, the preamble to the proposed rule, and this final rule, NMFS is identifying the Sakhalin Bay-Nikolaya Bay-Amur River group of beluga whales as a population stock.

Depleted Determination

Section 3(1)(A) of the MMPA (16 U.S.C. 1362(1)(A)) defines the term "depletion" or "depleted" to include any case in which "the Secretary, after consultation with the Marine Mammal Commission and the Committee of Scientific Advisors (CSA) on Marine Mammals…determines that a species or a population stock is below its optimum sustainable population." Section 3(9) of the MMPA (16 U.S.C. 1362(9)) defines "optimum sustainable population…with respect to any population stock, [as] the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity [(K)] of the habitat and the health of the ecosystem of which they form a constituent element." NMFS' regulations at 50 CFR 216.3 clarify the definition of OSP as a population size that falls within a range from the population level of a given species or stock that is the largest supportable within the ecosystem (*i.e.,* carrying capacity, or K) to its maximum net productivity level (MNPL). MNPL is the population abundance that results in the greatest net annual increment in population numbers resulting from additions to the population from reproduction, less losses due to natural mortality.

A population stock below its MNPL is, by definition, below OSP and, thus, would be considered depleted under the MMPA. Historically, MNPL has been expressed as a range of values (between 50 and 70 percent of K) determined on a theoretical basis by estimating what stock size, in relation to the historical stock size, will produce the maximum net increase in population (42 FR 12010; March 1, 1977). In practice, NMFS has determined that stocks with populations under the mid-point of this range (*i.e.,* 60 percent of K) are depleted (42 FR 64548, December 27, 1977; 45 FR 72178, October 31, 1980; 53 FR 17888, May 18, 1988; 58 FR 58285, November 1, 1993; 65 FR 34590, May 31, 2000; 69 FR 31321, June 3, 2004). For stocks of marine mammals, including beluga whales, K is generally unknown. NMFS, therefore, has used the best estimate available of maximum historical abundance as a proxy for K (64 FR 56298, October 19, 1999; 68 FR 4747, January 30, 2003; 69 FR 31321, June 3, 2004).

One technique NMFS has employed to estimate maximum historical abundance is the back-calculation method, which assumes that the historic population was at equilibrium, and that the environment has not changed greatly. The back-calculation approach looks at the current population and then calculates historic carrying capacity based on how much the population has been reduced by anthropogenic actions. For example, the back-calculation approach was applied in the management of the subsistence hunt of the Cook Inlet beluga whale stock (73 FR 60976, October 15, 2008). The status review team concluded, and NMFS agrees, that the back-calculation technique is the most appropriate to use in determining the abundance of the stock relative to OSP. Therefore, the status review team analyzed the status of the stock relative to carrying capacity using a back-calculation method.

The best available estimate of abundance beluga whales in the Sakhalin Bay-Amur River area is 3,961 (Reeves *et al.*, 2011). The best available removal data for these whales are a time

series of removals by hunt and live capture since 1915 (Shpak *et al.*, 2011). It was not feasible to develop an estimate of any additional anthropogenic mortality on this population, however there is evidence that there are ongoing threats that continue to impact this population (Reeves *et al.*, 2011). These removal data, plus an estimate of the population's productivity, allow back-calculation of the historical carrying capacity (*i.e.*, K) that probably existed prior to the beginning of the catch history. A population model was used to perform the necessary calculations. This analysis was presented in the status review report and in the preamble to the proposed rule. The analysis has not changed and is not repeated here. In summary, based on this analysis, we found that the population of whales in the Sakhalin Bay-Amur River area is between 25.5 percent and 35 percent of its carrying capacity and therefore below its OSP (Bettridge *et al.*, 2016).

As noted above, in its OSP analysis, the status review team used a 2009-2010 abundance estimate from only the Sakhalin Bay-Amur River area because there was no current abundance estimate of the Nikolaya Bay region. However, because few animals are thought to be in Nikolaya Bay in the survey period compared to the Sakhalin Bay-Amur River, the estimate accounts for nearly all of the population (Shpak *et al.*, 2011). To conduct an OSP analysis for the combined group of Sakhalin Bay-Amur River and Nikolaya Bay whales, the team added 500 to the abundance estimate to account for Nikolaya Bay, and re-ran the model. The team determined that including Nikolaya Bay whales in the analysis would not change the estimate of K significantly; it would result in a slightly higher percentage of K (*i.e.*, less depleted), but the population is still below OSP (*i.e.*, less than 60% of K).

None of the information presented in the preamble to the proposed rule regarding the abundance of the Sakhalin Bay-Nikolaya Bay-Amur River stock relative to its carrying capacity

or OSP has changed since we published the proposed rule, and we received no new information through the public comment period that would cause us to reconsider our previous analysis or finding as reflected in the preamble to the proposed rule. Thus, all of the information contained in the preamble to the proposed rule with respect to the depleted determination is reaffirmed in this final action. As such, based upon the best scientific information available as presented in the status review report, the preamble to the proposed rule, and this final rule, we find that the Sakhalin Bay-Nikolaya Bay-Amur River stock of beluga whales is below its OSP level, and designate the stock as a depleted stock under the MMPA. The depletion designation applies to all biological members of the stock, regardless of whether those individuals are in the wild or in captivity.

Summary of Comments Received and Responses

With the publication of the proposed rule for the designation of the Sakhalin Bay-Nikolaya Bay-Amur River stock of beluga whales as depleted under the MMPA on April 5, 2016 (81 FR 19542), we announced a 60-day public comment period that closed on June 6, 2016. During the public comment period we received a total of 125 written comments on the proposed rule. Commenters included the Commission, non-governmental organizations (Environmental Investigation Agency, Defenders of Wildlife and the Humane Society of the United States, Center for Biological Diversity, Animal Welfare Institute, Orca Rescues Foundation, Orca Network, and Georgia Aquarium); eight organizations or businesses (Northwest Biotechnology Company, Perkins Coie, Alliance of Marine Mammals Parks and Aquariums, Oceans of Fun, Gulfworld Marine Park, Zoomarine Italy, and Marineland Dolphin Adventure), and 111 interested individuals (the majority of whom submitted variations of a form letter supportive of our proposed determination). We fully considered all comments received on the proposed rule in

developing this final depleted determination of the Sakhalin Bay-Nikolaya Bay-Amur River stock of beluga whales.

Summaries of the substantive comments that we received concerning our proposed determination, and our responses to all of the significant issues they raise, are provided below. Comments of a similar nature were grouped together, where appropriate. In addition to the specific comments detailed below relating to the proposed determination, we also received comments expressing general support for or opposition to the proposed rule and comments conveying peer-reviewed journal articles, technical reports, and references to scientific literature regarding threats to the species and stock determination. Unless otherwise noted in our responses below, after thorough review, we concluded that the additional information received was either considered previously or did not alter our determinations regarding the status of the Sakhalin Bay-Nikolaya Bay-Amur River stock of beluga whales.

Comment 1: Numerous commenters, including the Commission, voiced support that the Sakhalin Bay-Nikolaya Bay-Amur River beluga whale stock clearly meets the MMPA standards and urged NMFS to promptly finalize its proposal to designate the stock as "depleted." The majority of these commenters noted that the depletion status would afford further protection to the belugas as the MMPA would prohibit the importation of these animals into the United States for the purposes of public display.

Response: We acknowledge this comment and are finalizing the depleted designation for this stock as proposed. See the response to Comment 14 regarding additional protections afforded under this depleted designation.

Comment 2: Some commenters were opposed to designating the Sakhalin Bay-Nikolaya Bay-Amur River beluga whale stock as depleted under the MMPA. They noted that each year

millions of people visit public display facilities to view marine mammals and these experiences provide a unique opportunity for conservation education that include increasing the awareness of the unique ecosystem where beluga whales are found and the many obstacles they face to survive in their natural environment, and provided several citations in support of their position. In addition, commenters stated that these facilities support scientific studies that would not be possible by studying the animals in the wild.

Response: We recognize the value of public display of marine mammals for conservation education. However, in accordance with section 3(1)(A) of the MMPA, we determine whether a stock is depleted based on its abundance relative to its OSP. Because we determined that the Sakhalin Bay-Nikolaya Bay-Amur River stock of beluga whales is below its OSP, we are designating the stock as depleted under the MMPA. As a result of this determination, importation of beluga whales from this population (or their progeny) into the United States for the purpose of public display will now be prohibited.

Comment 3: A number of commenters stated that NMFS does not have the authority to designate a foreign marine mammal population as a depleted stock under the MMPA, and thus does not have the authority to proceed with the proposed designation. These commenters further stressed that NMFS does not provide any legal or regulatory support to whether NMFS may designate foreign stocks as depleted. Other commenters asserted that the MMPA does grant NMFS the authority to designate stocks as depleted, even if they occur outside of waters under the jurisdiction of the United States, and that the original legislative intent further supports the conservative or precautionary policy that is at the heart of the MMPA. Commenters on both sides of the jurisdiction issue argued that the plain language of the MMPA, case law, precedent, and Congressional intent support their position.

Response: The plain language of the MMPA and the regulatory framework it establishes for protecting marine mammals provide NMFS with the authority to designate any marine mammal stock or species as depleted, regardless of where the species or stock occurs. NMFS therefore agrees with those commenters who assert that NMFS has the authority to designate a foreign stock of marine mammals as depleted, and disagrees with those commenters who assert that the agency does not have that authority. NMFS refers commenters to the "Authority" section, above, for an explanation of its authority. Following are responses to specific arguments raised by commenters with respect to this issue.

One commenter stated that "[i]t is well established that the MMPA does not apply extraterritorially," citing *U.S. v. Mitchell*, 553 F.2d 996 (5th Cir. 1977). *U.S. v. Mitchell* held that the MMPA's prohibition on taking extends to the high seas but does not extend to the territorial waters of a foreign sovereign state; the opinion did not address the scope of NMFS' authority to designate a species or stock of marine mammals as depleted under section 115(a) of the Act. Although NMFS believes that it has the authority to designate any marine mammal stock or species as depleted regardless of geographic location, to the extent that commenters are arguing that NMFS' authority applies only up to the boundary of a foreign nation's territorial seas, NMFS notes that telemetry data from whales tagged in Sakhalin Bay and biological information about the whales' migratory behavior demonstrate that beluga whales from this stock travel hundreds of kilometers offshore, well beyond the territorial seas of Russia (Shpak *et al.*, 2010, 2011, 2012).

Some commenters also asserted that the plain language of the ESA and the MMPA indicate that Congress intended the ESA – and not the MMPA – to be the regulatory system through which foreign marine mammals are protected. NMFS disagrees. The MMPA and the

ESA are separate statutes with distinct frameworks for protecting and conserving marine mammals and threatened and endangered species, respectively. NMFS has the authority to list foreign species as threatened or endangered under the ESA, and NMFS also has the authority to designate foreign species or stocks as depleted under the MMPA. For example, NMFS' authority under the MMPA is evident from the import prohibition, which makes it "unlawful to import into the United States any marine mammal if such mammal was…taken from a species or population stock which [NMFS] has, by regulation published in the Federal Register, designated as a depleted species or stock." *Id.* section 1372(b)(3). By its plain terms, the import prohibition recognizes NMFS' authority to designate a species or stock that occurs outside of waters under the jurisdiction of the United States as depleted. Commenters' assertion that the MMPA's import prohibition applies only to marine mammals that are designated as depleted by virtue of an ESA listing is contrary to the plain meaning of this provision. *See In re Polar Bear Endangered Species Act Listing & Section 4(d) Rule Litigation*, 720 F.3d 354, 360 (D.C. Cir. 2013) (determining that the protections of 16 U.S.C. 1372(b)(3) apply "to all depleted species, regardless of how they achieve their depleted status").

Finally, with respect to precedent, NMFS has previously used its authority under section 115(a) to designate as depleted two stocks of dolphins that occur entirely outside of waters under the jurisdiction of the United States: the northeastern stock of offshore spotted dolphin and the eastern stock of spinner dolphin. *See* 58 FR 58285 (Nov. 1, 1993); 58 FR 45066 (Aug. 26, 1993). Some commenters argued that NMFS' authority to designate these stocks as depleted was rooted in the "extreme and unique circumstances surrounding the regulatory structure in place with respect to these stocks" in the eastern tropical Pacific Ocean (ETP). NMFS acknowledges that Congress amended the MMPA to include provisions specifically relating to the ETP. However,

NMFS designated these stocks as depleted pursuant to section 115(a) of the Act, and not pursuant to any provision of the MMPA applicable only to the ETP. The depletion designations of these two stocks of dolphins therefore provide precedent for the current action.

Comment 4: One commenter suggested that designating a foreign species as depleted under the MMPA "…would set a harmful precedent that potentially establishes a dual-track regulation of imperiled species," and recommended that NMFS retract the proposed rule and instead consider any future petition brought under the ESA concerning the Sakhalin Bay-Nikolaya Bay-Amur River aggregation.

Response: Section 115(b) of the MMPA outlines the steps that NMFS is required to take when petitioned to designate a species or stock as depleted. We have followed those steps, and concluded that a depleted designation is warranted for the Sakhalin Bay-Nikolaya Bay-Amur River stock of beluga whales. This final rule is being promulgated under the MMPA and we are not taking any action under the ESA at this time, but this does not preclude us from responding to any future petition to list the population under the ESA.

Regarding the "dual track" regulation referenced by the commenter, a species that is listed as threatened or endangered under the ESA is automatically considered depleted under MMPA, but the converse is not true. Therefore, this MMPA depleted designation does not automatically result in any ESA protections. This depleted designation is not unprecedented; there are several species or stocks of marine mammals that have been determined to be depleted under the MMPA but are not listed under the ESA, such as the AT1 group of killer whales (69 FR 31321, June 3, 2004) and the Pribilof Island population of North Pacific fur seals (53 FR 17888, May 18, 1988).

Comment 5: A number of commenters stated that NMFS has not satisfied its obligation to review and/or evaluate the best available scientific information with respect to the Sakhalin Bay-Nikolaya Bay-Amur River population of beluga whales. Conversely, a number of commenters reiterated the Commission's comments that NMFS' status review is "a well-written document that thoroughly analyzes the available information."

Response: We conducted a thorough review of the status of beluga whales in the Sea of Okhotsk. We reviewed all available scientific information contained in our files and in peer reviewed literature, as well as information provided by the petitioners and the public. Several commenters provided additional information during the proposed rule public comment period. The additional information received was either considered previously or did not alter our determinations regarding the status of the Sakhalin Bay-Nikolaya Bay-Amur River stock of beluga whales. The best scientific information available supports our determination that this stock of beluga whales should be designated as depleted.

Comment 6: One commenter noted that the Commission and the Committee of Scientific Advisors (CSA) are "…both domestic groups with no knowledge or authority over foreign species or stocks." In addition, NMFS does not provide an explanation for how the Commission formed the basis for its recommendation to designate the Sakhalin Bay-Nikolaya Bay-Amur River stock as depleted, or whether the Committee offered a similar recommendation or participated in the process at all.

Response: The MMPA defines the term "depleted" as including any species or population stock that NMFS, after consultation with the Commission and its CSA on Marine Mammals, determines to be below its OSP. NMFS notes that this provision requires consultation with the Commission and its CSA; it does not provide the Commission with independent authority to

designate a species or stock as depleted. Further, NMFS disagrees that the Commission and its CSA have no knowledge over foreign species. *See, e.g.,* 16 U.S.C. 1402 (directing the Commission to recommend such steps as it deems necessary or desirable for the protection and conservation of marine mammals, to suggest appropriate international arrangements for the protection and conservation of marine mammals, and to recommend such revisions to the list of threatened and endangered species as may be appropriate with regard to marine mammals, among other duties).

As stated in the preamble to the proposed rule, we consulted with the Commission related to the petition to designate the Sakhalin Bay-Amur River group of beluga whales as a depleted population stock. Review of the draft status review report by the Commission, in consultation with its CSA, constituted the consultation required by section 3(1)(A). We have confirmed that the Commission consulted with its CSA in making its recommendation. We are neither required to, nor are we in a position to explain, the basis for a recommendation by another federal agency.

Comment 7: Some commenters claimed that NMFS has essentially changed Congress' definition of a stock. They state that the MMPA's definition of a "population stock" *(i.e.*, "a group of marine mammals of the same species or smaller taxa in a common spatial arrangement, that interbreed when mature" (MMPA section 3(11)), is consistent with the "traditionally accepted scientific definition of a 'population' (*e.g.*, the community of potentially interbreeding individuals at a given locality, Mayr 1963)." They disagree with NMFS' interpretation of "interbreed when mature" to include a "group [that] migrates seasonally to a breeding ground where its members breed with members of the same group as well as with members of other demographically distinct groups which have migrated to the same breeding ground from a different feeding ground." They state that NMFS' use of the terms demographically distinct,

demographically independent, or demographically isolated groups is also scientifically incorrect and inappropriate (Cronin 2006, 2007). They argue that while whales from different feeding grounds may be spatially separated for a period of time, they are not distinct, independent, or isolated breeding (*i.e.*, demographic) groups.

Response: We disagree that we have improperly changed the MMPA's definition of stock. The MMPA provides both biological and ecological guidance for defining marine mammal stocks. The biological guidance is in the definition of population stock: a group of marine mammals of the same species or smaller taxa in a common spatial arrangement that interbreed when mature (MMPA section 3(11)). The ecological guidance is addressed in the requirement that a stock be maintained as a functioning element of the ecosystem (MMPA section 2(2)). NMFS has developed guidelines for assessing marine mammal stocks (GAMMS); the most recent revision to the GAMMS was made available for public comment and finalized in February 2016 (NMFS 2016). The GAMMS provide guidance on defining population stocks consistent with the MMPA. NMFS' approach to determining that beluga whales primarily occurring in the Sakhalin Bay-Nikolaya Bay-Amur River area is a stock is consistent with the guidance provided in the GAMMS.

For the purposes of management under the MMPA, NMFS recognizes a marine mammal stock as being a management unit that identifies a demographically independent biological population. We define demographic independence to mean that the population dynamics of the affected group is more a consequence of births and deaths within the group (internal dynamics) rather than immigration or emigration (external dynamics). Thus, the exchange of individuals between population stocks is not great enough to prevent the depletion of one of the populations

as a result of increased mortality or lower birth rates (NMFS 2016). Mortality includes both natural and human-caused mortality and removals from the population.

In our definition of demographic independence and in our interpretation of "interbreed when mature" we recognize that some interchange among groups may occur (*i.e.*, demographic *isolation* is not required). Therefore, we find it to be valid to define stocks in which: (1) mating occurs primarily among members of the same demographically independent group, or (2) the group migrates seasonally to a breeding ground where its members breed with members of the same group as well as with members of other demographically distinct groups which have migrated to the same breeding ground from a different feeding ground (Bettridge *et al.*, 2016).

Comment 8: One commenter alleged that in its review of the scientific data, NMFS selectively used data to support its conclusion, while ignoring other relevant, highly reliable data to the contrary. Specifically, the commenter argued that NMFS inappropriately dismissed the nuclear microsatellite DNA data and overemphasized the mitochondrial DNA (mtDNA) data, thus, not considering the relevance of the nuclear DNA data to the primary issue of identification of interbreeding groups.

Response: We disagree with the commenter. As documented in the status review and the preamble to the proposed rule, we evaluated all available scientific literature and all lines of evidence for and against demographic independence of Sakhalin Bay-Nikolaya Bay-Amur River beluga whales (see sections 4.2.1 and 4.2.2 of the status review report). Regarding the nuclear microsatellite DNA, we acknowledged in the preamble to the proposed rule that analysis of nuclear microsatellite markers found no evidence for genetic differentiation among the bays of the western Sea of Okhotsk with the exception of a comparison of Sakhalin Bay to the distant Ulbansky Bay (Meschersky and Yazykova 2012, Meschersky *et al.*, 2013). The status review

report explained that the lack of nuclear DNA differentiation among most summer feeding areas in the western Sea of Okhotsk (except between Sakhalin Bay-Amur River and the distant Ulbansky Bay; Meschersky and Yazykova 2012; Meschersky *et al.*, 2013) is consistent with interbreeding between animals that aggregate in Sakhalin Bay and the other bays, and because these animals spend some parts of the year together (*i.e.*, winter), it is plausible that recruitment into a summer aggregation could be both internal and external. However, we concluded the nuclear DNA data available to date are too weak, given the level of and design of the sampling, to assess how much internal versus external recruitment there is. Moreover, the status review team expressed concern about the adequacy of the sampling (most areas were sampled predominantly in one year, skewed towards males) and the microsatellite data quality. Meschersky and Yazykova (2012) did not provide sufficient information on data collection and analysis methods, so it was not possible to evaluate the quality of the microsatellite data. The International Union for Conservation of Nature (IUCN) independent scientific review panel of beluga whale experts also considered the available nuclear DNA analyses and expressed concerns over the sampling design and methods (Reeves *et al*., 2011).

Generally, significant differences in mtDNA haplotype frequencies are interpreted as sufficient evidence for demographic independence reflecting female philopatry. Stocks, including harbor seal stocks in the North Pacific (O'Corry-Crowe *et al.*, 2003) and the humpback whale stock in the western North Atlantic (Palsbøll *et al.*, 2001, IWC 2002), have been delineated based on mtDNA alone. See the response to Comment 9 regarding the strength of the mtDNA data and findings.

Comment 9: A number of commenters asserted that based on the combined scientific findings from genetics, telemetry, and census (abundance) data, whales in the five bays,

comprising the western region of the Sea of Okhotsk, constitute one stock. Specifically, the data show that the beluga whales from all of the bays of the western Sea of Okhotsk are an interbreeding group, and therefore are a single stock. One commenter cited the genetic studies of Meschersky *et al.* (2013) and Yazykova *et al.* (2012) as evidence that the summer aggregations in the five bays in the western Sea of Okhotsk are seasonal groups that belong to one breeding population. Another commenter stated that the large inter-annual differences in population estimates of beluga whales in the Shantar and Sakhalin regions (based on 2009 and 2010 aerial survey data cited in Shpak *et al.*, 2011), "cannot be attributed to massive increases or decreases in isolated populations." Rather, the commenter asserts that these differences indicate the beluga whales move between summering areas, following salmon or other fish runs (Berzin *et al.*, 1991, Trumble and Lajus 2008, Popov 1986). The commenter suggests, for example, that beluga whales move into the Sakhalin Bay-Amur River area in odd years (such as 2009) when the runs of the oceanic race of pink salmon are much greater, and to bays in the Shantar region in even years when the salmon are less abundant in the Sakhalin Bay-Amur River area. To support their discussion of inter-annual differences in abundance, the commenter used Shpak *et al*.'s (2011) 2009 and 2010 aerial survey data and recalculated the abundance estimates using correction factors NMFS "typically" uses for beluga whales in Alaska (Allen and Angliss 2014).

Response: We disagree with the commenters' assertion that the data indicate a single stock of beluga whales in the five bays of the Western Sea of Okhotsk. Regarding the genetic data referenced by the commenters, Meschersky *et al.* (2013) examined samples from Sakhalin Bay, Nikolaya Bay, Udskaya Bay, the northeastern Sea of Okhotsk on the west coast of the Kamtchatka Peninsula, and the Anadyr Estuary in the northwestern Bering Sea. All mtDNA comparisons that were made were significant ($p < 0.00001$), indicating significant haplotype

frequency differences between Sakhalin Bay and Udskaya Bay (as well as between Sakhalin Bay and regions in the northern Sea of Okthosk and western Bering Sea). The level of mtDNA differentiation found is on par with comparisons among other recognized marine mammal stocks. Yazykova *et al.* (2012) used samples from all five bays in the southwestern Sea of Okhotsk (Sakhalin, Nikolaya, Ulbansky, Tugursky, and Udskaya). The sample size from Nikolaya Bay was very small (n=8). Sakhalin Bay showed significant mtDNA differences from all sampling locations except Nikolaya Bay. Overall, the mtDNA data in both studies indicate significant genetic differentiation between Sakhalin Bay and the other bays (except Nikolaya Bay where the sample size is very small). Thus, these data suggest that should one of these bays be depleted or locally extirpated, they are not likely to be repopulated by immigration from the remaining bays.

For the microsatellite data, Meschersky *et al.* (2013) utilized nine microsatellite loci while Yazykova *et al.* (2012) added ten additional loci for a total of 19. In addition to concerns about sampling (one year, skewed towards males) as discussed in the status review and by the IUCN scientific panel and response to Comment 8 above, it is difficult to evaluate the microsatellite analyses of these two publications because they do not present adequate information on the analytical methods used to evaluate the quality of the microsatellite data. Information on standard tests commonly applied to evaluate the quality of microsatellite data prior to running any analyses (for example, tests for linkage disequilibrium and Hardy-Weinberg equilibrium) were not presented in either publication. The status review team discussed, for example, that Yazykova *et al.* (2012) indicate they used the microsatellite loci DlrFCB6 and DlrFCB17, yet these two loci are known to be the same. Standard data quality tests should have identified they were the same, and one of them should have been subsequently dropped from all

analyses. Therefore, the microsatellite data set may contain significant errors that could lead to incorrect conclusions, and the status review team could not adequately evaluate these potential issues.

NMFS believes the telemetry (tagging) data also supports our stock delineation, although we consider them to be weaker evidence, in part, because of the small number of tags. Furthermore, while the tag data reveal where animals move, they do not indicate whether interbreeding is occurring if/when animals from different stocks may overlap. However, NMFS disagrees with the commenters' assertion that "[t]he telemetry data show there is significant movement of belugas among bays in the Sea of Okhotsk in autumn and other times of the year." Beluga whale movements from Sakhalin Bay to the Shantar region, mainly Nikolaya Bay, were recorded primarily in the fall and interpreted as the beginning of migration westward and then northwest into offshore waters for the winter. Shpak *et al.* (2010) reported that the four tagged whales moved from Sakhalin Bay to Nikolaya Bay, with a few detections in the very far southeastern edge of Ulbansky Bay adjacent to Nikolaya Bay, in the fall just prior to migrating further north into the open water of the Sea of Okhotsk (see Figure 3 of Shpak *et al.*, 2010). Tagging efforts to date do not present any evidence that the animals move farther west than that within the other bays (*i.e.*, into Tugursky Bay or Udskaya Bay). As discussed in the preamble to the proposed rule, although not very many whales have been tagged, the data available to date suggest whales present in the summer in Sakhalin Bay also use Nikolaya Bay, but there is little evidence for movement between Sakhalin Bay and the other bays further to the west during spring and summer.

Regarding census (abundance) data, one commenter speculated that the inter-annual differences in population estimates in the Shantar and Sakhalin-Amur regions are not a result of

increases (or decreases) in insolated populations, but, rather, indicate that beluga whales move from one region to another. In support of their argument, the commenter recalculated Shpak *et al.*'s (2011) abundance estimates from the 2009 and 2010 aerial surveys by using correction factors NMFS "typically" uses for beluga whales in Alaska (Allen and Angliss 2014). However, NMFS does not apply any "typical" correction factor to estimate beluga abundance. The corrections, to account for animals during surveys that were missed either because the animals are submerged or too small to be seen, are dependent on the survey conditions (such as altitude, air speed, ice conditions, and water clarity) and therefore vary. The correction factors used by the commenter, 2.62 (to account for diving animals) and 1.18 (to account for newborns and yearlings not observed due to their small size and dark coloration), were developed respectively, for Bristol Bay (Frost and Lowry 1995) and Cumberland Sound, Baffin Island (Brodie 1971). In cases when conditions were similar, NMFS has used these correction factors for other areas in Alaska (*e.g.*, Eastern Chuckchi Sea and Eastern Bering Sea), while in other cases we have used correction factors of 2 (*e.g.*, the Beaufort Sea), or have used an analysis of video tape or regression of counts to correct for availability and sightability (*e.g.*, Cook Inlet) (Allen and Angliss 2015). The commenter has not demonstrated that the survey conditions in this region were sufficiently similar to those in Bristol Bay or Cumberland Sound. Further, both Shpak *et al*. (2011) and Reeves *et al*. (2011) considered using a correction factor of 2 to be appropriate.

The commenter also discussed the relative abundance of beluga whales in the Sakhalin-Amur and Shantar regions. Regardless of which correction factors are used, the Sakhalin-Amur aggregation represents 59 percent of the total estimated number of beluga whales in the two regions in 2009 and 33 percent in 2010. The commenter asserted that the inter-annual differences in abundance are due to shifting of belugas from one region to another, which it states may be in

large part due to the variation in salmon or other fish runs. The commenter cited Berzin *et al.* 1991, Trumble and Lajus 2008, and Popov 1986 in support, but did not include a copy of these papers with the comment letter. We searched but were unable to obtain copies of Berzin *et al.* (1991) and Popov (1986). However, we reviewed Trumble and Lajus (2008) and the commenter's description of the findings from the two unavailable papers.

As stated in the status review, we acknowledge that summer aggregations of beluga whales often focus on seasonally available fish runs, like salmon runs. However, we do not agree that the abundance data indicate a single stock of beluga whales moving between regions. We evaluated the abundance information, including the information provided by the commenters. Based on the estimates of abundance and associated statistical error presented in Shpak and Glazov (2013, Table 4), there is a 31 percent difference between the abundance in 2009 and the lower of the two abundance estimates in 2010 in the Sakhalin-Amur aggregation. We conclude that the difference can be explained by the statistical uncertainty of the abundance estimates. Thus, the difference between the estimates can be attributed to sampling error between surveys and NMFS finds no reason, based on our analysis of the abundance information, to reject the status review team's conclusion that the population in the Sakhalin Bay-Amur River area is a distinct stock.

Based upon the above, we cannot conclude that all beluga whales from the five western bays in the Sea of Okhotsk belong to a single demographically independent population; the best scientific information available supports our conclusion that the Sakhalin Bay-Nikolaya Bay-Amur River population of beluga whales is a stock. Multiple lines of evidence support this conclusion, including mtDNA differentiation, movement data, geographical/ecological separation, and similarity to other examples of MMPA stock designations outlined in the status

review report (*e.g.*, beluga whales in Alaska). Our conclusion is largely consistent with that of the 2011 IUCN independent scientific review panel (Reeves *et al.*, 2011) regarding the unit to conserve.

Comment 10: Many commenters supported the Commission's recommendation for NMFS to take a precautionary approach to include Nikolaya Bay and designate the Sakhalin Bay-Nikolaya Bay-Amur River distinct stock of beluga whales as depleted under the MMPA.

Response: We acknowledge this comment and are including beluga whales in Nikolaya Bay in the stock being designated as depleted.

Comment 11: Several commenters asserted that comparable inferences from the better studied beluga whale populations of Canada's Hudson Bay support NMFS' conclusions on mtDNA and geographic and ecological separation along maternal lines to delineate the Sakhalin Bay-Nikolaya Bay-Amur River population as a stock.

Response: We acknowledge this comment but clarify that we relied on multiple lines of evidence to identify the stock, including genetic, telemetry, and movement data.

Comment 12: A number of commenters argued that designating the Sakhalin Bay-Nikolaya Bay-Amur River stock as depleted would be perceived by Russia that the United States does not approve of its management of the species, and would actually impede efforts to conserve beluga populations in Russian waters.

Response: We were petitioned under section 115 of the MMPA to evaluate whether the beluga whales in the Sakhalin Bay-Amur River region are depleted. We do not have the discretion to consider political factors in the analysis of whether a stock is below its OSP level and a depleted designation is warranted.

Comment 13: Several commenters asserted that the Sakhalin Bay-Amur River stock is below its OSP level and clearly depleted, and including Nikolaya Bay does not change NMFS' depletion finding.

Response: We acknowledge this comment and are finalizing the designation of the Sakhalin Bay-Nikolaya Bay-Amur River stock of beluga whales as depleted.

Comment 14: Many commenters claimed that the depleted finding would provide the stock greater protection against further decline. One noted that a depleted designation would help promote the goals of the MMPA by helping to recover the population thereby protecting the health and stability of the marine ecosystem.

Response: NMFS notes that although we do not manage this foreign stock directly, this depleted designation prohibits importation of whales from this stock into the United States for the purpose of public display, which may partially address the threat of the live-capture trade by reducing demand. This is consistent with our 2013 denial of the Georgia Aquarium's application for a permit to import 18 beluga whales from this population into the United States, in which we found that ongoing, legal marine mammal capture operations in Russia are expected to continue, and issuance of the permit would have contributed to the demand to capture belugas from this stock for the purpose of public display worldwide, resulting in the future taking of additional belugas from this stock.

The MMPA requires NMFS to prepare a conservation plan and restore any stock designated as depleted to its OSP level, unless NMFS determines that such a plan would not promote the conservation of the stock. We have determined that a conservation plan would not further promote the conservation of the Sakhalin Bay-Nikolaya Bay-Amur River stock of beluga whales given that NMFS does not manage the stock, and therefore do not plan to implement a

conservation plan. However, as noted above, by prohibiting the importation of Sakhalin Bay-Nikolaya Bay-Amur River beluga whales into the United States for the purpose of public display, this depleted designation will provide intrinsic conservation benefits that may reduce the impacts of live captures to this stock.

Comment 15: Some commenters recommended additional genetic and environmental research in the Sea of Okhotsk, to better define and manage the population's recovery.

Response: We agree that such research would be beneficial. Such research was also recommended by the Commission in its consultation with us, and by the IUCN panel (Reeves *et al.,* 2011).

Comment 16: One commenter noted that according to new data from the United Nations Environment Programme's World Conservation Monitoring Center, at least 37 live beluga whales, likely from the Sakhalin Bay-Nikolaya Bay-Amur River stock, were exported from Russia in 2014, and emphasized that the level of these live exports alone continues to exceed its potential biological removal level (PBR).

Response: We recognize that live captures are a continuing threat to this stock, but our evaluation of the stock's status did not consider PBR. Rather, we evaluated the stock's abundance relative to carrying capacity to determine whether the population was below its OSP level.

Comment 17: Some commenters cited new information documenting that unsustainable live removals for public display, mortality incidental to these captures, and pollution continue to contribute to the population's depletion. Other commenters noted that beluga whales from this population face threats from vessel strikes, entanglement and drowning, subsistence harvest, oil and gas development, and climate change.

Response: We appreciate the updated information provided by the commenters regarding live captures, measurements of persistent organic pollutants in tissue collected from beluga whales in the Sea of Okhotsk, and oil and gas development in the Sakhalin region. As we noted in the preamble to the proposed rule, information on potential sources of serious injury and mortality is limited for the Sea of Okhotsk beluga whales. The IUCN panel identified subsistence harvest, death during live capture for public display, entanglement in fishing gear, vessel strike, climate change, and pollution as human activities that may result in serious injury or mortality to Sea of Okhotsk beluga whales (Reeves *et al.* 2011). The greatest amount of available information is from the estimates of annual take from the commercial hunt. As noted in the petition, the IUCN review, and the preamble to the proposed rule, monitoring of other types of mortality in the Sea of Okhotsk is low, if existent at all, and information on possible threats and sources of mortality in Sea of Okhotsk beluga whales is highlighted by a lack of substantiated data, and is largely anecdotal.

As noted above, a direct result of this depleted designation is that importation of whales from this stock into the United States for purposes of public display is prohibited. This may reduce the impacts of live captures, but does not directly address the remaining threats to this population.

Classification

This rule has been determined to be not significant for the purposes of Executive Order 12866.

Similar to ESA listing decisions, which are based solely on the best scientific and commercial information available, depleted designations under the MMPA are determined "solely on the basis of the best scientific information available." 16 U.S.C. 1533(b)(1)(A) and 16

U.S.C. 1383b(a)(2). Because ESA listings are thus exempt from the requirement to prepare an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969 (*see* NOAA Administrative Order 216-6.03(e)(1)), NMFS has determined that MMPA depleted designations are also exempt from the requirements of the National Environmental Policy Act. Thus, an environmental assessment or environmental impact statement is not required and none has been prepared for the depleted designation of this stock under the MMPA.

When the proposed rule was published, the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant impact on a substantial number of small entities. (81 FR 19546, April 5, 2016). This rule designates a group of beluga whales in Russian waters (known as the Sakhalin Bay-Nikolaya Bay-Amur River group) as depleted; however, this rule would not, by itself, directly regulate the public, including any small entities. The MMPA authorizes NMFS to take certain actions to protect a stock that is designated as depleted. For example, a stock that is designated as depleted meets the definition of a strategic stock under the MMPA. Under provisions of the MMPA, a take reduction team must be established and a take reduction plan developed and implemented within certain time frames if a strategic stock of marine mammals interacts with a Category I or II commercial fishery. However, NMFS has not identified any interactions between commercial fisheries and this group of beluga whales that would result in such a requirement. In addition, under the MMPA, if NMFS determines that impacts on areas of ecological significance to marine mammals may be causing the decline or impeding the recovery of a strategic stock, it may develop and implement conservation or management measures to alleviate those impacts. However, NMFS has not

identified information sufficient to make any such determination for this group of beluga whales. The MMPA also requires NMFS to prepare a conservation plan and restore any stock designated as depleted to its OSP, unless NMFS determines that such a plan would not promote the conservation of the stock. NMFS has determined that a conservation plan would not promote the conservation of the Sakhalin Bay-Nikolaya Bay-Amur River stock of beluga whales and therefore does not plan to implement a conservation plan. In summary, this final rule will not directly regulate the public. If any subsequent restrictions placed on the public to protect the Sakhalin Bay-Nikolaya Bay-Amur River stock of beluga whales are included in separate regulations, appropriate analyses under the Regulatory Flexibility Act would be conducted during those rulemaking procedures.

The MMPA prohibits the importation of any marine mammal designated as depleted for purposes of public display (see 16 U.S.C. 1371(a)(3)(B) and 1372(b)). Therefore, this rule will have the indirect effect of prohibiting the future importation of any marine mammal from this stock into the United States for purposes of public display. There are 104 facilities in the United States that house marine mammals for the purposes of public display. Of these, only six facilities house beluga whales. There are currently twenty-seven beluga whales at these facilities. None of these beluga whales were taken in the wild from the Sakhalin Bay-Nikolaya Bay-Amur River stock; three whales are progeny of animals taken in the wild from this stock. NMFS receives very few requests to import beluga whales into the United States for purposes of public display and has no pending requests to import beluga whales for public display. NMFS notes the small number of U.S. entities that house beluga whales and the small number of beluga whales from this stock that are currently permitted for public display in the United States. Because this rule will not prevent an entity from requesting to import a beluga whale from a non-depleted stock for

purposes of public display, NMFS found that this rule would not result in a significant economic impact on a substantial number of small entities. NMFS invited comment from members of the public to provide any additional information on NMFS determination that the rule will not result in a significant economic impact on a substantial number of small entities. NMFS did not receive any comment on this issue. As a result, no regulatory flexibility analysis for this final rule has been prepared.

This final rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act of 1980.

This final rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 13132.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Exports, Imports, Marine mammals, Transportation.

Dated: October 24, 2016.

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Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 216 is amended as follows:

PART 216-REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. In § 216.15, add paragraph (j) to read as follows:

§ 216.15 Depleted species.

* * * * *

(j) Sakhalin Bay-Nikolaya Bay-Amur River beluga whales (*Delphinapterus leucas*). The stock includes all beluga whales primarily occurring in, but not limited to, waters of Sakhalin Bay, Nikolaya Bay, and Amur River in the Sea of Okhotsk.

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