

FINDING OF NO SIGNIFICANT IMPACT FOR THE ISSUANCE OF AN INCIDENTAL HARASSMENT AUTHORIZATION TO THE U.S. NAVY TO TAKE MARINE MAMMALS BY HARASSMENT INCIDENTAL TO 2022 ICE EXERCISES IN THE BEAUFORT SEA AND ARCTIC OCEAN AND ADOPTION OF THE NAVY'S FINAL ENVIRONMENTAL ASSESSMENT/OVERSEAS ENVIRONMENTAL ASSESSMENT

I. INTRODUCTION

The National Marine Fisheries Service (NMFS) received an application from the United States Department of the Navy (Navy) requesting authorization for incidental take of marine mammals in connection with submarine training and testing activities analyzed in their 2022 *Environmental Assessment/Overseas Environmental Assessment for the Ice Exercise Program* (2022 EA/OEA). NMFS is required to review applications and, if appropriate, issue Incidental Take Authorizations (ITAs) pursuant to the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 et seq.). In addition, the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.), implementing regulations at 40 Code of Federal Regulations (CFR) Parts 1500 - 1508¹, and National Oceanic and Atmospheric Administration (NOAA) policy and procedures² require all proposals for major federal actions to be reviewed with respect to environmental consequences on the human environment. The purpose of this document is to address NMFS' determination to adopt the 2022 EA/OEA to support the analysis associated with its consideration of whether to issue an MMPA Incidental Harassment Authorization (IHA) and the evaluation that issuance of this IHA will not significantly impact the quality of the human environment.

NMFS proposes to issue an IHA to the Navy pursuant to Section 101(a)(5)(D) of the MMPA and 50 CFR 216.102. The IHA would be valid from February 4, 2022 through April 30, 2022 and authorizes take, by Level B harassment, of marine mammals (ringed seals only) incidental to submarine training and testing activities in the Beaufort Sea and Arctic Ocean during that period (ICEX22). NMFS' proposed action is a direct outcome of responding to the Navy's request for an IHA pursuant to the MMPA. An authorization for incidental takings resulting from a military readiness activity shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, the IHA must set forth the permissible methods of taking, other means of effecting the least practicable adverse impact on the species or stock(s) and their habitat, and requirements pertaining to the monitoring and reporting of such takings.

NMFS' issuance of this IHA allowing the taking of marine mammals, consistent with provisions under the MMPA and incidental to an applicant's lawful activities, is considered a major federal

¹ This FONSI is being prepared using the 2020 CEQ NEPA Regulations. The effective date of the 2020 CEQ NEPA Regulations was September 14, 2020, and reviews begun after this date are required to apply the 2020 regulations unless there is a clear and fundamental conflict with an applicable statute. 85 Fed. Reg. at 43372-73 (§§ 1506.13, 1507.3(a)). The NEPA review began on October 8, 2021 and accordingly proceeds under the 2020 regulations.

² NOAA Administrative Order (NAO) 216-6A "Compliance with the National Environmental Policy Act, Executive Orders 12114, Environmental Effects Abroad of Major Federal Actions; 11988 and 13690, Floodplain Management; and 11990, Protection of Wetlands" issued April 22, 2016 and the Companion Manual for NAO 216-6A "Policy and Procedures for Implementing the National Environmental Policy Act and Related Authorities" issued January 13, 2017.

action. Therefore, NMFS conducted an environmental review of the Navy's IHA application and 2022 EA/OEA and determined adopting the 2022 EA/OEA and preparing a Finding of No Significant Impact (FONSI) is appropriate for NMFS' consideration of whether to issue an IHA to the Navy for ICEX22 activities. This FONSI evaluates the context and intensity of the impacts on marine mammals associated with NMFS' consideration of whether to issue this IHA to the Navy for ICEX22 activities and documents NMFS' determination to adopt the Navy's 2022 EA/OEA pursuant to 40 CFR 1506.3 to satisfy its NEPA obligations.

II. BACKGROUND

The Navy's Ice Exercises (ICEXs) are typically conducted every two years in the waters north of Alaska. The purpose of the Navy's Proposed Action is to evaluate the employment and tactics of submarine operability in Arctic conditions, test emerging technologies, and assess capabilities in the Arctic and gather data on Arctic environmental conditions. The Navy has requested an IHA to authorize the take of marine mammals incidental to the Navy's planned ICEX activities for 2022 (ICEX22). ICEX activities are described in more detail in the 2022 EA/OEA, and for 2022 include the construction of an ice camp; submarine testing and training activities, which include the use of sonar and inert (*i.e.* no explosives) exercise weapons; and research activities.³ NMFS' purpose is to evaluate the Navy's Proposed Action pursuant to NMFS' authority under the MMPA, and to make a determination whether to issue an IHA for submarine testing and training activities, including any conditions or mitigation measures along with monitoring and reporting requirements needed to meet the statutory requirements of the MMPA.

NMFS previously issued IHAs to the Navy for 2018 ICEX activities (ICEX18) and 2020 ICEX activities (ICEX20), with effective dates beginning February 1, 2018 and February 1, 2020, respectively (83 FR 6522, February 14, 2018; 85 FR 6518, February 5, 2020).

III. PROPOSED ACTION AND ALTERNATIVES SUMMARY

A. Navy Proposed Action

The Navy is proposing to conduct submarine training and testing activities, which includes the establishment of a tracking range and temporary ice camp, and to conduct research in the Arctic environment. The submarine training and testing activities, including tracking range activities, would be conducted biennially, but a temporary ice camp would be established annually in one of two areas: either in the ice camp study area (Figure 2-1 of the 2022 EA/OEA) or on a frozen lake in Deadhorse, Alaska (Figure 2-2 of the 2022 EA/OEA). An ice camp established during years without submarine activity is referred to as a "Beta camp," regardless of location. The purpose of the Navy's Proposed Action is to evaluate the employment and tactics of submarine operability in Arctic conditions. The Navy's Proposed Action would also evaluate emerging technologies, assess capabilities in the Arctic environment, and gather data on Arctic environmental conditions. The vast majority of submarine training and testing would occur near the associated ice camp, however,

³ Each of the activities that may occur during ICEX22 are described in detail in the 2022 EA/OEA and summarized in this FONSI; however, this description may occur in the context of ICEX activities, generally, rather than ICEX22, specifically. A detailed description of the subset of activities discussed in the 2022 EA/OEA that may occur during ICEX22, specifically, is available in NFMS' *Federal Register* notice of proposed IHA (86 FR 70451, 70454–56; December 10, 2021).

some submarine training and testing may occur throughout the deep Arctic Ocean basin near the North Pole, within the ICEX Study Area (Figure 2-1 of the 2022 EA/OEA). Though the Study Area is large, the area where the proposed ice camp would be located is a much smaller area (see ice camp study area in Figure 2-2 of the 2022 EA/OEA).

The Proposed Action, including the construction and demobilization of ice camps, would occur over approximately a six-week period for ICEX years that include submarine testing and training or over approximately one week for the Beta camp, from February through April (considered winter through early spring). The submarine training and testing, and the research activities, when occurring, would occur over approximately four weeks during the six-week period for ICEX. The ice camp should be fully functional within five days after initial flights to drop-off equipment have been made.

Ice Camp

When constructed in support of biennial submarine exercises, the ice camp would consist of a command hut, dining tent, sleeping quarters, an outhouse, a powerhouse, runway (and a back-up runway for use in case of an emergency), and a helipad (Figure 2-3 of the 2022 EA/OEA). The number of structures/tents ranges from 15 to 20, and are typically 2 to 6 meters (m) by 6 to 10 m in size. Some tents may be octagon shaped that are approximately 6 m in diameter. Berthing tents would contain bunk beds, a heating unit, and a circulation fan. The completed ice camp, including the runway, would be approximately 1.6 kilometers (km) in diameter. Support equipment for the ice camp includes snowmobiles, gas powered augers and saws (for boring holes through the ice), two reverse osmosis units, and diesel generators. Beta camps are smaller in size and described further below.

All ice camp materials, fuel, and food would be transported from Prudhoe Bay, Alaska, and delivered by air-drop from military transport aircraft (e.g., C-17 and C-130), or by landing at the ice camp runway (e.g., small twin-engine aircraft and military and commercial helicopters). Aircraft would be used to transport personnel and equipment from the ice camp to Prudhoe Bay. Up to nine round trips could occur daily during ice camp build-up and demobilization. During ice camp operations, one to three round trips per day would occur. At the completion of ICEX activities, the ice camp would be demobilized, and all personnel and materials would be removed from the ice floe. All shelters, solid waste, hazardous waste, and sanitary waste would be removed from the ice upon completion of ICEX activities and disposed of in accordance with applicable laws and regulations.

A portable tracking range for submarine training and testing would be installed in the vicinity of the ice camp during an ICEX event; hydrophones, located on the ice and extending to 30 m below the ice, would be deployed. The hydrophones would be deployed by drilling/melting holes in the ice and lowering the cable down into the water column. Hydrophones would be linked remotely to the command hut. Additionally, tracking pingers would be configured aboard each submarine to continuously monitor the location of the submarines. Acoustic communications with the submarines would be used to coordinate the training and research schedule with the submarines; an underwater telephone would be used as a backup to the acoustic communications. Recovery of the hydrophones is planned, however if emergency demobilization is required or the hydrophones are frozen in place and are unrecoverable, they would be left in place.

Freshwater would only be made available in the camp's dining facility. This water would be available for limited food preparation, dishwashing, and human consumption. Additionally, a hygiene station would be available at the ice camp for hand washing. The hygiene station would be located in the dining facility and consist of a gravity fed container which would provide water for hand sanitizing and/or face washing if needed. The hygiene station would utilize the same drain as the kitchen sink for grey water discharge. No shower facilities would be available at the camp.

Dishwashing and a hygiene station would use biodegradable, chlorine-, and phosphate-free detergent that meets the Environmental Protection Agency's Safer Choice standards (U.S. Environmental Protection Agency 2015). Prior to use, dishwashing water would be heated using an on-demand propane water heater. Wastewater generated during food preparation and dishwashing would be discharged to the Beaufort Sea via a single drain in the camp's dining facility. The drain would consist of a corrugated pipe, wrapped in electric heat tape to prevent the pipe from freezing, which would be placed through a hole drilled/melted into the ice. The drain would utilize a removable metal screen to capture solid debris (i.e., food particles) in the wastewater prior to discharge. The metal screen would have a mesh size of no greater than 0.16 centimeters (cm). Solids captured in the screen would be disposed of via the camp's solid waste containers and brought back to Prudhoe Bay, Alaska, for disposal. Freeze-dried, camping style meals would be the primary form of meals, supplemented with fresh fruit, energy bars, etc. The camp would have an average discharge rate of 100 gallons per day, with a maximum discharge rate of 195 gallons per day during the two weeks of peak camp operations. The estimated total discharge from the ice camp's dining facility is 2,925 gallons.

Most freshwater for drinking and cooking would be produced by reverse osmosis through desalination. However, the camp may also utilize mining and melting of multi-year ice. The operation of a reverse osmosis system results in "reject water," or water that is of higher salinity (approximately three times the salinity) than the initial seawater input. This reject water would also be discharged at the camp via a single drain (corrugated pipe placed through a hole in the ice) colocated with the portable system. The average reject water production is expected to be 144 gallons per day. This amount is based on the unit not being operated continuously due to downtime associated with system maintenance and adjustments for flow rate. The maximum reject water production would be approximately 576 gallons per day. The extreme conditions of the ice camp would influence both the system's efficiency and ability to operate, which is why the output from the system would be variable. Assuming continuous operation (24 hours per day) for the 4 weeks of camp operations (excluding a week each for construction and demobilization), a maximum total discharge of reject water from the ice camp would be 8,064 gallons.

Sanitary/human waste generated at the camp would be collected in zero-discharge sanitary facilities (e.g., barrels lined with a plastic bag), which would then be containerized and flown back to Prudhoe Bay, Alaska, for disposal at appropriate facilities.

In addition to the main ice camp, two smaller, adjacent berthing areas are proposed for ICEX activities. These areas (used for expeditionary forces) would leverage the facilities provided by the main camp (e.g., sanitary facilities) while verifying these groups could function independently if necessary. All materials from these adjacent areas would be removed from the ice upon completion of the activities.

Beta Camp

Beta camps, constructed in the years when submarine activities do not occur, would be approximately 24 m by 24 m and consist of 4 to 6 tents and approximately 10 to 16 personnel on site. In addition, there would typically be a 15 m by 228 m research area. Beta camps would include three or four tents, a generator, a small ice auger, a snowmobile, a reverse osmosis unit, and fuel for heaters and the generator. The remainder of the tents would be used as auxiliary support tents.

If the Beta camp is built on an ice floe, all ice camp materials, equipment, fuel, and food would be transported from Prudhoe Bay, Alaska, and delivered by a single or twin otter aircraft, to the ice camp runway. Aircraft would be used to transport personnel and equipment from the ice camp to Prudhoe Bay; up to nine round trips could occur daily. At the completion of the activities at the Beta camp, the ice camp would be demobilized, and all personnel and materials would be removed from the ice floe; all solid waste, hazardous waste, and sanitary waste would be disposed of in accordance with applicable laws and regulations.

Freshwater would be obtained either through use of a reverse osmosis unit or via ice mining, which entails collecting and melting of multi-year ice. Freshwater would only be made available in the camp's dining facility. No shower facilities would be available at the Beta camp. Sanitary/human waste generated at the camp would be collected in zero-discharge sanitary facilities (e.g., barrels lined with a plastic bag), would be collected and containerized, then flown back to Prudhoe Bay, Alaska, for disposal at appropriate facilities.

If the Beta camp is built on a frozen lake near Deadhorse, all materials and equipment would be transported to the lake by vehicle. The frozen lake location is adjacent to lodging, where the majority of camp personnel would stay overnight and use dining and restroom facilities, though some personnel may stay in tents overnight for testing purposes. Flights would still occur to the Ice Camp Study Area to investigate ice floes that are being satellite tracked to help refine ice floe tracking methods. Runways would not be constructed and an ice floe would only be investigated once. All materials and equipment would be removed from the frozen lake at the end of the camp.

Prudhoe Bay

During the Proposed Action, flights to and from Prudhoe Bay would utilize the public airport in Deadhorse, Alaska. Up to nine round trips could occur daily in addition to the usual flight traffic that occurs at the airport (average of 60 flights per day). All flights would leave from Deadhorse Airport and fly directly to the ice camp. The flight and transit corridor is shown in Figure 2-1 of the 2022 EA/OEA. The flight corridor is approximately 25 miles wide and is the most direct route to the camp. Additionally, exercise torpedoes (i.e., non-explosive) that are retrieved from the water column following submarine training and testing would then be transported to and processed at Prudhoe Bay. Exercise torpedoes would then be prepared for transport in accordance with existing Navy policies.

An average of 6 to 12 personnel would stay at the local lodging facilities during the duration of ICEX activities. Since the personnel would be staying in commercial lodging facilities, they would easily be absorbed into the communities' infrastructure and would not require any additional resources. The community is set up for transient type communities and handling influxes of groups such as oil and gas employees. The additional personnel would not impact any other resources because of the minimal amount of time spent in the area and the concentration of people moving from lodging to the ice camp.

Submarine Training and Testing

Submarine activities associated with an ICEX are classified, but generally entail safety maneuvers, active sonar use, and exercise torpedo use. These maneuvers and sonar use are similar to submarine activities conducted in other undersea environments; they are being conducted in the Arctic to test their performance in a cold environment. Classified descriptions of submarine training and testing activities planned for ICEX can be provided to authorized individuals upon request. Submarine training and testing involves active acoustic transmissions, which have the potential to harass marine mammals. Submarine training and testing is not associated with Beta camp events.

Torpedo exercises would be conducted in alternating ICEX events (i.e., every 4 years) with associated submarine activities. Details about torpedoes and torpedo firing are classified, and descriptions can be provided to authorized individuals upon request.

Research Activities

Personnel and equipment proficiency testing and multiple research and development activities would be conducted (Table 2-1 of the 2022 EA/OEA). Each type of activity scheduled for ICEX, including research activities and the submarine training and testing activities discussed above, has been reviewed and placed into one of seven general categories of actions (Table 2-1 of the 2022 EA/OEA); these categories of actions are analyzed in the 2022 EA/OEA. Due to the uncertainty of extreme cold, some scheduled activities may not be able to be conducted. All research personnel traveling to the ice camp would be berthed at the established ice camp facilities.

Platform Descriptions

Typical platforms used for ice camp logistics and those necessary to support proposed research activities include on-ice vehicles (e.g., snowmobiles), aircraft, unmanned vehicles (both aerial and underwater), and passive devices. Although details on some specific systems are provided as examples, the general categories of platforms are analyzed for their potential effect on the environment. Please refer to the 2022 EA/OEA for platform descriptions (i.e., on-ice vehicles, aircraft, unmanned devices, and passive scientific devices).

B. NMFS' Proposed Action

Sections 101(a)(5)(A) and (D) of the MMPA allow NMFS to authorize the incidental but not intentional take of small numbers of marine mammals, provided certain determinations are made and statutory and regulatory procedures are met. To authorize the incidental take of marine mammals, NMFS evaluates the best available scientific information to determine whether the take would have a negligible impact⁴ on marine mammal species or stocks and whether the activity would have an unmitigable adverse impact on the availability of affected marine mammal species or stocks for subsistence use.

The 2004 National Defense Authorization Act (Pub. L. 108-136) removed the “small numbers” limitation indicated above and amended the definition of “harassment” as applied to a “military

⁴ NMFS defines "negligible impact" as “an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.” (50 CFR § 216.103)

readiness activity.” The activity for which the Navy has requested incidental take of marine mammals qualifies as a military readiness activity.

NMFS cannot issue an ITA if the take would result in more than a negligible impact on marine mammal species or stocks or would result in an unmitigable adverse impact on subsistence uses. NMFS must also prescribe the permissible methods of taking and other means of effecting the least practicable impact on the species or stocks of marine mammals and their habitat, paying particular attention to rookeries, mating grounds, and other areas of similar significance. Where applicable, NMFS must prescribe means of effecting the least practicable impact on the availability of the species or stocks of marine mammals for subsistence uses. ITAs also include requirements pertaining to monitoring and reporting.

NMFS’ proposed action is to issue a one-year IHA pursuant to the MMPA to authorize non-intentional harassment of marine mammal species and stocks incidental to the Navy’s activities, if all required findings and determinations can be made. Since NMFS’ proposed action would authorize take of marine mammals incidental to a subset of the activities analyzed in the 2022 EA/OEA, these components of the Navy’s proposed action are the subject of NMFS’ proposed action. Therefore, NMFS’ proposed action is a direct outcome of the Navy’s request for an IHA and would authorize take of marine mammals incidental to a subset of the activities analyzed in the Navy’s 2022 EA/OEA.

C. Alternatives Considered by the Navy

The Navy analyzed three alternatives in the 2022 EA/OEA, two action alternatives (Alternatives 1 and 2) and a No Action Alternative.

Alternative 1: Under Alternative 1, the Navy would establish an ice camp to support submarine training and testing. The ice camp would be established approximately 100–200 nautical miles (nm) north of Prudhoe Bay, Alaska; the exact location cannot be identified in advance, as many of the required conditions (e.g., ice cover) cannot be forecasted until around the time when the exercises are expected to commence. The vast majority of submarine training and testing would occur near the ice camp; however, some submarine training and testing may occur throughout the deep Arctic Ocean basin near the North Pole, within the Study Area (Figure 2-1 in the 2022 EA/OEA). Though the Study Area is large, the area where the proposed ice camp would be located is a much smaller area (see ice camp proposed action area on Figure 2-1 in the 2022 EA/OEA). Prior to the set-up of the ice camp, reconnaissance flights would be conducted to locate suitable ice conditions required for the location of the ice camp. The reconnaissance flights would occur over an area of approximately 70,374 square kilometers (km²); the actual ice camp is no more than 1.6 km in diameter (approximately 2 km² in area).

The Navy’s Proposed Action would occur over an approximately six week period annually from February to April, including construction and demobilization of the ice camp. The submarine training and testing would occur over approximately four weeks during the six-week period in alternating years only. Every four years, torpedo exercises (TORPEX) would occur in the vicinity of the ice camp with support at Prudhoe Bay.

Alternative 2 (Preferred Alternative): Under Alternative 2, the Navy would conduct all activities, as described under Alternative 1, which includes submarines training and testing (including torpedo

exercises every four years), construction of an ice camp and research activities, on a biennial schedule as well as construction of a smaller “Beta” ice camp on alternating years when there is no submarine training and testing, either on an ice floe or on a frozen lake in Deadhorse, Alaska.

No Action Alternative: Under the No Action Alternative, no actions under the ICEX program would occur during 2022. The Navy would not establish an ice camp and would not conduct submarine training and testing activities or research in the Arctic. This alternative requires no subsequent analysis of potential consequences to environmental resources, as no action would occur.

D. Alternatives Considered by NMFS

In accordance with NEPA and the 2020 CEQ Regulations, NMFS is also required to consider a reasonable range of alternatives to a proposed action. Since NMFS is adopting the 2022 EA/OEA, it reviewed that document to determine whether it met this requirement. NMFS determined the Navy’s analysis of alternatives in the 2022 EA/OEA is adequate for the purposes of NEPA and the CEQ regulations, and therefore, chose not to supplement this EA by developing and evaluating additional alternatives. However, based on the statutory framework explained in Section III, paragraph B above, NMFS considers two alternatives, a No Action Alternative, in which NMFS denies the Navy’s application for an IHA, and an Action Alternative, in which NMFS would grant a one-year IHA to the Navy for incidental, not intentional, harassment of marine mammals species or stocks caused by the Navy’s ICEX activities, provided that all findings and required determinations could be made. Thus, the alternatives analysis (Section 2.3.4) in the 2022 EA/OEA supports NMFS’ alternatives described below.

No Action Alternative: For NMFS, denial of an MMPA incidental take authorization constitutes NMFS’ No Action Alternative, which is consistent with its statutory obligation under the MMPA to grant or deny ITA requests and to prescribe mitigation, monitoring, and reporting measures with any authorizations. Under NMFS’ No Action Alternative, NMFS would not issue an IHA to the Navy, and NMFS assumes the Navy would not conduct their submarine training and testing activities.

Action Alternative: NMFS issues a one year IHA to the Navy for incidental, not intentional, harassment of marine mammals caused by the Navy’s ICEX activities, as described under the Navy’s Preferred Alternative (Alternative 2, Section 2.3.3) in the 2022 EA/OEA, provided that all required MMPA findings and determinations can be made. The IHA would require the mitigation and monitoring measures described in the Mitigation and Monitoring section of this FONSI, and in NMFS’ *Federal Register* notice of proposed IHA (86 FR 70451; December 10, 2021).

IV. ENVIRONMENTAL REVIEW

NMFS independently reviewed the 2022 EA/OEA and concluded the impacts evaluated by the Navy are substantially the same as the impacts to be considered by NMFS for its proposed action to issue a one-year IHA for the take of marine mammals incidental to the Navy’s submarine testing and training ICEX activities. NMFS has determined that the 2022 EA/OEA contains an adequate evaluation of the direct, indirect, and cumulative impacts on marine mammals under NMFS’ jurisdiction, including species listed under the Endangered Species Act (ESA) and the marine environment. The 2022 EA/OEA also addresses NMFS’ required components for adoption because

it meets the requirements for an adequate Environmental Assessment under the 2020 CEQ regulations and NOAA policy and procedures.

V. PUBLIC INVOLVEMENT

NMFS did not participate as a cooperating agency during the development of the Navy's 2022 EA/OEA, but did provide comments on the document during development. Regarding the proposed IHA for ICEX22 activities, NMFS relied substantially on the public process pursuant to the MMPA to develop and evaluate environmental information relevant to an analysis under NEPA. NMFS published a notice of the proposed IHA in the *Federal Register* on December 10, 2021 (86 FR 70451). There, NMFS notified the public of its intent to use the MMPA public review process for the proposed IHA to solicit relevant environmental information and provide the public an opportunity to submit comments on its proposed action. In addition, NMFS indicated its plan to adopt the 2022 EA/OEA, if appropriate and once finalized, and posted the link to the document in the notice of the proposed IHA.

During the public comment period, NMFS received substantive comments from the Center for Biological Diversity (CBD). CBD's comments included comments related to the draft EA/OEA. NMFS provided CBD's comments on the draft EA/OEA to the Navy to consider for the final EA/OEA.

VI. ANALYSIS SUMMARY

The environmental consequences to the marine environment and protected resources are important to the evaluation leading to the decision to issue any given ITA. In particular, because NMFS' action is specific to authorizing incidental take of marine mammals, the key factors relevant to, and considered in a decision to issue any given ITA, are related to NMFS' statutory authority under the MMPA. The information in the following subsections discusses key factors considered in the analysis in the 2022 EA/OEA along with the evaluation and reasons why the impacts of NMFS' proposed action to issue an IHA for ICEX22 will not significantly impact the quality of the human environment.

A. Environmental Consequences

In the 2022 EA/OEA, the Navy presented the baseline environmental conditions and impacts for affected resources in the Arctic Ocean. The affected environment and environmental consequences are described in Chapters 3 and 4 of the 2022 EA/OEA. Since the anticipated impacts of NMFS' proposed action are predominantly limited to marine mammals, which, if affected, would be through the introduction of sound into the marine environment during ICEX22, the analysis in the 2022 EA/OEA specifically describes and addresses the following key issues and environmental concerns:

- Impacts of acoustic stressors such as underwater acoustic transmissions, aircraft noise, on-ice vehicle noise, and vessel noise on Essential Fish Habitat (EFH), marine mammals, fish, invertebrates, and marine birds including species listed as threatened or endangered under the ESA;
- Impacts of physical stressors (including risk of strikes from aircraft, on-ice vehicles, and vessels, and human presence) on marine mammals, marine birds, invertebrates, and fish;
- Impacts of seafloor bottom disturbance on the physical environment and invertebrates; and

- Impacts of expended material, including risk of entanglement, on invertebrates, marine mammals, and fish.

The Acoustic Transmissions section (4.1.1), Aircraft Noise section (4.1.2), and On-Ice Vehicle Noise section (4.1.3) of the Navy's 2022 EA/OEA contain the majority of the analysis that relates to NMFS' action of issuing an IHA for ICEX22. This includes the assessment by the Navy to provide a evaluation of potential impacts to marine mammals, including descriptions of the potential acoustic impacts used to indicate at what received sound levels marine mammals will experience certain effects (equivalent to regulatory definitions of harassment pursuant to the MMPA). Other subsections contain analyses related to potential impacts on marine mammal habitat and prey, along with the potential for cumulatively significant impacts to marine mammals, all of which supports this analysis for issuance of the proposed IHA to the Navy. The principal types of impacts from the submarine sonar transmissions are limited to underwater noise (and its effects on marine biota). The Navy's Preferred Alternative is expected to result in elevated noise levels that may affect marine mammals; these effects are expected to be limited to behavioral harassment (Level B harassment), including the potential for temporary auditory threshold shifts (TTS).

The anticipated impacts of the Navy's activities associated with the proposed action are primarily from increased levels of underwater sound resulting from submarine acoustic transmissions. The analysis in the 2022 EA/OEA indicated these impacts would be highly localized and short term in nature. Underwater sound associated with ICEX22 could have an effect on the wildlife in the Study Area in the Beaufort Sea and Arctic Ocean basin. As such, the 2022 EA/OEA analyzed the impacts to marine mammals as well as impacts to fish, marine birds, invertebrates, and EFH. The 2022 EA/OEA concludes the impacts associated with the proposed action are minor, temporary, and result in no significant impacts, including impacts on species listed under the ESA. No marine mammals are anticipated to be exposed to sound levels resulting in injury or mortality during ICEX22.

B. Significance Evaluation

i. Purpose of Finding of No Significant Impact: NEPA requires the preparation of an Environmental Impact Statement (EIS) for any proposal for a major federal action significantly affecting the quality of the human environment. 42 U.S.C. § 4332(C). The Council on Environmental Quality (CEQ) Regulations direct agencies to prepare a FONSI when an action not otherwise excluded will not have a significant impact on the human environment. 40 CFR §§ 1500.4(b), 1500.5(b), & 1501.6. To evaluate whether a significant impact on the human environment is likely, the CEQ regulations direct agencies to analyze the potentially affected environment and the degree of the effects of the proposed action. 40 CFR § 1501.3(b). In doing so, agencies should consider the geographic extent of the affected area (i.e., national, regional, or local), the resources located in the affected area (40 CFR § 1501.3(b)(1)), and whether the project is considered minor or small-scale (NAO 216-6A CM, Appendix A-2). In considering the degree of effect on these resources, agencies should examine, as appropriate, short- and long-term effects, beneficial and adverse effects, and effects on public health and safety, as well as effects that would violate laws for the protection of the environment (40 CFR § 1501.3(b)(2)(i)-(iv); NAO 216-6A CM Appendix A-2 - A-3), and the magnitude of the effect (e.g., negligible, minor, moderate, major). CEQ identifies specific criteria for consideration. 40 CFR § 1501.3(b)(2)(i)-(iv). Each criterion is discussed below with respect to the proposed action and considered individually as well as in combination with the others.

In preparing this FONSI, NMFS reviewed the 2022 EA/OEA which evaluates the affected area, the scale and geographic extent of the proposed action, and the degree of effects on those resources (including the duration of impact, and whether the impacts were adverse and/or beneficial and their magnitude). The 2022 EA/OEA is hereby incorporated by reference and summarized herein. 40 CFR § 1501.6(b).

ii. Approach to Analysis:

NMFS' proposed action, the issuance of an IHA to the Navy for activities during the ICEX22, is not considered to meaningfully contribute to a significant impact based on the scale of the impact (authorization of take of ringed seals, by Level B harassment only), and the temporary and short-term duration of the impact. No take of marine mammals by injury (Level A harassment), serious injury, or mortality is anticipated or proposed to be authorized in the IHA.

NMFS' proposed action, the issuance of an IHA to the Navy, will not meaningfully contribute to significant impacts to specific resources, given the limited scope of NMFS' action and required mitigation measures, as described in the 2022 EA/OEA and this FONSI.

NMFS' proposed action is a direct outcome of the Navy's request for an IHA to authorize take of marine mammals associated with their 2022 ICEX in the Beaufort Sea and Arctic Ocean. The Navy's action may cause effects to the resources in the affected area, though there is no potential for the effects of NMFS' action to add to the effects of other projects, including the Navy's action, such that the effects taken together could be significant.

iii. Geographic Extent and Scale of the Proposed Action:

As stated in the 2022 EA/OEA, NMFS' proposed action, issuance of an IHA to the Navy, would authorize take of ringed seals resulting from the Navy's submarine training and testing activities in the ICEX Study Area. The submarine training and testing activities, including tracking range activities, would be conducted biennially, but a temporary ice camp would be established annually in one of two areas: either in the ice camp study area (Figure 2-1 of the 2022 EA/OEA) or on a frozen lake in Deadhorse, Alaska (Figure 2-2 of the 2022 EA/OEA). An ice camp established during years without submarine activity is referred to as a "Beta camp," regardless of location. The vast majority of submarine training and testing would occur near the associated ice camp, however, some submarine training and testing may occur throughout the deep Arctic Ocean basin near the North Pole, within the ICEX Study Area (Figure 2-1 of the 2022 EA/OEA). Though the Study Area is large, the area where the proposed ice camp would be located is a much smaller area (see ice camp study area in Figure 2-1 of the 2022 EA/OEA). Additionally, the Navy's proposed action includes flights to and from Deadhorse Airport and the use of the Deadhorse Aviation Center Hangar and other facilities in Prudhoe Bay, Alaska. The environmental effects analyzed in the 2022 EA/OEA would occur at a relatively small scale.

iv. Degree of Effect:

- A. The potential for the proposed action to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection.*

The issuance of this IHA to the Navy would not violate any federal, state, or local laws for environmental protection. NMFS compliance with environmental laws and regulations is

based on NMFS' action and the nature of the applicant's activities. NMFS complied with the requirements of the MMPA in developing this IHA. NMFS Office of Protected Resources (OPR) also consulted with the NMFS Alaska Region under Section 7 of the ESA to determine if the issuance of this IHA would likely jeopardize the continued existence of listed species or result in the destruction or adverse modification of ESA designated critical habitat. The Section 7 consultation concluded that issuance of an IHA would not jeopardize any listed species or destroy or adversely modify critical habitat, described further in section C, below. The Navy fulfilled its responsibilities under the MMPA and ESA for this action and will be required to obtain any additional federal, state, and local permits necessary to carry out the proposed geophysical survey activities.

B. The degree to which the proposed action is expected to affect public health or safety.

The issuance of this IHA to the Navy to authorize take of marine mammals is not likely to affect public health or safety because the majority of the proposed ICEX22 activities would take place in offshore areas and are unlikely to overlap with activities conducted by the public. NMFS only authorizes the take of marine mammals associated with the Navy's proposed activities, which does not involve the public or expose the public directly (e.g., chemicals, diseases) or indirectly (e.g., food sources) to hazardous or toxic materials in a way that would be linked to the quality of the environment and well-being of humans.

C. The degree to which the proposed action is expected to affect a sensitive biological resource, including:

a. Federal threatened or endangered species and critical habitat;

The issuance of this IHA to the Navy would authorize incidental take in the form of short-term and localized changes in behavior and/or temporary displacement and TTS of Arctic ringed seals, which are listed as threatened under the ESA. NMFS Alaska Region issued a Biological Opinion on January 31, 2022, as described in the 2022 EA/OEA, concluding that the issuance of an IHA to the Navy for ICEX22 is not likely to jeopardize the continued existence of Arctic ringed seals.

NMFS expects that the responses of ringed seals from the Navy's activities would primarily be in the form of temporary displacement from the area and/or short-term behavioral changes, with limited potential for temporary threshold shift, falling within the MMPA definition of "Level B harassment." NMFS does not anticipate that take by injury (Level A harassment), serious injury, or mortality would occur, nor has NMFS proposed to authorize take by injury, serious injury, or mortality. Further, as described in Section 6.2 of the 2022 EA/OEA (Mitigation Measures), the Navy would implement mitigation measures to reduce or avoid potential harm to marine resources, including marine mammals.

There is no ringed seal ESA designated critical habitat in the ICEX Study Area. However, NMFS has proposed the designation of critical habitat for the Arctic subspecies of the ringed seal (86 FR 1452; January 8, 2021). NMFS does not anticipate significant impacts to any marine mammal habitat, including the proposed ringed seal critical habitat as a result of the Navy's ICEX22 activities.

Therefore, in consideration of the factors above, while NMFS' proposed action is likely to adversely affect an ESA-listed species, the potential impacts are not expected to be significant as defined under NEPA.

- b. *Stocks of marine mammals as defined in the Marine Mammal Protection Act;*
As stated above, the issuance of this IHA to the Navy would authorize incidental take, by Level B harassment, in the form of short-term and localized changes in behavior and/or temporary displacement, and TTS of Arctic ringed seals. NMFS has proposed issuing an IHA to authorize this incidental take, by Level B harassment, of Arctic ringed seals. Take by injury (Level A harassment), serious injury, or mortality is not anticipated nor proposed to be authorized.

In addition to considering estimates of the number of marine mammals that are reasonably likely to be "taken" by harassment, NMFS considered other factors, such as the likely nature of any responses (e.g., intensity, duration), the context of any responses (e.g., critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. NMFS also assessed the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (e.g., as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

The Navy calculated the number of estimated takes of marine mammals, by Level B harassment, from submarine acoustic transmissions using the Navy Acoustic Effects Model (NAEMO) and behavioral response function. The number of anticipated takes are low relative to the estimated partial abundance of the affected stock.

Additionally, the Navy's proposed action is temporary and of relatively short duration. Potential adverse effects on prey species would also be temporary and spatially limited. Furthermore, alternate areas of similar habitat value for affected marine mammals would be available allowing animals to temporarily vacate the affected areas to avoid exposure to sound.

For these reasons, impacts resulting from this activity are not expected to significantly affect the marine mammal species or stocks as defined in the MMPA. Accordingly, NMFS preliminarily determined that the specified activity would have a negligible impact on the affected species and stocks of marine mammals.

The mitigation measures which the Navy plans to implement, and which would be required by the IHA to ensure the least practicable impact on affected marine mammals and their habitat, are described in Section 6.2 (Mitigation Measures) of the 2022 EA/OEA.

- c. *Essential fish habitat identified under the Magnuson–Stevens Fishery Conservation and Management Act;*

NMFS' proposed action of issuing an IHA to the Navy to incidentally take marine mammals, by Level B harassment only, would not cause substantial damage to the ocean and coastal habitats and/or EFH. As stated in Section 3.2.4 (Essential Fish Habitat) of the 2022 EA/OEA, the only fish species for which EFH has been designated within the ICEX Study Area is Arctic cod. Elevated sound levels from submarine acoustic transmissions, human presence, and combusive byproducts have the potential to affect Arctic cod EFH. As stated in the Executive Summary of the 2022 EA/OEA, the Navy completed EFH consultation with NMFS for the 2016 ICEX, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act. For a previous ICEX event, NMFS concluded on November 9, 2015 that the Proposed Action would not likely reduce the quantity or quality of EFH. Since NMFS determined that the Navy's proposed Action would not likely reduce the quantity or quality of EFH and no conservation recommendations were provided, the Navy did not reinitiate consultation for the 2022 ICEX.

- d. *Bird species protected under the Migratory Bird Treaty Act;*
NMFS' proposed action of issuing an IHA to the Navy to incidentally take marine mammals, by Level B harassment only, in the form of short-term and localized changes in behavior and/or temporary displacement, and TTS of Arctic ringed seals, would not result in a significant adverse effect on a population of migratory bird species. The impacts of NMFS' proposed action on marine mammals would be temporary and localized in nature and would not result in substantial impacts to marine mammals or to their role in the ecosystem, including in relation to birds.
- e. *National marine sanctuaries or monuments;*
NMFS' proposed action of issuing an IHA to the Navy to incidentally take marine mammals would not affect a national marine sanctuary or monument, as the Navy's proposed activity does not take place within or near either. Therefore, take authorized under the IHA, if issued, would also not occur within or near a national marine sanctuary or monument.
- f. *Vulnerable marine or coastal ecosystems, including, but not limited to, shallow or deep coral ecosystems;*
NMFS' proposed action of issuing an IHA to the Navy to incidentally take ringed seals would not cause substantial damage to marine or coastal ecosystems, as the action would be limited to the authorization of take by Level B harassment of ringed seals incidental to submarine training and testing activities. IHAs do not authorize the underlying activity (in this case, the Navy's training and testing activities), only the take incidental to that activity. The incidental take of ringed seals, by Level B harassment only, that would be authorized under this IHA, if issued, would not have any effect on vulnerable marine or coastal ecosystems.
- g. *Biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)*
NMFS' proposed action of issuing an IHA to the Navy to incidentally take marine mammals would not have a substantial impact on biodiversity and/or ecosystem function within the ICEX Study Area. NMFS expects that the Navy's proposed action may result in take by Level B harassment, in the form of short-term and

localized changes in behavior and/or temporary displacement, and TTS of Arctic ringed seals, and has proposed issuing an IHA to authorize this take. Any impacts would be temporary and localized in nature and would not result in substantial impacts to ringed seals or to their role in the ecosystem. Take by injury (Level A harassment), serious injury, or mortality is not anticipated nor proposed to be authorized.

- D. The degree to which the proposed action is reasonably expected to affect a cultural resource: properties listed or eligible for listing on the National Register of Historic Places; archeological resources (including underwater resources); and resources important to traditional cultural and religious tribal practice.*

NMFS' proposed action of issuing an IHA to the Navy to incidentally take marine mammals would have no foreseeable impact to unique areas, such as historic or cultural resources, parkland, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas. NMFS expects that the Navy's proposed action may result in take by Level B harassment, in the form of short-term and localized changes in behavior and/or temporary displacement, and TTS of Arctic ringed seals, and has proposed issuing an IHA to authorize this take. Such harassment is not expected to substantially impact ecologically critical areas or cultural resources, as the impacts would be to marine mammals themselves as well as being temporary and localized in nature. Take by injury (Level A harassment), serious injury, or mortality is not anticipated nor proposed to be authorized.

As stated in Table 2-4 of the 2022 EA/OEA, no known archaeological or historical resources are located within the ICEX Study Area.

NMFS' proposed action of issuing an IHA to the Navy to incidentally take marine mammals is not reasonably likely to cause impacts to resources important to traditional culture and religious tribal practice, given the short-term, temporary nature of the activity, the negligible impact of the take on affected marine mammals, and the distance offshore where take would be expected to occur. As stated in Chapter 4 of the 2022 EA/OEA, though seals are harvested for subsistence uses off the North Slope of Alaska, the Navy's proposed action (and therefore, the take of ringed seals that would be authorized through the IHA), would occur for a brief period of time outside of the primary subsistence hunting season and the ICEX Study Area is seaward of subsistence hunting areas. Further, take of marine mammals by injury (Level A harassment), serious injury, or mortality is not anticipated nor proposed to be authorized in the IHA.

- E. The degree to which the proposed action has the potential to have a disproportionately high and adverse effect on the health or the environment of minority or low-income communities, compared to the impacts on other communities (EO 12898).*

NMFS' proposed action of issuing an IHA to the Navy to incidentally take marine mammals would have no foreseeable impact to minority or low-income communities, let alone a disproportionately high impact to those communities in comparison to the impacts on other communities. While the Navy's activities would occur in the Arctic Ocean, and Alaska Natives subsistence hunt ringed seals in the Arctic Ocean, the Navy's proposed action (and therefore, the take of marine mammals that would be authorized through the IHA) would occur for a brief period of time outside of the primary subsistence hunting season. Though seals are harvested for subsistence uses off the North Slope of Alaska, the ICEX Study Area boundary

is seaward of subsistence hunting areas (approximately 50 km from shore at the closest point, though exercises would occur farther offshore).

- F. *The degree to which the proposed action is likely to result in effects that contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species.*

NMFS' proposed action of issuing an IHA to the Navy to incidentally take marine mammals would not result in effects that contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species. The IHA would be limited to the take of ringed seals incidental to the Navy's proposed submarine training and testing activities. IHAs do not authorize the underlying activity (in this case, the Navy's training and testing activities), only the take incidental to that activity. The incidental take of ringed seals, by Level B harassment only, that would be authorized under this IHA would not contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species.

- G. *The potential for the proposed action to cause an effect to any other physical or biological resources where the impact is considered substantial in magnitude (e.g., irreversible loss of coastal resource such as marshland or seagrass) or over which there is substantial uncertainty or scientific disagreement.*

NMFS' proposed action of issuing an IHA to the Navy to incidentally take marine mammals is not expected to cause an effect to any other physical or biological resources where the impact is considered substantial in magnitude (e.g., irreversible loss of coastal resource such as marshland or seagrass) or over which there is substantial uncertainty or scientific disagreement. NMFS' proposed IHA would authorize incidental take by Level B harassment of Arctic ringed seals. The take that is expected to occur and proposed for authorization is based on the best available science. This incidental take is expected to be in the form of short-term and localized changes in behavior and/or temporary displacement, and TTS, based on numerous scientific studies, modeling informed by scientific studies, and monitoring conducted as a requirement under previous IHAs for other projects. Any impacts would be temporary and local in nature and are not expected to cause any effect to any other physical or biological resources. Take by injury (Level A harassment), serious injury, or mortality is not anticipated nor proposed to be authorized.

There is scientific uncertainty regarding the abundance of the Alaska stock of ringed seals, for which take by Level B harassment would be authorized through the IHA, if issued. However, this uncertainty does not affect NMFS' ability to determine that impacts of NMFS' action would not be significant, given the nature of the Navy's actions for which take would be authorized, as well as the proposed mitigation measures, as described in Section 6.2 of the 2022 EA/OEA.

v. Other Actions Including Connected Actions:

As described in Section 1.2 (Purpose and Need) of the 2022 EA/OEA, NMFS' proposed action and the purpose and need for that action, are a direct outcome of the Navy's request for an MMPA IHA

in connection with conducting submarine training and testing activities, including the use of active acoustic transmissions throughout the ICEX Program Study Area.

If the proposed IHA is issued, that would be the third time NMFS has authorized take of marine mammals associated with the Navy's ICEX activities (following authorizations for activities in 2018 and 2020). Chapter 5 (Cumulative Impacts) of the 2022 EA/OEA discusses cumulative impacts, and Table 5-1 of the 2022 EA/OEA lists other known recent past, present, and reasonably foreseeable future actions within the vicinity of the ICEX Program Study Area, including the 2018 and 2020 ICEX activities and other activities for which NMFS has previously issued an ITA.

As described in Chapter 5, ICEX activities are short-term and conducted biannually, and the risk of exposing the same animals in multiple ICEXs or Office of Naval Research (ONR) activities (discussed in the 2022 EA/OEA) is low. Additionally because of the distance between oil and gas activities to the area where the Navy operates for ICEX and ONR testing, the risk is low in exposing the same animals to both the oil and gas activities and the Navy activities. Based on the past, present, and reasonably foreseeable future actions within the Study Area, the incidental take associated with NMFS' issuance of the IHA would not be expected to considerably contribute to any cumulative impacts from all other actions and activities in the Beaufort Sea.

vi. Mitigation and Monitoring:

NMFS does not authorize the Navy's ICEX22 activities, however, NMFS does propose to authorize the incidental take of marine mammals under its jurisdiction in connection with these activities and prescribes, where applicable, the methods of taking and other means of effecting the least practicable impact on the species and stocks and their habitats. NMFS' issuance of this IHA would thus be conditioned upon reporting requirements and the implementation of mitigation and monitoring designed to reduce impacts to marine mammals to the level of least practicable impact, as required under section 101(a)(5)(D) of the MMPA. These conditions are summarized below and are described in detail in Chapter 6 of the 2022 EA/OEA as well as the proposed IHA.

Appropriate personnel (including civilian personnel) involved in mitigation and training or testing activity reporting under the specified activities will complete Arctic Environmental and Safety Awareness Training. Modules include: Arctic Species Awareness and Mitigations, Environmental Considerations, Hazardous Materials Management, and General Safety.

Measures to avoid take during on-ice activities:

- The ice camp and runway would be established on first-year or multi-year ice without pressure ridges.
- Ice camp deployment would begin no later than mid-February 2022 and be gradual, with activity increasing over the first five days. Camp deployment would need to be completed by March 15, 2022.
- Personnel on all on-ice vehicles would observe for marine and terrestrial animals.
- Snowmobiles would follow established routes, when available. On-ice vehicles would not be used to follow any animal, with the exception of actively deterring polar bears if the situation requires.
- Personnel on foot and operating on-ice vehicles would avoid areas of deep snowdrifts near pressure ridges.
- Personnel would maintain a 100-m avoidance distance from all observed marine mammals.

- All material (e.g., tents, unused food, excess fuel) and wastes (e.g., solid waste, hazardous waste) would be removed from the ice floe upon completion of ICEX22 activities.

Shutdown and delay measures for acoustic activities:

- Personnel would begin passive acoustic monitoring (PAM) for vocalizing marine mammals 15 minutes prior to the start of activities involving active acoustic transmissions from submarines and torpedoes.
- Personnel would delay active acoustic transmissions and torpedo launches if a marine mammal is detected during pre-activity PAM and must shutdown active acoustic transmissions if a marine mammal is detected during acoustic transmissions.
- Personnel would not restart acoustic transmissions or torpedo launches until 15 minutes have passed with no marine mammal detections.

Mitigation required for aircraft activities:

- Fixed wing aircraft would operate at highest altitudes practicable taking into account safety of personnel, meteorological conditions, and need to support safe operations of a drifting ice camp. Aircraft would not reduce altitude if a seal is observed on the ice. In general, cruising elevation would be 305 m or higher.
- Unmanned Aircraft Systems (UASs) would maintain a minimum altitude of at least 15.2 m above the ice. They would not be used to track or follow marine mammals.
- Helicopter flights would use prescribed transit corridors when traveling to or from Prudhoe Bay and the ice camp. Helicopters would not hover or circle above marine mammals or within 457 m of marine mammals.
- Aircraft would maintain a minimum separation distance of 1.6 km from groups of five or more seals.
- Aircraft would not land on ice within 800 m of hauled-out seals.

DETERMINATION

The CEQ NEPA regulations, 40 CFR § 1501.6, direct an agency to prepare a FONSI when the agency, based on the EA for the proposed action, determines not to prepare an EIS because the action will not have significant effects. In view of the information presented in this document and the analysis contained in the supporting 2022 EA/OEA prepared for the Ice Exercise Program and the Navy’s IHA application, it is hereby determined that the issuance of an IHA for the incidental harassment of marine mammals (ringed seals) incidental to the Navy’s 2022 Ice Exercise Program will not significantly impact the quality of the human environment. The Environmental Assessment/Overseas Environmental Assessment for the Ice Exercise Program is hereby incorporated by reference. In addition, all beneficial and adverse impacts of the proposed action as well as mitigation measures have been evaluated to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.

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Kimberly Damon-Randall,
 Director, Office of Protected Resources
 National Marine Fisheries Service

Date