



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 18

[Docket No. FWS–R7–ES–2023–0086; FXES111607MRG01–267–FF07CAMM00]

RIN 1018–BG75

Marine Mammals; Incidental Take of Polar Bears in the Southern Beaufort Sea; Seismic Exploration Activities by SAExploration, Inc.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of availability of draft environmental assessment; and request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, received a request under the Marine Mammal Protection Act of 1972 from SAExploration, Inc., to issue regulations facilitating the authorization of incidental, unintentional take of small numbers of polar bears during seismic exploration activities on the North Slope of Alaska. Take may result from three-dimensional seismic survey programs and associated activities occurring for a period of 5 years beginning July 1, 2026.. If this rule is finalized, we may issue letters of authorization, upon request, for specific activities in accordance with the final rule for a period of up to 5 years. We intend that any final action resulting from this proposed rule will be as accurate and effective as possible. Therefore, we request comments on these proposed regulations and the accompanying draft environmental assessment from the public, Tribes, and local, State, and Federal agencies.

DATES: Comments on these proposed incidental take regulations and the accompanying draft environmental assessment will be accepted on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date.

Information collection requirements: If you wish to comment on the information collection requirements in this proposed rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this proposed rule in the *Federal Register*. Such comments should be submitted to OMB, with a copy to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, (see “Information Collection” section below under **ADDRESSES**) by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: *Document availability:* You may view this proposed rule, the associated draft environmental assessment, comments received, and other supporting material (including Supporting & Related Material) at <https://www.regulations.gov> under Docket No. FWS–R7–ES–2023–0086, or these documents may be requested as described under **FOR FURTHER INFORMATION CONTACT**.

Comment submission: You may submit comments on the proposed rule and draft environmental assessment by one of the following methods:

- *Electronic submission:* Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS–R7–ES–2023–0086.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R7–ES–2023–0086, Policy and Regulations Branch, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We will post all comments at <https://www.regulations.gov>. You may request that we withhold personal identifying information from public review; however, we cannot guarantee that we will be able to do so. See **Request for Public Comments** for more information.

Information collection requirements: Written comments and suggestions on the information collection requirements should be submitted within 60 days of publication of this

notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review – Open for Public Comments” or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803 (mail); or Info_Coll@fws.gov (email). Please reference “1018–New/RIN 1018–BG75” in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Stephanie Burgess, by email at r7mmmregulatory@fws.gov, by telephone at 907–786–3800, or by U.S. mail at U.S. Fish and Wildlife Service, MS 341, 1011 East Tudor Road, Anchorage, AK 99503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Executive Summary

In accordance with the Marine Mammal Protection Act of 1972 (MMPA; 16 U.S.C. 1371(a)(5)(A)) and its implementing regulations, we, the U.S. Fish and Wildlife Service (hereafter, FWS or we), propose incidental take regulations that, if finalized, would authorize the incidental, unintentional take of small numbers of polar bears (*Ursus maritimus*) during seismic exploration and associated activities on the North Slope of Alaska. If finalized, this proposed rule would be effective for a 5-year period beginning at the date of issuance.

This proposed rule is based on our draft findings that the total takings of polar bears during specified activities will impact small numbers of animals, will have a negligible impact on this species or stocks, and will not have an unmitigable adverse impact on the availability of this species for subsistence use by Alaska Natives. We base our draft findings on data from monitoring the encounters and interactions between this species and the oil and gas industry;

research on this species; oil spill risk assessments; potential and documented effects on this species from similar activities; information regarding the natural history and conservation status of polar bears; and data reported from Alaska Native subsistence hunters. In conjunction with this proposed rulemaking, we have prepared a draft environmental assessment, which is also available for public review and comment.

These proposed regulations include permissible methods of taking; mitigation measures to ensure that SAExploration, Inc,'s (SAE) activities will have the least practicable adverse impact on the species, their habitat, and the availability of this species for subsistence uses; and requirements for monitoring and reporting.

Background

Section 101(a)(5)(A) of the MMPA gives the Secretary of the Interior (Secretary) the authority to allow the incidental, but not intentional, taking of small numbers of marine mammals, in response to requests by U.S. citizens (as defined in title 50 of the Code of Federal Regulations (CFR) in part 18 (at 50 CFR 18.27(c)) engaged in a specified activity (other than commercial fishing) within a specified geographic region. The Secretary has delegated authority for implementation of the MMPA to the FWS. According to the MMPA, the FWS shall allow this incidental taking for a period of up to 5 consecutive years if we find that the total of such taking:

- (1) will affect only small numbers of individuals of the species or stock;
- (2) will have no more than a negligible impact on the species or stock;
- (3) will not have an unmitigable adverse impact on the availability of the species or stock for taking for subsistence use by Alaska Natives; and
- (4) we issue regulations that set forth:
 - (a) permissible methods of taking,
 - (b) means of effecting the least practicable adverse impact on the species or stock and its habitat and the availability of the species or stock for subsistence uses, and

(c) requirements for monitoring and reporting of such taking.

If final regulations allowing such incidental take are issued, we may then subsequently issue letters of authorization (LOAs), upon request, to authorize incidental take during the specified activities.

The term “take” means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal. Harassment for activities other than military readiness activities or scientific research conducted by or on behalf of the Federal Government means “any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild” (the MMPA defines this as Level A harassment), or “(ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering” (the MMPA defines this as Level B harassment).

The terms “negligible impact” and “unmitigable adverse impact” are defined in 50 CFR 18.27 (i.e., regulations governing small takes of marine mammals incidental to specified activities) as follows: “Negligible impact” is 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. “Unmitigable adverse impact” means an impact resulting from the specified activity: (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The term “small numbers” is also defined in 50 CFR 18.27. However, we do not rely on that definition here as it conflates “small numbers” with “negligible impacts.” We recognize “small numbers” and “negligible impacts” as two separate and distinct requirements for

promulgating incidental take regulations (ITR) under the MMPA (see *Natural Res. Def. Council, Inc. v. Evans*, 232 F. Supp. 2d 1003, 1025 (N.D. Cal. 2002)). Instead, for our small numbers determination, we evaluate if the number of marine mammals estimated to be incidentally taken is small relative to the size of the species or stock.

The term “least practicable adverse impact” is not defined in the MMPA or its enacting regulations. In promulgating ITRs, we ensure the least practicable adverse impact by requiring mitigation measures that are effective in reducing the impact of specified activities, but not so restrictive as to make specified activities unduly burdensome or impossible to undertake and complete.

In this proposed rule to set forth new ITRs, the term “Industry” includes individuals, companies, and organizations involved in exploration, development, production, extraction, processing, transportation, research, monitoring, and support services of the petroleum industry. SAE’s activities may result in the incidental taking of polar bears. The MMPA does not require that SAE must obtain incidental take authorization; however, any incidental taking that occurs without authorization is a violation of the MMPA.

Summary of Request

On January 27, 2022, the FWS received a request from SAE to promulgate regulations for nonlethal incidental take of small numbers of Southern Beaufort Sea (SBS) stock polar bears on the North Slope of Alaska for a period of 5 years (December 2023 through November 2028). After coordination with the FWS on mitigation measures and take analysis during meetings on March 23, 2022, and April 18, 2022, we received a revised request to promulgate regulations on May 4, 2022. The FWS further coordinated with SAE on January 12, 2023, and February 3, 2023, and received a revised request on February 14, 2023, which was deemed adequate and complete. However, a proposed ITR based on this February 14, 2023, request was ultimately not published for public comment on the *Federal Register* and therefore, no associated regulations were promulgated.

On August 12, 2025, the FWS received a new revised request from SAE to promulgate regulations for nonlethal incidental take of small numbers of SBS stock of polar bears on the North Slope of Alaska for a period of 5 years (beginning July 1, 2026) (hereafter referred to as the “Request”). The FWS further coordinated with SAE to discuss polar bear denning survey area sizes on September 24, 2025. The FWS deemed SAE’s revised Request (received August 12, 2025) adequate and complete on September 25, 2025.

Description of the Proposed Regulations

These proposed regulations, if finalized, would authorize the incidental, unintentional take of small numbers of polar bears that may result from the specified activities based on standards set forth in the MMPA. They would not authorize or “permit” activities, only the incidental take of polar bears that may occur associated with those activities. The proposed regulations include:

- (1) Permissible methods of taking;
- (2) Measures designed to ensure the least practicable adverse impact on polar bears and their habitat, and on the availability of this species or stock for subsistence uses; and
- (3) Requirements for monitoring and reporting.

These proposed regulations, if finalized in their current form, would differ from prior polar bear take authorizations in terms of the types of incidental take that would be allowed. Past iterations of polar bear take authorizations have been consistent in expressly prohibiting incidental lethal take but inconsistent in terms of allowable types of incidental harassment. See 76 FR 47010, August 3, 2011 (allowing all nonlethal incidental take); 81 FR 52276, August 5, 2016 (allowing incidental Level B harassment but not incidental Level A harassment); 86 FR 42982, August 5, 2021 (allowing incidental Level B harassment but not incidental Level A harassment); and 90 FR 27398, June 6, 2025 (allowing incidental Level B harassment and incidental Level A harassment). Some of these inconsistencies reflect differences in the types of incidental harassment that FWS anticipated to result from each set of specified activities. For

instance, the FWS did not anticipate or authorize incidental Level A harassment in the original Beaufort Sea 2021–2026 regulations (86 FR 42982, August 5, 2021) but did anticipate and thus allowed Level A harassment in the revised Beaufort Sea 2021–2026 regulations (90 FR 27398, June 6, 2025). However, Level A harassment was not anticipated but was nevertheless allowed (at least implicitly) in the Beaufort Sea 2006–2011 regulations (71 FR 43926, August 2, 2006).

The FWS is now considering whether the best reading of the MMPA’s provisions concerning ITRs requires the FWS to allow (1) all types of incidental take that result from the specified activities; (2) only the types of incidental take that FWS anticipated during the rulemaking process; or (3) only the types of incidental take that were requested to be allowed.

Description of Letters of Authorization (LOAs)

An LOA is required to conduct activities pursuant to an ITR. Under this proposed ITR, if finalized, SAE may request LOAs that would authorize take of polar bears that occurs incidental to the specific activities described in these proposed regulations. Requests for LOAs must be consistent with the activity descriptions and mitigation and monitoring requirements of the ITR and be received in writing at least 90 days before the activity is to begin. Requests must include (1) an operational plan for the activity, including the number of days of work and the nature of work to be conducted; (2) a digital geospatial file of the project footprint; (3) estimates of monthly human occupancy of the project area; (4) an interaction plan for polar bears; (5) a site-specific marine mammal monitoring and mitigation plan that specifies the procedures to monitor and mitigate the effects of the activities on polar bears, including frequency and dates of aerial infrared (AIR) surveys when such surveys are required; and (6) Plans of Cooperation (POC), if required as described below. Once this information has been received, we will evaluate each request and issue the LOA if we find that the level of taking will be consistent with the findings made for the total taking allowable under the ITR. We must receive an after-action report on the monitoring and mitigation activities within 90 days after the LOA expires. For more information on requesting and receiving an LOA, refer to 50 CFR 18.27(f).

Description of Plans of Cooperation (POC)

A POC is a documented plan describing measures to mitigate potential conflicts between specified activities and Alaska Native subsistence hunting. The circumstances under which a POC must be developed and submitted with a request for an LOA are described below.

To help ensure that specified activities do not have an unmitigable adverse impact on the availability of the species for Alaska Native subsistence hunting opportunities, all applicants requesting an LOA under this ITR must provide the FWS documentation of communication and coordination with Alaska Native communities potentially affected by the specified activity and, as appropriate, with representative subsistence hunting and co-management organizations. If Alaska Native communities or representative subsistence hunting organizations express concerns about the potential impacts of specified activities on subsistence activities, and such concerns are not resolved during this initial communication and coordination process, then a POC must be developed and submitted with the applicant's request for an LOA. In developing the POC, SAE will further engage with Alaska Native communities and/or representative subsistence hunting organizations to provide information and respond to questions and concerns. The POC must provide adequate measures to ensure that specified activities will not have an unmitigable adverse impact on the availability of polar bears for Alaska Native subsistence uses.

Description of Specified Geographic Region and Specified Activities

The specified geographic region covered by the requested ITR includes onshore and nearshore areas along the Beaufort Sea coast of Alaska's North Slope. The boundary extends from the Colville River (150.85° W) in the west to the Canning River (145.98° W) in the east and south approximately 40 kilometers (km) (25 miles (mi)) inland. No lands or waters within the exterior boundaries of the Arctic National Wildlife Refuge (Arctic NWR) are included in the SAE ITR region. The geographical extent of the SAE seismic area is approximately 6,201 square km (km²) (approx. 1.5 million acres (ac)) and is smaller than the region covered in the 2026–2031 Proposed Beaufort Sea ITR (91 FR 11240, March 9, 2026) (figure 1, below).

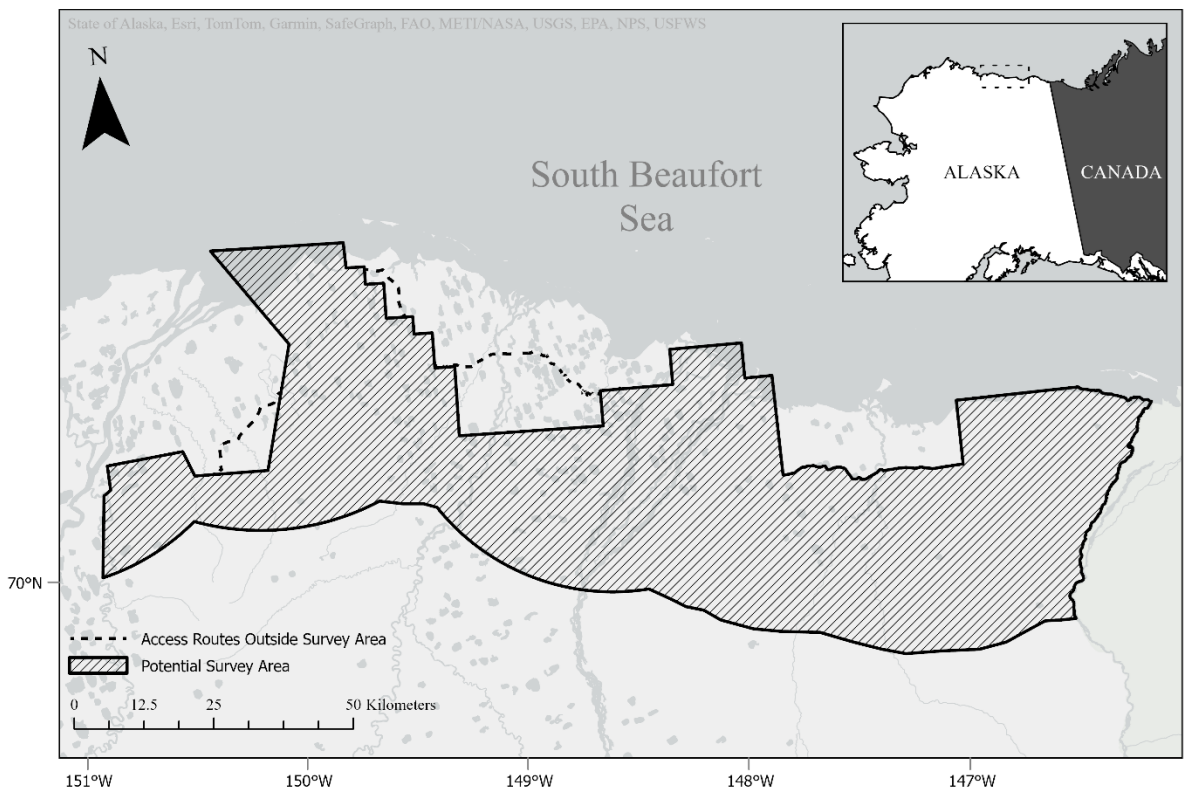


Figure 1— Map of Proposed SAExploration, Inc, ITR Region, Beaufort Sea.

SAE’s specified activities include seismic exploration on land along the Beaufort Sea coast to map potential hydrocarbon deposits. Pre-acquisition activities will begin with helicopter-based archeological surveys (if needed) in the summer, followed by AIR surveys for maternal polar bear dens in December and January. Seismic acquisition will begin with advanced crew surveys and ice checks after January 15, followed by mobilization of camp facilities, and finally seismic acquisition. Post-survey activities will include helicopter-based cleanup in the summer. These activities are anticipated to occur over a 5-year period.

Archaeological Surveys

Prior to field activities, SAE will perform archaeological surveys of the project area. Field surveys will require helicopter-based transects spaced 1.3 km (0.8 mi) apart to ensure terrain between the transects can be visually inspected. Landings may be made to investigate any landforms of interest, and crews may perform shovel tests if landforms are deemed likely to contain cultural resources or if surface artifacts are found. Field surveys may take up to 10 days

of flying at altitudes below 457 meters (m) (1,500 feet (ft)), with up to 20 take-offs and landings per day, and will occur during July or August. Surveys near coastal, or high-use polar bear areas will be prioritized prior to the mid-August annual influx of polar bears along the coastal areas.

AIR Surveys for Maternal Polar Bear Dens

SAE will conduct or obtain between one and three AIR surveys dependent upon location. As described below in *Den Simulation* and displayed in figures 2 and 3, below, the FWS developed, and SAE incorporated into their Request, a spatial projection of polar bear denning density probabilities along the North Slope of Alaska (i.e., a denning density map) to delineate high and moderate denning density zones (see *Den Simulation* for greater detail). Project areas located in high denning density zones will be AIR surveyed three times, project areas in moderate denning density zones will be AIR surveyed twice, and anywhere outside of either the moderate or high denning density zones will be AIR surveyed once. When either one or two AIR surveys are needed, the first survey would be flown between November 25 and December 25 and the second survey would occur between December 15 and January 15. In areas where three surveys are required, the additional survey would occur between December 5 and December 31. A minimum of 24 hours would be required between completion of the previous AIR survey and beginning a new AIR survey. The AIR surveys will be flown between an altitude of 244 m (800 ft) and 457 m (1,500 ft) using a fixed-wing aircraft originating from Deadhorse Airport.

Advance Crew Survey and Ice Check

Approximately 2 weeks prior to mobilization, an advance crew will perform route surveys and ice checks along existing routes to measure ice integrity. The advance crew will mobilize no earlier than January 15, or upon the opening of winter tundra travel, whichever occurs later. Ice checking will be conducted using tracked vehicles and snow machines. Tracked vehicles will have vehicle-mounted infrared devices to scan tributary crossings for potential polar bear dens within defined denning habitat.

An additional component of the advance crew will be a snow survey crew mobilizing 7–20 days prior to the main project crew. This crew consists of camp trailers, fuelers, Steigers (tractors), Tuckers (industrial snow machines), and support trailers with three to four crews of two personnel each. These crews will focus on evaluating ice conditions and safe routes for seismic operations and can cover up to 16 km (9.94 mi) per day. At the end of each day, crews will return to camp. The camp will move, as needed, to remain within a reasonable distance of operations.

Mobilization and Support Facilities

Seismic camp facilities and crews will mobilize shortly after the advance crew has delineated a route. Up to two 180-person-camp seismic crews may be supported in any given winter season to conduct seismic programs within the project area. Equipment will be staged at existing facilities in Deadhorse. A predetermined route, along preexisting routes to the maximum extent practicable, will be used to mobilize equipment from existing gravel or ice roads and pads. Camp equipment will include long-haul fuel tractors, remote fuelers, water makers, an incinerator, a resupply and survival sleigh, tractors, loaders, and Tuckers. Camp locations are selected based on topography and snow conditions and may remain in place for up to 7 days before moving. Typically, a camp may move 1.6–3.2 km (1–2 mi) every 5–7 days, or four–six moves per month. The camp will generally remain in the center of the active seismic survey area.

If there is not sufficient road access and a lake or tundra area is of sufficient size for an airstrip, a camp may include a temporary winter airstrip. Airstrips will be located within 2 km of camp and have a footprint of approximately 22.8 m (75 ft) wide and 701–1,066 m (2,300–3,500 ft) long for aircraft to land. The advanced scouting trip will identify any lakes or tundra locations that can be used to construct an airstrip. Airstrip construction will require a rubber tracked Steiger with a blade to clear a berm to delineate the edge of the landing strip. Approximately two trips per week are anticipated, or as operations require. Flights will originate from Deadhorse Airport and aircraft will transit at an altitude greater than 457 m (1,500 ft) as weather and safety

conditions allow. Once the camp is moved, the airstrip will no longer be maintained by the crew. Personnel and camp facilities will be demobilized on approximately May 31 or upon closure of winter tundra travel.

Seismic Program

Seismic surveys using vibroseis will be conducted on land or stable pack ice using truck- or track-mounted vibrators. Surveys on ice will occur on a minimum of 1.2 m (3.9 ft) of ice, which is necessary to support heavy vehicles. First, the geophones (receivers) will be placed at receiver points marked by the advance crew approximately every 30–35 m (98–115 ft). Vibrator source points will be marked at equivalent intervals. The vibrators will move to the beginning of a seismic survey line, begin vibrating in synchrony, and recording begins. There will be two sizes of vibrators: large vibrators with a weight of 44,000 kilograms (kg) and small vibrators with a weight of 12,475 kg. The smaller vibrators will be used to limit impacts in areas such as narrow riverbeds and ungrounded lakes. The method of acquisition for this project will be source-driven shooting with multiple vibrators collecting data at the same time, but only a single vibrator is required to travel down any source line, reducing the project's footprint.

Operations will continue for 24 hours per workday and are based on two 12-hour shifts. A seismic program may last between 30 and 100 days in a winter season depending on the requested survey areas and the seismic survey density. Approximately 5–7 days are required to set out equipment in each section with the camp located in the center of the spread. During acquisition, camps are expected to be occupied by approximately 160–180 people.

Summer Cleanup

After all the snow is gone in July or August, SAE will contract a helicopter to perform flyovers of the survey area looking for debris that may have been left behind. The cleanup crew will also inspect all camp locations, any area that had an unplanned release or tundra disturbance, and each source and receiver line. This activity will occur over approximately 15 days, including possible weather days. Each survey day will require about 6 hours of flight time, traveling below

305 m (1,000 ft) above ground level, and will include 25–40 landings. All SAE summer cleanup will be scheduled in a manner that aims to complete any work near coastal, or high-use, polar bear areas before the annual influx of polar bears coming to shore in mid-August to minimize impacts to polar bears. However, in order to mitigate impacts to threatened eiders in the project area, SAE will not conduct cleanup activities in nesting areas before July 31.

Description of Marine Mammals in the Specified Geographic Region

Polar bears are the only species of marine mammal managed by the FWS likely found within the specified geographic region. Information on the range, stocks, biology, and environmental impacts on polar bears was considered in the development of this proposed ITR. A summary of such information can be found at <https://www.regulations.gov> under Docket No. FWS–R7–ES–2023–0086 (available as described above in **ADDRESSES**).

Potential Impacts of the Specified Activities on Marine Mammals

Impacts of Surface Activities on Polar Bears

Disturbance impacts on polar bears will be influenced by the type, duration, intensity, timing, and location of the source of disturbance. Disturbance from the specified activities would originate primarily from helicopter overflights, tundra travel, seismic data acquisition, mobilization and operation of camp facilities, and cleanup activities. The noises, sights, and smells produced by these activities will elicit variable responses from polar bears, ranging from no impact (ignoring the stimulus) to avoidance to attraction. When disturbed by noise, animals may respond behaviorally by walking, running, or swimming away from a noise source, or physiologically via increased heart rates or hormonal stress responses (Harms et al. 1997; Tempel and Gutierrez 2003). However, individual response to noise disturbance can be based on previous interactions, sex, age, and maternal status (Anderson and Aars 2008; Dyck and Baydack 2004). Noise and odors could also potentially attract polar bears to work areas. Attracting polar bears to these locations could result in human-polar bear interactions, unintentional harassment, intentional hazing, or possible lethal take in defense of human life. This proposed ITR, if

finalized, would facilitate the authorization of the incidental, unintentional take of polar bears that may result from the specified activities and would require mitigation measures to manage attractants in work areas and reduce the risk of human-polar bear interactions.

Human–Polar Bear Interactions

A larger percentage of SBS polar bears are spending more time on land during the open-water season, which may increase the risk for human–polar bear interactions (Atwood et al. 2016; Rode et al. 2022). SAE’s Request outlines polar bear monitoring and reporting requirements and a polar bear interaction plan with information describing SAE’s personnel training and attractants management. Polar bear interaction plans, personnel training, attractants management, and polar bear monitoring are mitigation measures used to reduce human-polar bear interactions and minimize the risks to polar bears and humans when interactions occur. Polar bear interaction plans detail the policies and procedures that will be implemented by SAE to avoid attracting and interacting with polar bears, and minimize impacts to the polar bears. Interaction plans also detail how to respond to the presence of polar bears, the chain of command and communication, and required training for personnel. Appropriate management of attractants (e.g., human food, garbage) may decrease the likelihood of polar bears associating humans with food, which mitigates the risk of human-polar bear interactions (Atwood and Wilder 2021). Information gained from monitoring polar bears near industrial infrastructure is used for better understanding polar bear distribution, behavior, and interactions with humans. Tools that may be used to facilitate detection and monitoring of polar bears include bear monitors, thermal cameras, and remotely operated cameras. It is possible that human-polar bear interactions may occur during the specified activities, and mitigation measures will be implemented by SAE to minimize the risk of human-polar bear interactions during the specified activities.

From mid-July to mid-November, SBS polar bears can be found in large numbers and high densities on barrier islands, along the coastline, and in the nearshore waters of the Beaufort Sea, particularly on and around Barter and Cross Islands (Wilson et al. 2017). This distribution

leads to a significantly higher number of human-polar bear interactions on land and at offshore structures during the open-water season than other times of the year. Polar bears that remain on the multi-year pack ice are not typically present in the ice-free areas where vessel traffic occurs, as barges and vessels associated with Industry activities travel in open water and avoid large ice floes.

On land, most polar bear observations occur within 2 km (1.2 mi) of the coastline based on polar bear monitoring reports. Facilities within the offshore and coastal areas are more likely to be approached by polar bears, and they may act as physical barriers to polar bear movements. As polar bears encounter these facilities, the chances for human-polar bear interactions increase. However, polar bears have frequently been observed crossing existing roads and causeways, and they appear to traverse the human-developed areas as easily as the undeveloped areas based on monitoring reports. The applicant has considered polar bear ecology as it relates to seasonal distributions and habitat usage when proposing the timing of when to conduct activities in certain locations as a measure to help minimize or avoid human-polar bear interactions.

Effects of Aircraft Activities on Polar Bears

The frequency and level of airborne sounds typically produced by aircraft are unlikely to cause either temporary or permanent impairment to polar bear hearing unless polar bears are very close to the sound source (Healy, 1974, Richardson et al. 1995, Southall et al. 2019). Although no hearing impairment is likely as a result of the specified activities, aircraft overflights may elicit biologically significant behavioral responses from polar bears. Although neither temporary nor permanent hearing impairment is anticipated during the specified activities, impacts from aircraft overflights have the potential to elicit biologically significant behavioral responses from polar bears. Exposure to aircraft overflights is expected to result in short-term behavior changes, such as walking, running, or ceasing to rest, in some impacted polar bears, and, therefore, has the potential to be energetically costly. Polar bears observed during intentional aircraft overflights conducted to study impacts of aircraft on polar bear responses, with an average flight altitude of

143 m (469 ft), exhibited biologically meaningful behavioral responses during 66.6 percent of aircraft overflights. These behavioral responses were significantly correlated with the aircraft's altitude, the bear's location (e.g., coastline, barrier island), and the bear's activity (Quigley 2022; Quigley et al. 2024). Polar bears associated with dens exhibited various responses that ranged from no response to increased head movement and observation of the disturbance to the initiation of rapid movement and/or den abandonment when exposed to aircraft flying at altitudes of 150 m or less (Larson et al. 2020). Aircraft activities can impact polar bears across all seasons; however, aircraft have a greater potential to disturb both individuals and groups of polar bears on land during the summer and fall, due to well-characterized increased densities of polar bears on land during these months. These onshore polar bears are primarily fasting or seeking alternative terrestrial foods (Cherry et al. 2009; Griffen et al. 2022), and polar bear responses to aircraft overflights may result in metabolic costs to already limited energy reserves. To reduce potential disturbance of polar bears during aircraft activities, mitigation measures, such as minimum flight altitudes over polar bears and their frequently used areas and flight restrictions around known polar bear aggregations, will be conducted when it is safe to perform these operations during aircraft activities.

Effects to Denning Polar Bears

Known or suspected polar bear dens around the oilfield, discovered opportunistically and/or during planned surveys for tracking marked polar bears and detecting polar bear dens, are monitored by the FWS. However, these sites are only a small percentage of the total active polar bear dens for the SBS stock in any given year. Each year, LOA and incidental harassment authorization (IHA) holders coordinate with the FWS to conduct surveys to attempt to determine the location of known or suspected polar bear dens and denning habitat within one mile of human activity. If a known or suspected den site is located, SAE will immediately consult with the FWS to determine if additional surveys or mitigation measures are required. The exact prescription of mitigation measures may vary based on specifics of an individual den site, but in

the past, after locating a known or suspected den site, FWS has worked with operators to implement various mitigation measures, such as activity exclusion zones and 24-hour monitoring of the den site. In addition, SAE has already committed to providing a 1.6 km exclusionary zone around any putative dens located.

The responses of denning polar bears to disturbance and the consequences of these responses can vary throughout the denning process. We divide the denning period into four stages when considering impacts of disturbance: den establishment, early denning, late denning, and post-emergence; definitions and descriptions are provided by Woodruff et al. (2022a) and are also located in the 2026 – 2031 Proposed Beaufort Sea ITR and its associated supplemental information (91 FR 11240, March 9, 2026)). The stage at which harassment occurs defines the level of disturbance response (Level B harassment, Level A harassment, or Lethal) attributed to either the sow or cub(s), along with the probability of the specific response occurring (see *Denning Analysis*).

Impacts of the Specified Activities on Polar Bear Prey Species

Seals, especially ringed seals (*Phoca (pusa) hispida*) and bearded seals (*Erignathus barbatus*), are the primary prey species of polar bears in the specified geographic area. Polar bears could be impacted by reduced seal availability, displacement of seals in response to SAE's activities, increased energy demands to hunt for displaced seals, and increased dependency on limited alternative prey sources, such as scavenging on bowhead whale carcasses harvested during subsistence hunts. If seal availability were to decrease, then the survival of polar bears may be drastically affected (Fahd et al. 2021). However, due to the location of the specified activities in relation to suitable seal habitat, the FWS does not anticipate any substantial impacts of prey availability to polar bears as a result of SAE's specified activities. Furthermore, if impacts were to occur, any impacts on seals are anticipated to be minor and short-term, and these impacts are unlikely to substantially reduce the availability of seals as a prey source for polar bears.

Information on the potential impacts of the specified activities on polar bear prey species can be

found at <https://www.regulations.gov> under Docket No. FWS–R7–ES–2023–0086 (available as described above in **ADDRESSES**).

Potential Impacts of Oil Spills on Polar Bears

The FWS reviewed the potential impacts of oil spills on the SBS stock of polar bears and records of oil spills in the specified geographic region and evaluated oil spill response methods in the specified geographic region. No oil and gas extraction or production would be conducted as a part of this proposed ITR. The extent of possible oil spills would be small and highly localized and would be the result of small tank or equipment failure. Therefore, no polar bears are expected to be affected by oil spills. Information from this review can be found as described above in **ADDRESSES**. The FWS’s findings from this review are consistent with the findings described in 2026–2031 Proposed Beaufort Sea ITR (91 FR 11240, March 9, 2026).

Estimated Take

Definitions of Incidental Take Under the Marine Mammal Protection Act

Below we provide definitions of three types of take of polar bears. The FWS does not anticipate any lethal take as a part of this proposed ITR; however, the definitions of the three take types are provided for context and background.

Lethal Take

Human activity may result in biologically significant impacts to polar bears. In the most serious interactions (e.g., vehicle collision, running over an unknown den causing its collapse), human actions can result in the mortality of polar bears. We also note that in the past, while not considered incidental, polar bears have been killed in situations where there is an imminent threat to human life. Polar bears have also been accidentally killed during efforts to deter polar bears from a work area for safety, and have died from direct chemical exposure (81 FR 52276, August 5, 2016). If unintentional disturbance of a female polar bear by human activity during the denning season caused the female to abandon her cubs in the den before the cubs can survive on their own, incidental lethal take of polar bear cubs would occur.

Level A Harassment

Human activity may result in the injury of polar bears. Level A harassment, for nonmilitary readiness activities, is defined as any act of pursuit, torment, or annoyance that has the potential to injure a marine mammal or marine mammal stock in the wild.

Numerous actions can cause take by Level A harassment of polar bear cubs during the denning period, such as creating a disturbance that separates mothers from dependent cubs (Amstrup 2003), inducing early den emergence during the late denning period (Amstrup and Gardner 1994; Rode et al. 2018), instigating early departure from the den site during the post-emergence period (Andersen et al. 2024), or repeatedly interrupting the nursing or resting of cubs to the extent that it impacts the cubs' body condition.

Level B Harassment

Level B harassment for nonmilitary readiness activities means any act of pursuit, torment, or annoyance that has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, feeding, or sheltering. Changes in behavior that disrupt biologically significant behaviors or activities for the affected animal are indicative of take by Level B harassment under the MMPA. Such reactions include, but are not limited to, the following:

- Fleeing (running or swimming away from a human or a human activity);
- Displaying a stress-related behavior such as jaw or lip-popping, front leg stomping, vocalizations, circling, intense staring, or salivating;
- Abandoning or avoiding preferred movement corridors such as ice floes, leads, polynyas, a segment of coastline, or barrier islands;
- Using a longer or more difficult route of travel instead of the intended path;
- Interrupting breeding, sheltering, or feeding;
- Moving away at a fast pace (adult) and cubs struggling to keep up;
- Temporary, short-term cessation of nursing or resting (cubs);

- Ceasing to rest repeatedly or for a prolonged period (adults);
- Loss of hunting opportunity due to disturbance of prey; or
- Interruption in normal denning behavior that does not cause injury, den abandonment, or early departure of the female with cubs from the den site.

This list is not meant to encompass all possible behaviors; other behavioral responses may be indicative of take by Level B harassment. Relatively minor changes in behavior such as the animal raising its head or temporarily changing its direction of travel are not likely to disrupt biologically important behavioral patterns, and the FWS does not view such minor changes in behavior as indicative of a take by Level B harassment. It is also important to note that eliciting behavioral responses that equate to take by Level B harassment repeatedly may result in Level A harassment.

Surface Interactions

We analyzed take by Level B harassment for polar bears that may be potentially encountered and impacted during SAE's seismic exploration activities within the specified geographic region.

Impact Area

To assess the area of potential impact from the project activities, we calculate the area affected by project activities where harassment is possible. We refer to this area as an impact area. Behavioral response rates of polar bears to disturbances are highly variable, and data to support the relationship between distance to polar bears and disturbance is limited. Dyck and Baydack (2004) found sex-based differences in the frequencies of vigilance bouts, which involves an animal raising its head to visually scan its surroundings, by polar bears in the presence of vehicles on the tundra. However, in their summary of polar bear behavioral response to ice-breaking vessels in the Chukchi Sea, Smultea et al. (2016) found no difference between reactions of males, females with cubs, or females without cubs. During the FWS's coastal aerial surveys, 99 percent of polar bears that responded in a way that indicated possible Level B

harassment (polar bears that were running when detected or began to run or swim in response to the aircraft) did so within 1.6 km (1 mi), as measured from the ninetieth percentile horizontal detection distance from the flight line. Similarly, Andersen and Aars (2008) found that female polar bears with cubs (the most conservative group observed) began to walk or run away from approaching snowmobiles at a mean distance of 1,534 m (0.95 mi). Thus, while future research into the reaction of polar bears to anthropogenic disturbance may indicate a different zone of potential impact is appropriate, the current literature suggests that the 1.6-km (1.0-mi) impact area will encompass the vast majority of polar bear harassment events.

Estimated Harassment

We estimated Level B harassment using the spatiotemporally specific encounter rates and temporally specific harassment rates derived in the 2026 - 2031 Proposed Beaufort Sea ITR (91 FR 11240, March 9, 2026) in conjunction with SAE’s project operations footprint. Table 1 provides the definition for each variable used in the formulas to calculate the number of potential harassment events.

Table 1—Definitions of variables used in harassment estimates of non-denning polar bears on the North Slope of Alaska.

Variable	Definition
B_{es}	bears encountered in an impact area for the entire season
r_{rb}	repeat bear rate
a_c	coastal exposure area
a_i	inland exposure area
r_o	occupancy rate
e_{co}	coastal open water season bear-encounter rate in bears/season
e_{io}	inland open water season bear-encounter rate in bears/season
e_{ci}	coastal ice season bear-encounter rate in bears/season
e_{ii}	inland ice season bear-encounter rate in bears/season
t_i	ice season harassment rate
B_t	number of estimated Level B harassment events

The variables defined above were used in a series of formulas created to estimate the total harassment from surface-level interactions. Encounter rates were originally calculated as polar bears encountered per square km per season. As a part of their Request, SAE provided the FWS

with the greatest area of surveys within the coastal zone and the inland zone during any given year of the ITR. We assumed 100 percent human occupancy of these areas during activities, which will begin no earlier than January 15, and last no longer than 100 days. SAE also provided spatial files that indicated the roads and travel routes that they will use during seismic surveys. SAE will preferentially use previously existing routes; however, they have identified 29.9 km (18.6 mi) of unique tundra travel that is not associated with any previous travel. Estimates of potential harassment include activities on previously existing routes, and routes not associated with any previous travel.

Impact areas were multiplied by the appropriate encounter rate to obtain the number of polar bears expected to be encountered in the impact area per season (B_{es}). The equation below (equation 1) provides an example of the calculation of polar bears encountered in the ice season for an impact area in the coastal zone.

$$B_{es} = a_c * e_{ci}$$

Equation 1

To generate the number of estimated Level B harassments for each impact area, we multiplied the number of polar bears in the impact area per season by the proportion of the season the area is occupied, the rate of occupancy, and the harassment rate (equation 2).

$$B_t = B_{es} * S_p * r_o * t_i$$

Equation 2

Aircraft Impacts on Polar Bears

Polar bears in the project area will likely be exposed to the visual and auditory stimulation associated with the applicant's fixed-wing and helicopter activities; however, these impacts are anticipated to be minimal and short-term. Aircraft activities may cause disruptions in the normal behavioral patterns of polar bears as either an auditory or visual stimulus, thereby resulting in incidental Level B harassment. To reduce the likelihood that polar bears are

disturbed by aircraft, SAE has included a variety mitigation measures, such as minimum flight altitudes over polar bears and restrictions on sudden changes to aircraft movements and direction. Once mitigated, such disturbances are expected to have no more than short-term, temporary, and minor impacts on individual polar bears.

Estimating Harassment Rates of Aircraft Activities

Harassment rates during aircraft activities were estimated using results from studies of fixed-wing aircraft and helicopter overflights (Quigley 2022; Quigley et al. 2024). In these studies, researchers conducted aerial searches along the northern coast of Alaska between Point Barrow and the western Canadian border, approaching polar bears at different altitudes. When polar bears did not exhibit behavioral changes consistent with harassment, researchers then re-approached them at progressively lower altitudes, reaching as low as 30 m (100 ft). Researchers recorded behavioral changes during these approaches and evaluated if and when Level B harassment occurred. The researchers examined the following covariates: polar bear location (“barrier island” or “mainland”), initial behavior (“active” or “inactive”), group size, whether the polar bear belonged to a family group, and the number of previous overflights (i.e., how many times the group was re-approached to elicit a behavioral change). A Bayesian imputation approach accounted for polar bears that exhibited a behavioral change consistent with harassment on their first approach, thus lacking an identified altitude at which no harassment occurred due to a lack of a “non-harassment” observation. Their final model included location, activity level, and the number of previous overflights as predictors of the altitude at which a polar bear was harassed (Quigley 2022; Quigley et al. 2024). For our aircraft impacts analysis, we used harassment rates estimated for active polar bears observed on barrier islands, as they had the highest rates of harassment. We further assumed that there were no previous overflights.

We provide harassment rates for the following five categories of flights: take-offs, landings, low-altitude flights (defined as those between 122 m (400 ft) and 305 m (1,000 ft) altitude), mid-altitude flights (defined as those between 305 m (1,000 ft) and 457 m (1,500 ft)

altitude), and high-altitude flights (defined as those between 457 m (1,500 ft) and 610 m (2,000 ft) altitude). We assigned harassment rates to each of these flight categories using the harassment rate for the lowest altitude in the category (e.g., for low-altitude flights, we used the harassment rate estimated for 122 m (400 ft)). This binning method of using the lowest altitude harassment rate in the bin allowed our estimates to be inclusive of possible changes in altitude due to variable flight conditions (table 2).

TABLE 2—Harassment rates for the five categories of flights for fixed-wing aircraft and helicopter overflights

Flight Category	Fixed-Wing	Helicopter
Take-offs	0.99	>0.99
Landings	0.99	>0.99
Low-Altitude Flights (122–305 m)	0.86	>0.99
Mid-Altitude Flights (305–457 m)	0.03	0.82
High-Altitude Flights (457–610 m)	<0.01	0.05
NOTE: The rates in this table are based on Quigley et al. (2024). We used the harassment rate associated with 30 m (100 ft) for take-offs and landings.		

Estimating Area of Impact for Aircraft Activities

For each category of the flight path (i.e., take-off, low-altitude travel, mid-altitude travel, high-altitude travel, and landing), we calculated an impact area and duration of impact using flight hours or flight path information provided in the Request. Using flight logs available through <https://www.FlightAware.com> (FlightAware), a website that maintains flight logs in the public domain, we estimated a take-off distance of 2.41 km (1.5 mi) and a landing distance of 4.83 km (3 mi) per 305 m (1,000 ft) of altitude. For traveling segments, we treated the aircraft as a traveling impact zone. We then spatially referenced all take-offs, landings, and travel areas to determine whether they were within the coastal or inland zone. The coastal zone is defined as the area offshore and within 2 km (1.2 mi) of the coastline, and the inland zone is defined as anything greater than 2 km (1.2 mi) from the coastline. We estimated all archeological and summer cleanup flights to occur in the coastal zone to account for uncertainty about future flight

plans. To determine the potential coastal and inland impact areas ratio of the resupply flights, we used a hypothetical flight from Deadhorse Airport to the northeastern corner of the potential survey area, which would have the greatest potential impact of any flights in the survey area. We conservatively considered landings (which have a larger impact area) to occur within the coastal zone. We buffered all flight segments by 1.6 km (1 mi), which is consistent with aircraft surveys conducted by the FWS and U.S. Geological Survey (USGS) between August and October during most years from 2000 to 2014 (Schliebe et al. 2008; Atwood et al. 2015; Wilson et al. 2017). In these surveys, 99 percent of groups of polar bears that exhibited behavioral responses consistent with Level B harassment were observed within 1.6 km (1 mi) of the aircraft.

To calculate the total number of Level B harassment events estimated due to the specified activities, we calculated the number of flight hours for each flight category (i.e., take-offs, low-altitude travel, mid-altitude travel, high-altitude travel, and landings) for each zone and season combination. We estimated both take-off and landing areas would be impacted for 10 minutes. SAE provided traveling segment flight hours for both archaeological and summer cleanup flights. We divided the above-mentioned hypothetical resupply flight from Deadhorse Airport to the northeast corner of the potential survey area into coastal and inland zones. To avoid counting impacts twice, we subtracted the take-off distance from the coastal end of the flight path, and landing distance from the inland end of the flight path. We then calculated the amount of time that would be spent flying in coastal and inland areas using a conservative flight speed of 129 km per hour (80 mi per hour).

We then used flight hours to calculate the proportion of the season that aircraft occupied impact areas (i.e., take-off, landing, or traveling segment). This proportion-of-season metric is equivalent to the occupancy rate (r_o) generated for surface-level interaction harassment estimates. We multiplied the total impact area for each of the flight categories by the zone and season-specific polar bear encounter rates previously described in the 2026–2031 Proposed Beaufort Sea ITR 91 FR 11240, March 9, 2026 to determine the number of polar bears expected in that area

for the season (i.e., B_{es} , as seen in equation 1). We then multiplied this number by the proportion of the season to determine the number of polar bears expected in that area when flights are occurring, and the appropriate harassment rate based on flight altitude to estimate the number of polar bears that may be harassed as a result of the flights (as seen in equation 2).

Estimated Harassment from Aircraft Activities

Using the approaches described above, we estimated the total number of polar bears expected to be harassed by the aircraft activities during the proposed regulatory period as a total of six polar bears per year (table 3).

TABLE 3—Estimated Level B harassment of polar bears in project area from aircraft operations annually during the proposed regulatory period.

	Archeological Surveys	Resupply Flights	Summer Cleanup Activities	Total (rounded up to nearest integer)
Estimated Harassment	2.13	0.007	3.05	6

Denning Analysis

Below we provide a complete description, and results of the polar bear den simulation model used to assess impacts to denning polar bears from disturbance associated with all phases of the specified activities.

Den Simulation

We simulated dens across the entire land portion of the SBS subpopulation range in Alaska on areas identified as potential denning habitat using the method of Durner and Atwood (2018) on available USGS interferometric-synthetic-aperture-radar-generated digital terrain model data across the entire SBS region. To simulate dens on the landscape, we relied on the estimated number of dens in four different regions of northern Alaska provided by Patil et al. (2022). These included the National Petroleum Reserve - Alaska (NPR-A), the area between the Colville and Canning rivers (CC region), the Arctic NWR 1002 area, and “Other,” which is

composed of the SBS region outside these three main regions. The mean estimated number of dens in each region during a given winter were as follows: 12 dens (95 percent posterior credible interval (CI): 3–26) in the NPRA, 25 dens (95 percent CI: 11–47) in the CC region, 14 dens (95 percent CI: 5–30) in Arctic NWR 1002 area, and 15 dens (95 percent CI: 5–32) in “Other.” We further broke down Patil et al. (2022)’s “Other” count using empirical proportions from the USGS polar bear den catalog (Durner et al. 2020), to represent dens to the west and south of NPRA, dens in non-1002 areas of Arctic NWR, and the Canadian portion of the SBS region, the latter not used in any subsequent analyses. For each iteration of the model (described below), we drew a random sample from a gamma distribution for each of the regions based on the above parameter estimates, which allowed uncertainty in the number of dens in each area to be perpetuated through the modeling process. Specifically, we used the method of moments (as described in Hobbs and Hooten 2015) to develop the shape and rate parameters for the gamma distributions as follows: NPRA ($12^2/5.8^2$, $12/5.8^2$), CC ($25^2/9.5^2$, $25/9.5^2$), Arctic NWR 1002 area ($14^2/6.3^2$, $14/6.3^2$), and “Other” ($15.1^2/7^2$, $15.1/7^2$).

Because not all areas in northern Alaska are equally used for denning and some areas do not contain the requisite topographic attributes required for sufficient snow accumulation for den excavation, we did not simply randomly place dens on the landscape. Instead, we followed a similar approach to the one used by Wilson and Durner (2020) with some additional modifications to account for the differences in denning ecology in the CC region related to a preference to den on barrier islands and a general (but not complete) avoidance of actively used industrial infrastructure. Using the USGS polar bear den catalog (Durner et al. 2020) and two dens that were discovered from Global Positioning System (GPS)-tagged bears collected since the den catalogue was published (i.e., winter 2023/2024 and winter 2024/2025), we identified polar bear dens that occurred on land in the CC region. This approach resulted in a sample of 38 dens, of which 23 (i.e., 61 percent) occurred on barrier islands.

For each iteration of the model, we then determined how many of the estimated dens in the CC region occurred on barrier islands versus the mainland. To make this determination, we first took a random sample from a binomial distribution to determine the expected number of dens from the den catalog (Durner et al. 2020; and the one empirical observation since the den catalogue was published) that should occur on barrier islands in the CC region during that given model iteration; $n_{\text{barrier}} \sim \text{Binomial}(38, 23/38)$, where 38 represents the total number of dens in the CC region suitable for use (as described above) and 23/38 represents the observed proportion of dens in the CC region that occurred on barrier islands. Next, we divided n_{barrier} by the total number of dens in the CC region suitable for use (i.e., 38) to determine the proportion of dens in the CC region that should occur on barrier islands (i.e., p_{barrier}). We then multiplied p_{barrier} with the simulated number of dens in the CC region (rounded to the nearest whole number) to determine how many dens were simulated to occur on barrier islands in the region, with the remainder simulated to occur on the CC mainland.

To account for the potential influence of industrial activities and infrastructure on the distribution of polar bear selection of den sites, we again relied on the subset of dens from the den catalog (Durner et al. 2020) discussed above. We further restricted the dens to only those occurring on the mainland because no permanent infrastructure occurred on barrier islands with identified denning habitat. We then determined the minimum distance to permanent infrastructure that was present during the year when the den was identified.

The proportion of empirical dens ≤ 5 km (3.1 mi) from infrastructure was 0.25. Thus, for the mainland portion of simulated dens in the CC region, we determined how many should be simulated to occur ≤ 5 km from infrastructure, and how many should be simulated to occur > 5 km from infrastructure at each iteration of the model. The number of mainland dens ≤ 5 km from infrastructure was modeled as $n_{\leq 5\text{km}} \sim \text{Binomial}(n_{\text{CC_mainland}}, 0.25)$ where $n_{\text{CC_mainland}}$ is the number of dens simulated to occur on the mainland portion of the CC region during one iteration of the

model. The number of dens >5 km from infrastructure in the mainland portion of the CC region was calculated as: $n_{>5\text{km}} = n_{\text{CC_mainland}} - n_{\leq 5\text{km}}$.

To inform where dens are most likely to occur on the landscape, we developed a kernel density map by using known den locations in northern Alaska identified either by GPS-collared polar bears or through systematic surveys for denning polar bears (Durner et al. 2020). To approximate the distribution of dens, we used a scaled adaptive kernel density estimator applied to n observed den locations, which took the form $f(\mathbf{s}) \propto \frac{\theta}{n} \sum_i^n k\left(\frac{\mathbf{s}-\mathbf{s}_i}{h(\mathbf{s})}\right)$, where the adaptive bandwidth $h(\mathbf{s}) = (\beta_0 + \beta_1 I(\mathbf{s}_i \in \mathcal{M}) I(\mathbf{s} \in \mathcal{M})) \beta_2$ for the location of the i^{th} den and each location \mathbf{s} in the study area. The indicator functions allowed the bandwidth to vary abruptly between the mainland \mathcal{M} and barrier islands. The parameters $\theta, \beta_0, \beta_1, \beta_2$ were chosen so that the density estimate approximated the observed density of dens and our understanding of likely den locations in areas with low sampling effort.

To simulate dens on the landscape, we first created a systematic grid of points every 50 m across the entire SBS region, retaining only those points that fell within potential den habit. We assigned each point a probability based on the kernel density map described above. For each region or subregions outlined above with an assigned den count, we then renormalized probabilities for all points respectively within each region or subregion. We then randomly assigned dens using a multinomial distribution based on relative probabilities and den counts for each region or subregion outlined above.

For each simulated den, we assigned dates of key denning events: den entrance, birth of cubs, when cubs reached 60 days of age, den emergence, and departure from the den site after emergence. These represent the chronology of each den under undisturbed conditions.

We selected the entrance date for each den from a normal distribution parameterized by entrance dates of radio-collared polar bears in the SBS stock that denned on land included in Rode et al. (2018) and published in USGS (2018; $n=52$). The mean entrance date was November 11, with a standard deviation of 18 days. We truncated this distribution to ensure that all

simulated dates occurred within the range of observed values (i.e., September 12 to December 22).

We selected a date of birth for each litter from a normal distribution with a mean birth date of December 15 and a Standard Deviation (SD) of 10 days. We then restricted random samples of birth dates to occur between December 1 and January 15, which is believed to be the period of time when most cubs are born (Messier et al. 1994; Van de Velde et al. 2003).

We selected the emergence date as a random draw from an asymmetric Laplace distribution with parameters $\mu=82.5$, $\sigma=4.11$, and $p=0.81$ (location, scale, and skewness respectively) estimated from the empirical emergence dates ($n=72$) in Andersen et al. (2024) and Rode et al. (2018; but published in USGS (2018)) of radio-collared polar bears in the SBS subpopulation that denned on land using the mleALD function from the ald package (Galarzar and Lachos 2018) in the program R (R Core Development Team). We constrained simulated emergence dates to occur within the range of observed emergence dates (January 9 to April 9) and not to occur prior to cubs reaching an age of 60 days.

Finally, we assigned the number of days each family group spent at the den site post-emergence based on values reported in Andersen et al. (2024), which estimated time spent at the den site based on temperature and movement data for dens undisturbed by human activity ($n = 20$ dens examined). Specifically, we used the mean (6.25) and SD (7.25) of the dens monitored in these studies to parameterize a gamma distribution using the method of moments (Hobbs and Hooten 2015) with a shape parameter equal to $6.25^2/7.25^2$ and a rate parameter equal to $6.25/7.25^2$; we selected a post-emergence and pre-departure time for each den from this distribution.

Additionally, we assigned each den a litter size by drawing the number of cubs from a multinomial distribution with probabilities derived from litter sizes (among a total of 43 litters) reported in Smith et al. (2007, 2010, 2013) and Robinson (2014), case studies where the number of cubs were observed at the den site, and a sample from one GPS-tagged bear that had a camera

monitoring its den prior to emergence. Because there is some probability that a female naturally emerges with zero cubs, we also wanted to ensure this scenario was captured. It is difficult to parameterize the probability of litter size equal to zero because it is rarely observed. We therefore assumed that dens in the USGS (2018) dataset that had denning durations less than the shortest den duration where a female was later observed with cubs (i.e., 79 days) had a litter size of zero. Only three polar bears in the USGS (2018) data met this criterion, leading to an assumed probability of a litter size of zero at emergence being 0.069. We therefore assigned the probability of zero, one, two, or three cubs as 0.069, 0.232, 0.628, and 0.070, respectively.

Impact Area of Specified Activities

The model developed by Wilson and Durner (2020) provides a template for estimating the level of potential impact on denning polar bears during the specified activities while also considering the natural denning ecology of polar bears in the region. The approach developed by Wilson and Durner (2020) also allows for the incorporation of uncertainty in both the metrics associated with denning polar bears and in the timing and spatial patterns of specified activities when precise information on those activities is unavailable. In preparing its Request, SAE coordinated with the FWS, who developed four denning density zones within the specified geographical area to delineate areas of high polar bear denning density within the specific geographical area based on a thousand sets of den simulations (figure 2). Zones 1–4 represent the cumulative proportions 25 percent, 35 percent, 50 percent, and 75 percent of forecasted dens respectively: Where, Zone 4 is equal to 25 percent of the dens simulated for SBS polar bears (25th quantile), Zone 3 is equal to 35 percent of the dens simulated for SBS polar bears (25th + 35th quantiles), Zone 2 is equal to 50 percent of dens simulated (25th + 35th + 50th quantiles), and Zone 1 is equal to 75 percent of den simulated (25th + 35th + 50th + 75th quantiles) (table 4).

In its Request, SAE submitted confidential spatial files of potential future surveys that may be conducted under this ITR. In any given single year, the proposed surveys would cover no more than 19 km² (7 mi²) in Zone 4, 220 km² (85 mi²) in Zone 3, 470 km² (181 mi²) in Zone 2,

and 515 km² (199 mi²) in Zone 1 (table 4). These zones were then used to generate a denning density map delineating high and moderate denning density areas, where high density is composed of Zones 3 and 4 plus the coastal zone (2 km (1.2 mi) from the shoreline) and moderate density is composed of Zones 1 and 2 (figure 3). SAE will use the previously described high and moderate denning density map to determine the number of AIR surveys to conduct in different areas of the proposed project (figure 3). We estimated potential impacts to denning polar bears using the confidential potential future survey areas. We assumed any dens within 0.8 km (0.5 mi) from survey activity would be exposed to disturbance during all denning periods, and dens within 1.6 km (1 mi) would be exposed during the den establishment, late denning, and post-emergence periods.

Table 4—Cumulative proportion of simulated dens and included quantiles by zone; and maximum annual area of each zone potentially included in SAExploration, Inc.’s specified activities.

Zone	Cumulative proportions of simulated dens	Included quantiles	Maximum annual area of zone included in the specific activities by SAE (km ²)
1	75%	25 th + 35 th + 50 th + 75 th	515
2	50%	25 th + 35 th + 50 th	470
3	35%	25 th + 35 th	220
4	25%	25 th	19

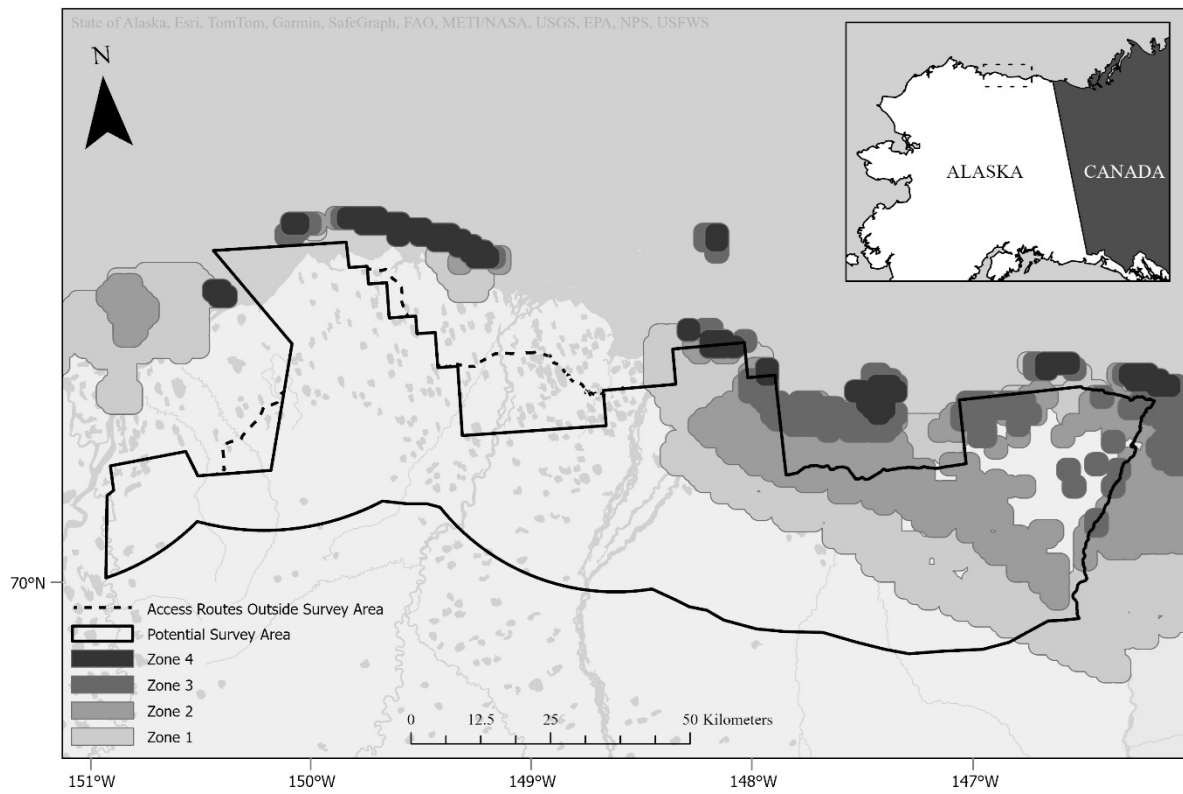


Figure 2. Zones of denning density for polar bears within the potential survey area for the incidental take regulations for SAExploration, Inc., on the North Slope of Alaska.

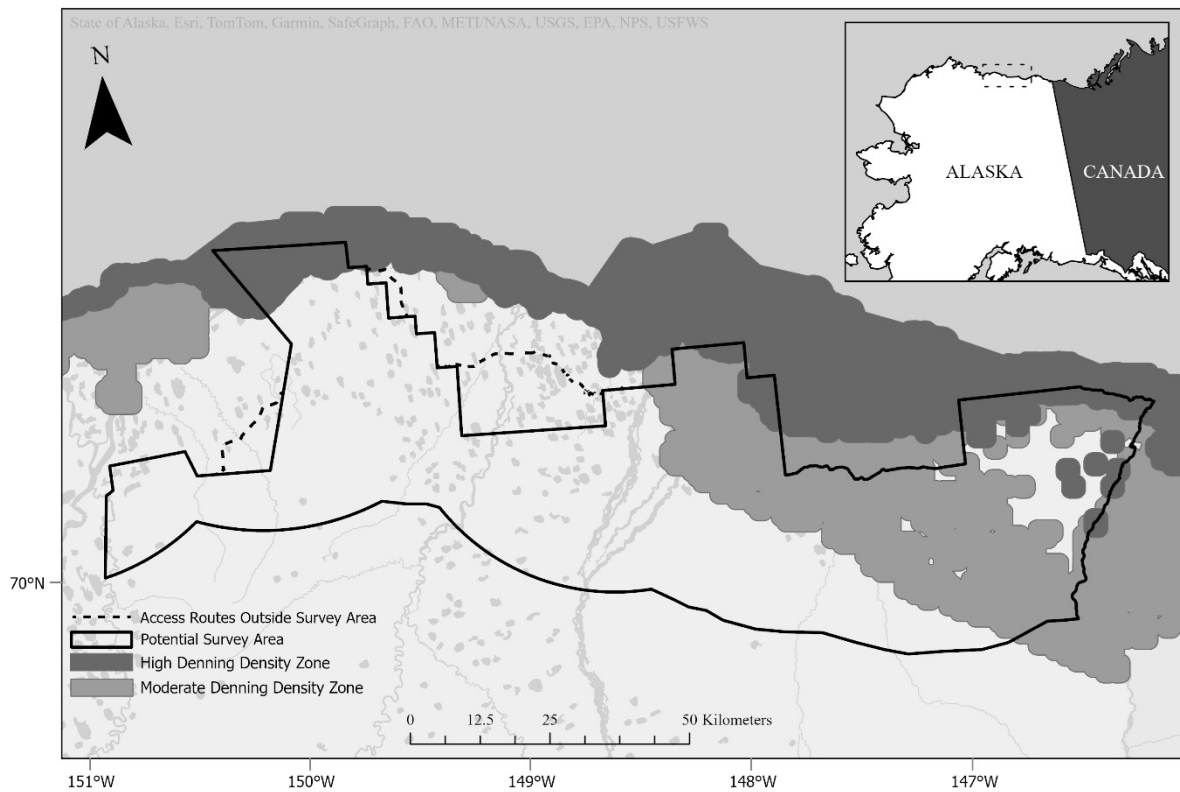


Figure 3. High and moderate denning density zones for polar bears within the potential survey area for the incidental take regulations for SAExploration, Inc., on the North Slope of Alaska.

AIR Surveys

We assumed that all project and transit areas in the high denning density zones would have at least three AIR surveys flown, all survey and transit areas in moderate denning density zones would have at least two AIR surveys flown, and everywhere outside of high or moderate denning density zones would have at least one AIR survey flown (figure 3). When either one or two AIR surveys are needed, the first survey would be flown between November 25 and December 25 and the second survey would occur between December 15 and January 15. In an area where three surveys are required, the third survey would occur between December 5 and December 31. A minimum of 24 hours would be required between completion of the previous AIR survey and beginning a new AIR survey. Additionally, surveys would not be conducted during daytime or times when weather conditions significantly hinder visibility (e.g., blowing snow, precipitation, or airborne moisture). A scientist with experience in real-time aerial infrared

interpretation would be onboard during all flights and AIR survey videos would be made available to FWS within 48 hours of survey completion.

During each iteration of the model, each AIR survey was randomly assigned a probability of detecting dens. Whereas previous analyses have used the results of Wilson and Durner (2020) to inform this detection probability, two additional studies (Smith et al. 2020; Woodruff et al. 2022b) have been conducted since the Wilson and Durner (2020) study was published that require an updated approach. The study by Woodruff et al. (2022b) considered the probability of detecting heat signatures from artificial polar bear dens. They did not find a relationship between den snow depth and detection and estimated a mean detection rate of 0.24. A recent study by Smith et al. (2020) estimated that the detection rate for actual polar bear dens in northern Alaska was 0.45 and also did not report any relationship between detection and den snow depth. Because the study by Wilson and Durner (2020) reported detection probability only for dens with less than 100 centimeters (cm) snow depth, we needed to correct our model to also include those dens with greater than 100 cm snow depth. Based on the distribution of snow depths used by Wilson and Durner (2020) derived from data in Durner et al. (2003), we determined that 24 percent of dens have snow depths greater than 100 cm. After taking this into account, we estimated the overall detection probability from the Wilson and Durner (2020) study, including dens with snow depths greater than 100 cm, to be 0.54. This led to a mean detection of 0.41 and an SD of 0.15 across the three studies. We used these values, and the method of moments (Hobbs and Hooten 2015), to inform a Beta distribution:

$$p \sim \text{Beta} \left(\frac{0.41^2 - 0.41^3 - 0.41 \times 0.154^2}{0.154^2}, \frac{0.41 - 2 \times 0.41^2 + 0.41^3 - 0.154^2 + 0.41 \times 0.154^2}{0.154^2} \right)$$

from which we drew a detection probability (p) for each of the simulated AIR surveys during each iteration of the model.

Model Implementation

For each iteration of the model, we first determined which dens were exposed to the

specified activities. Dens that were simulated to be within 805 m (2,641 ft) of human activity could be disturbed during all denning periods, while dens within 806–1610 m (2,644–5,282 ft) of human activity could only be disturbed during the den establishment, late denning, and post-emergence periods. If a den was detected during a simulated AIR survey, we excluded it from further disturbance in the denning analysis. However, we allowed for simulated dens to be disturbed before AIR occurred. We identified the stage in the denning period when the exposure to human activity occurred based on the date range of the activities the den was exposed to: den establishment (i.e., initial entrance into den until cubs are born), early denning (i.e., birth of cubs until they are 60 days old), late denning (i.e., date cubs are 60 days old until den emergence), and post-emergence (i.e., the date of den emergence until permanent departure from the den site). We then determined whether the exposure elicited a response by the denning polar bear based on probabilities derived from the reviewed case studies (Woodruff et al. 2022a), which we updated with data from the dens monitored from 2022 to 2025 using the methods described in Woodruff et al. (2022a).

Specifically, we divided the number of cases that documented responses associated with either a Level B harassment (i.e., potential to cause a disruption of behavioral patterns), Level A harassment (i.e., potential to injure an animal), or lethal take (e, g., cub abandonment) of polar bears by the total number of cases with that combination of period and exposure type (table 5). Level B harassment was applicable to both adults and cubs, if present, whereas Level A harassment and lethal take were applicable to only cubs. We did not consider AIR surveys to be a source of potential impact. In thousands of hours of AIR surveys conducted in northern Alaska over the last decade, we are not aware of a single instance of a polar bear abandoning its den during the early denning period due to an AIR survey overflight. These responses would be readily observable on the aircraft's thermal cameras, and the fact that none have been observed indicates that den abandonment very likely does not occur given the brief duration of the aircraft overflight and the distance and altitude of the aircraft from the den site. Recent peer-reviewed

research further supports the model assumption that AIR surveys are not a source of harassment (Quigley et al. 2024).

For dens exposed to activity, we used a multinomial distribution with the probabilities of different levels of take for that period (table 5) to determine whether a den was disturbed or not. If a den abandonment was simulated to occur, a den was not allowed to be disturbed again during the subsequent denning periods because the outcome of that denning event was already determined.

The level of impact associated with a disturbance varied according to the severity and timing of the exposure (table 5). Exposures that resulted in emergence from dens prior to cubs reaching 60 days of age were considered a den abandonment that results in the lethal take of cubs. If an exposure resulted in a Level A harassment during the late denning period, we first assigned that den a new random emergence date from a uniform distribution that ranged between the first date of exposure during the late denning period and the original den emergence date. We then determined whether that den was disturbed during the post-emergence period, but the probability of disturbance was dependent on whether or not a den was disturbed (i.e., Level A harassment) during the late denning period (table 5). If an exposure resulted in a Level A harassment during the post-emergence period, we assigned the den a new time spent at the den site post-emergence from a uniform distribution that ranged from zero to the original simulated time at the den post-emergence.

Recent research suggests that litter survival is related to the date of den emergence and time spent at the den post-emergence (Andersen et al. 2024), with litters having higher survival rates the later they emerge in the spring, and the longer they spend at the den site after emergence. To determine if dens that were disturbed during the late denning and/or post-emergence period(s) experienced Level A harassment, we relied on estimates of litter survival in the spring following den emergence, derived from the analysis of empirical data on the dates of emergence from the den and departure from the den site (Andersen et al. 2024). These estimates

are dependent on the date of emergence and time spent at the den site post-emergence. For each den disturbed during the late denning and/or post-emergence periods, we obtained a random sample of regression coefficients from the posterior distribution and calculated the probability of a litter surviving into the spring post-emergence with the following equation:

$$\text{logit}(s) = \beta_0 + \beta_1 \text{emerge} + \beta_2 \text{depart}$$

Equation 3

Where:

s is the probability of at least one cub being alive in the spring post-emergence,

β_0 is the intercept coefficient,

β_1 is the coefficient associated with the Julian date of emergence (*emerge*), and

β_2 is the coefficient associated with the number of days the family group stayed at the den site post-emergence before departing (*depart*).

These probabilities are based on estimates of litter survival derived from the analysis of empirical data on the dates of emergence from the den and departure from the den site (Andersen et al. 2024).

We developed the code to run this model in the program R (R Core Development Team 2020) and ran 10,000 iterations of the model (i.e., Monte Carlo simulation) to derive the estimated number of dens disturbed and associated levels of harassment. We then determined the number of cubs that would experience den abandonment, Level A harassment, and Level B harassment, and the number of females that would experience Level B harassment. Table 5 shows the probability of an exposure resulting in the types of harassment of denning polar bears.

TABLE 5—Probability that an exposure elicited a response by denning polar bears that would result in Level B harassment, Level A harassment, den abandonment, or no take.

Denning Period	None (sow or cub(s))	Level B (sow)	Level B (cub(s))	Level A (cub(s))	Den Abandonment (cub(s))
Den Establishment	0.818	0.182	0.000	0.000	0.000
Early Denning	0.941	0.059	0.000	0.000	0.059
Late Denning	0.711	0.289	0.000	0.289	0.000

Post Emergence-Previously Undisturbed Den	0.000	1.000	0.280	0.720	0.000
Post Emergence-Previously Disturbed Den	0.000	1.000	0.700	0.300	0.000
<p>NOTE: Level B harassment was applicable to both adults and cubs, if present; Level A harassment and lethal take were applicable to cubs only and were not possible during the den establishment period, which ended with the birth of the cubs. During the early denning period, there was no Level A harassment for cubs, only lethal take. We provide two sets of take probabilities for the post-emergence period. The first (Post Emergence-Previously Undisturbed Den) is the set of probabilities when a den has not been disturbed during the late denning period. The second (Post Emergence-Previously Disturbed Den) is the set of probabilities for a den that was disturbed during the late denning period (Rode et al. 2018; Andersen et al. 2024).</p>					

Model Results

We created multiple scenarios in our analysis by generating a variety of combinations of the different confidential survey blocks while adhering to the previously described maximum area of impact within each of the four zones (see *Den Simulation*). We used the results of the scenario with the highest level of impact for our estimation of annual harassment. We estimated a rounded mean value of 5 (mean = 4.36; median=4; 95 percent CI:1–10) land-based dens in the area of specified activity in SAE’s request and within a 1.6-km (1-mi) buffer of the activities, annually. Estimates for different levels of take are presented in table 6. The distributions of Level B harassment, Level A harassment, and lethal takes due to den abandonment were non-normal and heavily skewed, as indicated by markedly different mean and median values. The heavily skewed nature of these distributions has led to a mean value that is not representative of the most common model result.

The median number, which is the midpoint value of a frequency distribution of all model results, of Level B and Level A harassments is both two, and the median number of lethal takes is zero. The probability of one or more takes of denning polar bears occurring in any given year of the proposed ITR by Level B harassment, Level A harassment, or lethal take was 0.73, 0.64, and 0.10, respectively. However, in aggregate across all 5 years of the proposed ITR, the median value for takes of denning polar bears by Level B harassment and by Level A harassment were 11 and 8 respectively.

The median value for lethal take in aggregate remained zero. The probabilities of one or more takes of denning polar bears occurring across the entire 5-year duration of this proposed ITR by Level B harassment, Level A harassment, and lethal take were 0.99, 0.99, and 0.35, respectively. Our estimated number of possibly exposed dens in the area across all 5-years was 19 (mean = 18.99; median = 19, 95 percent CI: 10 – 30). The activities analyzed for this proposed ITR represent the maximum number of activities that may occur within each year of the 5-year ITR period. Therefore, the actual activity footprint will likely be smaller during each year, which would reduce the probability of take. Due to the low probability of one or more lethal takes occurring either annually (0.09) or in 5-year aggregate (0.35), along with a median value of zero for either time period, we do not anticipate the specified activities will result in lethal take of polar bears. Additionally, mitigation measures, such as the use of handheld and vehicle-mounted forward looking infrared cameras when SAE crews are traversing areas of relief and snow drifts, will be implemented to further reduce the probability of take and minimize impacts to denning polar bears.

TABLE 6—Results of the den analysis for any given winter of specified activity.

Type of Take	Probability	Mean	Median	95% CI
Level B harassment	0.73	2.84	2	1–11
Level A harassment	0.64	2.11	2	0–10
Lethal	0.09	0.17	0	0–2

NOTE: Estimates are provided for the probability, mean, median, and 95% CI for Level B harassment, Level A harassment, and Lethal take. The probabilities represent the probability of ≥ 1 take of a polar bear occurring during a given winter.

Critical Assumptions

In order to conduct this analysis and estimate the potential amount of Level B harassment and Level A harassment, we made several critical assumptions.

Level B harassment is equated herein with behavioral responses that indicate harassment or disturbance, however some portion of animals whose behavioral response indicates disturbance will not experience significant biological consequences. Our estimates do not

account for variable responses by polar bear age and sex; however, sensitivity of denning polar bears was incorporated into the analysis. The available information suggests that polar bears are generally resilient to low levels of disturbance. Females with dependent young and juvenile polar bears are physiologically the most sensitive (Andersen and Aars 2008) and most likely to experience harassment from disturbance. Not enough information on composition of the SBS polar bear stock in the specified project area is available to incorporate individual variability based on age and sex or to predict its influence on harassment estimates. Our estimates are derived from a variety of sample populations with various age and sex structures, and we assume the exposed population will have a similar composition and, therefore, the response rates are applicable.

The estimates of behavioral response presented here do not account for the individual movements of animals in response to the specified activities. Our assessment assumes animals remain stationary (i.e., density does not change). Not enough information is available about the movement of polar bears in response to specific disturbances to refine this assumption.

SBS polar bears create maternal dens on the sea ice as well as on land, and the specified activities may occur on sea ice close to the shoreline. The den simulation used in our analysis does not simulate dens on the sea ice. However, the portions of the sea ice that may be impacted by the specified activities are shore-fast ice, which does not move in a way that creates pressure ridges needed to create sufficient denning habitat.

Sum of Harassment from All Sources

SAE will conduct archeological surveys, AIR surveys for maternal polar bear dens, seismic surveys, and summer cleanup activities on the North Slope of Alaska for a period of 5 years. A summary of total number of estimated takes by Level B harassment and Level A harassment in any given single year of the total 5-year proposed authorization period is provided in table 5. We used the most impactful take scenarios when generating annual take estimates to provide conservative values. We also explored the potential for lethal take. Lethal take or Level

A harassment would not occur outside of denning polar bears because the level of sound and visual stimuli on a polar bear on the surface would not be significant enough to result in injury or death. Denning polar bears, however, may be subject to repeated exposures, significant energy expenditure from den abandonment or departure, or potential impacts to a cub if the den is abandoned or departed prematurely. The probability of greater than or equal to one lethal take of denning polar bears is 0.16 under the most impactful operations scenario in a single year. In addition to annual estimates of take, we estimated the amount and probability of take aggregated across the 5-year period of this proposed ITR. The total 5-year aggregate estimates are provided in table 8. Across the 5-year period of the proposed ITR, the probability of greater than or equal to one lethal take of polar bears is 0.35.

TABLE 7—Total annual estimated takes by Level B and Level A harassment of polar bears by source

Source	Number of Level B Harassment Events	Number of Level A Harassment Events
Surface Interactions	5	0
Impacts to Denning Bears	2	2
Aircraft Overflights	6	0
Annual Total	13	2

NOTE: Estimated takes are provided for single-year operations under most impactful scenarios

Evaluation of Impacts of Oil Spills on Polar Bears

The specified activities evaluated here do not involve production and transportation of large quantities of oil. The FWS previously evaluated the impacts of oil spills on SBS polar bears in the specified geographic region and concluded that only small numbers of polar bears are likely to be affected if a large oil spill occurred and there would be only a negligible impact to the SBS polar bears (2021–2026 Beaufort Sea ITR (86 FR 42982, August 5, 2021)).^{(b) (5) - (D)} Additionally, SAE will implement protocols to contain and cleanup spills from oil, fuel, and other hazardous materials to minimize potential impacts to polar bears and their habitat. Therefore, the FWS concludes that the likelihood of a large oil spill occurring due to the specified activities is negligible. If a small spill occurs, the likelihood that it would contaminate areas occupied by large numbers of polar bears is low. If an oil spill does occur, we conclude that only small

numbers of polar bears are likely to be affected, and there would be only a negligible impact to SBS polar bears.

TABLE 8—Total 5-year aggregated estimated takes by Level B and Level A harassment of polar bears by source

Source	Number of Level B Harassment Events	Number of Level A Harassment Events
Surface Interactions	25	0
Impacts to Denning Bears	11	8
Aircraft Overflights	30	0
5-year aggregated total	66	8

Determinations and Findings

Small Numbers

For our small numbers determination, we provide a qualitative discussion and incidental take estimates when we consider whether the number of polar bears to be subjected to incidental take is respectively small relative to the population size of the species or stock.

1. The footprint of the specified activities within the specified geographic region is small relative to the range of the SBS stock of polar bears. SBS polar bears range well beyond the boundaries of the proposed ITR region. As such, the ITR region itself represents only a subset of the potential area in which these species may occur. Thus, the FWS concludes that a small portion of the SBS polar bear populations may be present in the specified geographic region during the time of the specified activities.

2. We estimate SAE’s specified activities in the specified geographic region will take no more than 15 polar bears during any given year of this proposed ITR, which includes the annual estimated Level B harassment of 11 polar bears on the surface and 2 denning polar bears and Level A harassment of 2 denning polar bears, and no more than a total of 66 polar bears by Level B harassment and 8 polar bears by Level A harassment over the five-year duration of this ITR (see *Sum of Harassment from All Sources*). Annual take of 15 animals is approximately 1.7 percent of the best available estimate of the current SBS stock size of 907 animals (Bromaghin et al. 2015, 2021; Atwood 2020) and represents a “small number” of polar bears of that stock. The

FWS released a draft stock assessment report (SAR) for the SBS polar bear population on January 2, 2025 (90 FR 114), in which the SBS polar bear stock has changed to 819 bears, largely due to a shift in the border between the SBS and North Beaufort Sea stock. Should this draft SAR be finalized, 15 bears constitute 1.8 percent of the SBS stock. These estimates indicate that the number of polar bears that would be incidentally taken is small relative to the size of the SBS stock.

Small Numbers Conclusion

We propose a finding that take of up to 15 SBS polar bears in any given year by Level B harassment, with a total 74 SBS polar bears in aggregate across the 5-year duration (66 by Level B harassment and 8 by Level A harassment) of this proposed ITR represents a small number of the SBS polar bear stock.

Negligible Impact

For our negligible impacts determination, we consider the following:

1. The documented impacts of previous activities similar to the specified activities on polar bears, and, taking into consideration the baseline of existing impacts from factors such as oil and gas activities in the area and other ongoing or proposed incidental take authorizations, suggest that the types of specified activities will have minimal effects on polar bears. Additionally, the effects will be limited to short-term, temporary behavioral changes, or minor injury. Furthermore, our analyses do not indicate, nor do we anticipate, any lethal take of polar bears during the 5-year period of this proposed ITR. While we do estimate that up to two cubs may experience a short-term fitness decline in the period immediately following den departure, we also do not anticipate that they will experience long lasting impacts that could significantly impact their health, reproduction, or survival. The limited extent of anticipated impacts on polar bears is unlikely to adversely affect annual rates of polar bear survival or recruitment.

2. The distribution and habitat use patterns of polar bears indicate that relatively few polar bears will occur in the specified areas of activity at any time and, therefore, few polar bears are likely to be affected.

3. SAE has proposed, and would be required to implement, mitigation measures and monitoring designed to reduce the potential impacts of their operations on polar bears. Den detection surveys for polar bears, along with adaptive mitigation and management responses based on real-time monitoring information (described in this proposed authorization), will be used to avoid or minimize interactions with polar bears and, therefore, limit potential disturbance of these species.

We also consider the conjectural or speculative impacts associated with these specified activities. The specific congressional direction described below justifies balancing the probability of such impacts with their severity: If potential effects of a specified activity are conjectural or speculative, a finding of negligible impact may be appropriate. A finding of negligible impact may also be appropriate if the probability of occurrence is low, but the potential effects may be significant. In this case, the probability of occurrence of impacts must be balanced with the potential severity of harm to the species or stock when determining negligible impact. In applying this balancing test, the FWS will thoroughly evaluate the risks involved and the potential impacts on marine mammal populations. Such determination will be made based on the best available scientific information (54 FR 40338, September 29, 1989, quoting 53 FR 8473, March 15, 1988, and 132 Cong. Rec. S 16305 (October 15, 1986)).

We reviewed the effects of the seismic exploration activities on polar bears, including impacts from surface interactions, aircraft overflights, and den disturbance. Based on our review of these potential impacts, past monitoring reports, and the biology and natural history of polar bears, we conclude that any incidental take reasonably likely to occur as a result of specified activities will be limited to short-term behavioral disturbances that would not affect the rates of recruitment or survival for the SBS stock of polar bears.

The potential effects of most concern here, specific to polar bears, is the mortality of polar bear cubs that could result from disturbances during certain periods of the denning season. The FWS estimated that the probability of greater than or equal to one lethal take is 0.09 annually and 0.35 across the 5-year duration of this proposed ITR. Therefore, the FWS does not anticipate any lethal take will occur during the ITR period. If a den is disturbed and lethal take were to occur, this take would be limited to only cubs during the denning period. Impacts to denning females, the demographic group most important to annual recruitment, are limited to take by Level B or Level A harassment. Therefore, the number of potentially available reproductive females that would contribute to recruitment for the SBS stock would remain unaffected if a den disturbance were to result in the mortality of the cubs.

Cub mortality occurs naturally each year. Cub litter survival was estimated at 50 percent (90 percent CI: 33–67 percent) for the SBS stock during 2001–2006 (Regehr et al. 2010), indicating a female may lose her litter for several reasons separate from den disturbance. The SBS stock of polar bears is currently estimated as 907 polar bears (Bromaghin et al. 2015, 2021; Atwood et al. 2020). The loss of one litter ranges from 0 percent (0 cubs) to approximately 0.33 percent (3 cubs) of the annual SBS stock size of polar bears ($((0 \text{ cubs to } 3 \text{ cubs}) \div 907) \times 100 \approx 0 \text{ to } 0.33$). The determining factor for polar bear stock growth is adult female survival (Eberhardt 1990). Consequently, the loss of female cubs has a greater impact on annual recruitment rates for the SBS stock of polar bears compared to male cubs. If a den disturbance were to result in the mortality of the entire litter, the female would be available to breed during the next mating season and could produce another litter during the next denning season.

Based on the projection that zero cub mortality would be associated with these specified activities, and the recognition that even if a den is disturbed, the number of potentially affected cubs would be minimal and the number of reproductive females in the stock would remain the same, the FWS does not anticipate that the conjectural or speculative impacts associated with

these specified activities warrant a finding of non-negligible impact or otherwise preclude issuance of this proposed ITR.

We have evaluated the effects of climate change on polar bears as part of the environmental baseline. Climate change is considered as the overall driver of effects that could alter polar bear habitat and behavior. The FWS is currently involved in research to understand how climate change may affect polar bears. As we gain a better understanding of climate change effects, we will incorporate the information in future authorizations.

We find that the impacts of these specified activities cannot be reasonably expected to, and are not reasonably likely to, adversely affect SBS polar bears through effects on annual rates of recruitment or survival. Therefore, the FWS proposes that the total of the taking estimated above and proposed for authorization will have a negligible impact on SBS polar bears.

Impact on Subsistence Use

Based on past community consultations, locations of hunting areas, no anticipated overlap of hunting areas and the specified activities, and the best scientific information available, including monitoring data from similar activities, we propose a finding that take caused by the specified seismic exploration activities in the specified geographic region will not have an unmitigable adverse impact on the availability of polar bears for taking for subsistence uses during the specified timeframe.

While polar bears represent a small portion, in terms of the number of animals, of the total subsistence harvest for the Kaktovik and Nuiqsut communities, the harvest of these species is important to Alaska Natives. SAE will contact subsistence communities that may be affected by its activities to discuss potential conflicts caused by location, timing, and methods of the specified activities. SAE will make reasonable efforts to ensure that activities do not interfere with subsistence hunting and that adverse effects on the availability of polar bears are minimized. The FWS is not aware of any concerns having been voiced by the Alaska Native communities regarding the specified activities limiting availability of polar bears for subsistence

uses. However, should such a concern be voiced, SAE's POC, which will identify measures to minimize any adverse effects, will be implemented. The POC will ensure that the specified activities will not have an unmitigable adverse impact on the availability of the species or stock for subsistence uses. The POC provides the procedures addressing how SAE will work with the affected Alaska Native communities and what actions will be taken to avoid interference with subsistence hunting of polar bears, as warranted.

The FWS has not received any reports and is not aware of information that indicates that polar bears are being or will be deterred from hunting areas or impacted in any way that diminishes their availability for subsistence use by the expected level of seismic exploration activity. If there is evidence that these activities are affecting the availability of polar bears for subsistence uses, we will reevaluate our findings regarding permissible limits of take and the measures required to ensure continued subsistence hunting opportunities.

Least Practicable Adverse Impacts

We evaluated the practicability and effectiveness of mitigation measures based on the nature, scope, and timing of the specified activities; the best available scientific information; and monitoring data during industry activities in the specified geographic region. We propose a finding that the mitigation measures included within SAE's request will ensure least practicable adverse impacts on polar bears.

Polar bear den surveys at the beginning of each well survey season, the resulting 1.6-km (1-mi) operational exclusion zone around all known polar bear dens, and restrictions on the timing and types of activities in the vicinity of dens and females with cubs of the year observed during the den emergence period will ensure that impacts to denning females and their cubs are minimized during this critical period. Minimum flight elevations over polar bear areas and flight restrictions around observed polar bears and known polar bear dens will reduce the potential for aircraft disturbing polar bears. Finally, SAE will implement mitigation measures to prevent the presence and impact of attractants in camps such as the use of wildlife-resistant waste

receptacles, daily food waste incineration, and storing hazardous materials in drums or other secure containers. These measures are outlined in a polar bear interaction plan that was developed in coordination with the FWS and is part of SAE's application for this ITR. Based on the information we currently have regarding den and aircraft disturbance and polar bear attractants, we concluded that the mitigation measures outlined in SAE's Request (SAE 2025) and incorporated into this proposed authorization will minimize impacts from the specified seismic exploration activities to the extent practicable.

A number of mitigation measures were considered but determined to be not practicable.

These measures are listed below:

- *Require use of helicopters for AIR surveys*—Use of helicopters to survey active dens might lead to greater levels of disturbance and take compared to fixed-wing aircraft. This statement is supported by greater harassment rates for helicopter overflights compared to fixed-wing overflights determined in the aircraft take estimate analysis. Additionally, there is no published data to indicate increased den detection efficacy of helicopter AIR.
- *Require optimal weather conditions for AIR surveys*—Some restrictions on weather conditions for AIR surveys were included as mitigation measures; however, additional restrictions would not be practicable for the specified activities due to the available timeframe to complete AIR surveys to affect the least practicable adverse impact on polar bears.
- *Ground all flights if they must fly below 457 m (1,500 ft)* —Requiring all aircraft to maintain an altitude of 457 m (1,500 ft) at all times is not practicable as some operations may require flying below 457 m (1,500 ft) to perform necessary inspections or maintain safety of flight crew. Aircraft are required to fly above 457 m (1,500 ft) at all times within 805 m (0.5 mi) of an observed polar bear unless there is an emergency.
- *Require speed restrictions for aircraft operations*—Requiring aircraft to operate below a specific speed limit is not practicable as some operations may require speeds above the specified speed limit to maintain safety of the flight crew during various weather conditions. Additionally,

aircraft operating at lower speeds may increase the duration of impact and potentially result in greater levels of disturbance to polar bears.

- *Spatial and temporal restrictions on surface activity*—Some spatial and temporal restrictions of operations were included in SAE’s Request; however, additional restrictions would not be practicable for the specified activities based on other regulatory and safety requirements, and the need to acquire enough data to meet project objectives.

- *One-mile buffer around all known polar bear denning habitat*—One-mile (1.6-km) buffer around all known polar bear denning habitat is not practicable as much of SAE’s specified survey area occurs within 1.6 km (1 mi) of denning habitat; thus, to exclude all areas within 1.6 km (1 mi) of denning habitat would preclude surveys from occurring.

- *Prohibit driving over high relief areas, embankments, or stream and river crossings*— In their request, SAE has committed to avoiding the leeward side of river banks and bluffs, where snow can accumulate and create polar bear denning habitat. Additionally, SAE would use handheld or truck-mounted infrared units to check for polar bears or dens prior to crossing suitable habitat and will place all river crossings at the lowest possible relief point to reduce the possibility of suitable denning habitat being present. To completely avoid these types of areas would likely cause personnel to drive further away from established operational areas and unnecessarily create additional safety concerns. Furthermore, other mitigation measures to minimize impact to denning habitats are included and will minimize the risk imposed by driving over high relief areas, embankments, or stream and river crossings. Lastly, the probability of a den being run over by equipment during the specified activities is exceedingly low each year of the proposed ITR, and this probability will be further mitigated by AIR surveys during the beginning of the specified activities to detect dens within 1.6 km (1 mi) of the activities.

- *Use of a broader definition of “denning habitat” for operational offsets*—No data are available to support broadening the defining features of denning habitat beyond that established by USGS.

- *Prohibit activities within designated critical habitat for polar bears*—Critical habitat for polar bears must be considered during the specified activities; however, complete prohibition is not practicable due to the large spatial extent of critical habitat and project objectives.

- *Establish corridors for female and cub transit to the sea ice*—As no data support the existence of natural transit corridors to the sea ice, establishment of corridors in the proposed ITR area would be highly speculative. Therefore, no mitigative benefit would be realized by their establishment.

- *Require third-party neutral marine mammal observers*—SAE has committed to conducting polar bear training that meets FWS standards and will use bear guards to monitor for polar bears during project activities. These bear guards will be fully incentivized to diligently monitor for polar bears given inherent safety considerations.

- *Require all activities to cease if a polar bear is injured or killed until an investigation is completed*—The FWS has incorporated into this proposed authorization reporting requirements for all polar bear interactions. While ceasing all activities may aid in any subsequent investigation, doing so may not be practicable or safe in certain circumstances and, thus, will not be mandated prospectively.

- *Require use of den detection dogs*—Requiring scent-trained dogs to detect dens is not practicable or safe for this project due to the large spatial extent that would need to be surveyed within seismic survey areas. Additional crew may require additional transit vehicles and accommodations, which could increase disturbance to polar bears.

- *Construct safety gates, fences, and enclosures to prevent polar bears from accessing facilities*—Constructing safety gates, fences, and enclosures to prevent polar bears from accessing facilities is not practicable due to the short-term and relatively mobile project activities and temporary facilities. SAE will place skirting around elevated facilities to prevent polar bears from accessing these areas.

- *Require the use of handheld or vehicle-mounted forward-looking infrared equipment—*

The efficacy rates for AIR surveys have been found to be four times more likely to detect dens versus ground-based forward-looking infrared (handheld or vehicle-mounted) equipment due to impacts of blowing snow on detection. SAE has incorporated into their mitigation measures the use of handheld or vehicle-mounted forward-looking infrared units when transiting rivers occurring in suitable denning habitat, but it is not practicable to use the equipment during all transit.

- *Temporal restrictions after July 1—*While SAE has committed to prioritizing cleanup in coastal areas first to complete them prior to July 1, the overall timing of cleanup activities is dependent upon snow-free conditions, which vary yearly and may not occur before July 1.

Monitoring and Reporting

The purpose of monitoring requirements is to assess the effects of the specified activities on polar bears, continual verification of ITR compliance, ensure take does not have more than a negligible impact on species stocks, and detect any unanticipated effects on the species or stock. Monitoring plans document when and how polar bears are observed, the number of polar bears, and their behavior during the observation. This information allows the FWS to measure encounter rates, examine trends in polar bear activity and distribution in the industrial areas, and estimate the number of polar bears potentially affected by industrial activities. SAE would report all observations of polar bears. To the extent possible, personnel that encounter polar bears will record group size, age, sex, behavior, duration of observation, and closest approach to human activity.

The FWS would provide SAE with the most recent and up-to-date Polar Bear Observation Form in which to record observations of polar bears. Observations must be reported to the FWS's Marine Mammals Management Office within 48 hours of the observation and submitted to fw7_mmm_reports@fws.gov. Details on monitoring guidelines and reporting

requirements can be read below in the rule portion of this document in proposed § 18.172

Monitoring and § 18.173 Reporting Requirements.

Request for Public Comments

If you wish to comment on these proposed regulations or the associated draft environmental assessment, you may submit your comments by any of the methods described in **ADDRESSES**. Please identify if you are commenting on the proposed regulations, the draft environmental assessment, or both, make your comments as specific as possible, confine them to issues pertinent to the proposed regulations, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph that you are addressing. The FWS will consider all comments that are received by the close of the comment period (see **DATES**).

Clarity of This Proposed Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Required Determinations

National Environmental Policy Act (NEPA)

We have prepared a draft environmental assessment in accordance with the NEPA (42 U.S.C. 4321 *et seq.*). We have preliminarily concluded that the proposed action of issuing an ITR would not significantly affect the quality of the human environment, and, thus, preparation of an environmental impact statement for this incidental take regulation is not required by section 102(2) of NEPA or its implementing regulations. We are accepting comments on the draft environmental assessment as specified above in **DATES** and **ADDRESSES**.

Endangered Species Act (ESA)

Under the ESA (16 U.S.C. 1536(a)(2)), all Federal agencies are required to ensure the actions they authorize are not likely to jeopardize the continued existence of any threatened or endangered species or result in destruction or adverse modification of critical habitat. Prior to finalizing this ITR, if warranted, the FWS will complete intra-Service consultation under section 7 of the ESA on our proposed issuance of an ITR. These evaluations and findings would be made available on the FWS's website at <https://ecos.fws.gov/ecp/report/biological-opinion>.

Government-to-Government Consultation

It is our responsibility to communicate and work directly on a Government-to-Government basis with federally recognized Alaska Native Tribes and organizations in developing programs for healthy ecosystems. We seek their full and meaningful participation in evaluating and addressing conservation concerns for protected species. It is our goal to remain sensitive to Alaska Native culture and to make information available to Alaska Natives. Our efforts are guided by *Executive Order 13175 – Consultation and Coordination With Indian Tribal Governments*, 512 DM 5 – *Procedures for Consultation with Indian Tribes*, 512 DM 6 – *Department of the Interior Policy on Consultation with Alaska Native Claims Settlement Act Corporations*, 510 FW 1, *The Service's Native American Policy*, and 510 FW 2, *The Service's Alaska Native Relations Policy*. We have evaluated possible effects of the specified activities on

federally recognized Alaska Native Tribes and organizations. Through the ITR process identified in the MMPA, the applicant has presented a communication process, culminating in a POC if needed, with the Native organizations and communities most likely to be affected by their work. The FWS does not anticipate impacts to Alaska Native Tribes or Alaska Native Claims Settlement Act corporations and does not anticipate requesting consultation; however, we invite continued discussion, either about the project and its impacts or about our coordination and information exchange throughout the ITR/POC process.

Regulatory Planning and Review—Executive Orders 12866 and 13563

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the OMB will review all significant rules. OIRA has determined that this proposed rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

OIRA bases its determination of significance upon the following four criteria: (a) Whether the rule will have an annual effect of \$100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government; (b) whether the rule will create inconsistencies with other Federal agencies' actions; (c) whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients; and (d) whether the rule raises novel legal or policy issues.

Expenses will be related to, but not necessarily limited to: the development of requests for LOAs; monitoring, recordkeeping, and reporting activities conducted during archeological surveys, AIR maternal polar bear den surveys, seismic surveys, and aircraft-supported cleanup activities; development of activity- and species-specific marine mammal monitoring and mitigation plans; and coordination with Alaska Natives to minimize effects of operations on subsistence hunting. Realistically, costs of compliance with this proposed rule, if finalized, are minimal in comparison to those related to actual archeological surveys, AIR maternal polar bear den surveys, seismic surveys, and aircraft-supported cleanup activities. The actual costs to develop the petition for promulgation of regulations and LOA requests fall short of the “major rule” threshold that would require preparation of a regulatory impact analysis.

Small Business Regulatory Enforcement Fairness Act

We have determined that this proposed rule, if finalized, is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The proposed rule is also not likely to result in a major increase in costs or prices for consumers, individual industries, or government agencies or have significant adverse effects on competition, employment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

We have determined that this proposed rule, if finalized, will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). SAE and their contractors conducting archeological survey, AIR maternal polar bear den surveys, seismic surveys, and summer cleanup activities on the North Slope are the only entities subject to this proposed ITR. Therefore, neither a regulatory flexibility analysis nor a small entity compliance guide is required.

Takings Implications

This proposed rule, if finalized, does not have takings implications under Executive Order 12630 because it authorizes the incidental, but not intentional, take of polar bears by seismic exploration activities and, thereby, exempts SAE from civil and criminal liability as long as they operate in compliance with the terms of their LOAs. Therefore, a takings implications assessment is not required.

Federalism Effects

This proposed rule, if finalized, does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 13132. The MMPA gives the FWS the authority and responsibility to protect polar bears.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.), this proposed rule, if finalized, will not “significantly or uniquely” affect small governments. A small government agency plan is not required. The FWS has determined and certifies pursuant to the Unfunded Mandates Reform Act that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. This rule, if finalized, will not produce a Federal mandate of \$100 million or greater in any year, i.e., it is not a “significant regulatory action” under the Unfunded Mandates Reform Act.

Civil Justice Reform

The Departmental Solicitor’s Office has determined that this proposed rule, if finalized, will not unduly burden the judicial system and meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

This proposed rule contains new information collections subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA; 44 U.S.C. 3501 et seq.). All information collections under the PRA require OMB approval. We may

not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. We are requesting a new control number for the information collection requirements in this subpart. OMB previously approved the information collection requirements associated with incidental take in the identified subparts and assigned the following control numbers:

- 1018–0070, Incidental Take of Marine Mammals During Specified Activities (50 CFR 18.27 and 50 CFR 18, Subpart J) (expires 08/31/2028), and
- 1018–0203, Incidental Take of Marine Mammals During Specified Activities (50 CFR 18.27 and 50 CFR 18, Subpart L) (expires 08/31/2028).

In accordance with the PRA and its implementing regulations at 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on our proposal to request OMB approval of the information collections in this proposed rule. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

As part of our continuing effort to reduce paperwork and respondent burdens, and in accordance with 5 CFR 1320.8(d)(1), we invite the public and other Federal agencies to comment on any aspect of this proposed information collection, including:

- (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;
 - (2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;
 - (3) Ways to enhance the quality, utility, and clarity of the information to be collected;
- and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Comments that you submit in response to this proposed rulemaking are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

This is a nonform collection. Respondents must comply with the regulations at 50 CFR 18.27, which outline the procedures and requirements for submitting a request. These regulations provide the applicant with a detailed description of information that we need to evaluate the proposed activity and determine if it is appropriate to issue specific regulations and, subsequently, LOAs. The FWS's proposed rule (RIN 1018–BG75) would create a new subpart, 50 CFR part 18, subpart N (SAExploration, Inc., valid for a period of 5 years), which addresses the incidental, unintentional take of small numbers of polar bears (*Ursus maritimus*) during seismic exploration activities on the North Slope of Alaska.

We will use the information collected to verify the findings required to issue incidental take regulations, to decide if we should issue an LOA, and (if an LOA is issued) what conditions should be included in the LOA. In addition, we will analyze the information to determine impacts to polar bears, and the availability of those marine mammals for subsistence purposes of Alaska Natives.

The information collections contained in the newly proposed subpart N described below require approval by OMB:

(1) APPLICATION FOR REGULATIONS (50 CFR §18.27(d))—Regulations at

50 CFR part 18 require the applicant to provide information on the activity as a whole, which includes, but is not limited to, an assessment of total impacts by all persons conducting the activity. Applicants can find specific requirements in 50 CFR part 18, subparts N. These regulations provide the applicant with a detailed description of information that we need to evaluate the proposed activity and determine whether to issue specific regulations and, subsequently, LOAs. The required information includes:

- A description of the specific activity or class of activities that can be expected to result in incidental taking of marine mammals.
- The dates and duration of such activity and the specific geographical region where it will occur.
- Based on the best available scientific information, each applicant must also provide:
 - An estimate of the species and numbers of marine mammals likely to be taken by age, sex, and reproductive conditions;
 - The type of taking (e.g., disturbance by sound, injury or death resulting from collision, etc.) and the number of times such taking is likely to occur;
 - A description of the status, distribution, and seasonal distribution (when applicable) of the affected species or stocks likely to be affected by such activities;
 - The anticipated impact of the activity upon the species or stocks; and
 - The anticipated impact of the activity on the availability of the species or stocks for subsistence uses.
- The anticipated impact of the activity upon the habitat of the marine mammal populations and the likelihood of restoration of the affected

habitat.

- The availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, their habitat, and, where relevant, on their availability for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. (The applicant and those conducting the specified activity and the affected subsistence users are encouraged to develop mutually agreeable mitigating measures that will meet the needs of subsistence users.)
- Suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species through an analysis of the level of taking or impacts and suggested means of minimizing burdens by coordinating such reporting requirements with other schemes already applicable to persons conducting such activity.
- Suggested means of learning of, encouraging, and coordinating research opportunities, plans, and activities relating to reducing such incidental taking from such specified activities, and evaluating its effects.
- Applicants must develop and implement a site-specific (or umbrella plan addressing site-specific considerations), FWS-approved marine mammal monitoring and mitigation plan to monitor and evaluate the effectiveness of mitigation measures and the effects of activities on marine mammals and the subsistence use of these species.
- Applicants must also provide trained, qualified, and FWS-approved onsite observers to carry out monitoring and mitigation activities

identified in the marine mammal monitoring and mitigation plan.

This information is necessary so that we can anticipate the impact of the activity on the species or stocks and on the availability of the species or stocks for subsistence uses.

Under requirements of the MMPA, we cannot authorize a take unless the total of all takes will have a negligible impact on the species or stocks and, where appropriate, will not have an unmitigable adverse impact on the availability of the species or stocks for subsistence uses.

These requirements ensure that applicants are aware of related monitoring and research efforts they can apply to their situation, and that the monitoring and reporting that we impose are the least burdensome to the applicant.

(2) FINAL MONITORING REPORT (50 CFR §172(c))—The results of monitoring and mitigation efforts identified in the marine mammal monitoring and mitigation plan must be submitted to the FWS for review within 90 days of the expiration of an LOA. Upon request, final report data must be provided in a common electronic format (to be specified by the FWS). Information in the final (or annual) report must include, but is not limited to:

- Copies of all observation reports submitted under the LOA;
- A summary of the observation reports;
- A summary of monitoring and mitigation efforts including areas, total hours, total distances, and distribution;
- Analysis of factors affecting the visibility and detectability of polar bears during monitoring;
- Analysis of the effectiveness of mitigation measures;
- Analysis of the distribution, abundance, and behavior of polar bears observed; and
- Estimates of take in relation to the specified activities.

(3) REQUESTS FOR LETTERS OF AUTHORIZATION (LOA) (50 CFR §18.27(f) and 18.167)—LOAs, which may be issued only to U.S. citizens, are required to

conduct activities pursuant to any specific regulations established. Once specific regulations are effective, the FWS will, to the maximum extent possible, process subsequent requests for LOAs within 30 days after receipt of the request by the FWS. All LOAs will specify the period of validity and any additional terms and conditions appropriate for the specific request. Issuance of LOAs will be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations.

(4) *POLAR BEAR DEN DETECTION REPORT (50 CFR §18.170(b)(1)(iv))*—

Holders of an LOA seeking to carry out onshore activities in known or suspected polar bear denning habitat during the denning season must make efforts to locate occupied polar bear dens within and near proposed areas of operation. They may use any appropriate tool, such as forward-looking infrared imagery and/or polar bear scent-trained dogs, in concert with denning habitat maps along the Alaskan coast. In accordance with 50 CFR 18.172(b)(1) and (b)(2), LOA holders must report all observed or suspected polar bear dens to us prior to the initiation of activities. We use this information to determine the appropriate terms and conditions in an individual LOA in order to minimize potential impacts and disturbance to polar bears.

Holders of an LOA seeking to carry out onshore activities during the denning season (November–April) must conduct one to three separate surveys for occupied polar bear dens in all denning habitat within 1.6 km (1 mi) of proposed activities using aerial infrared (AIR) imagery. Project areas located in high denning density zones must be AIR surveyed at least three times, project areas in moderate denning density zones must be AIR surveyed at least twice, and anywhere outside of either the moderate or high denning density zones must be AIR surveys at least once. When either one or two AIR surveys are needed the first survey must be flown between November 25 and December 25 and the second survey occurring between December 15 and January 15. In an area where three surveys are required, the additional survey must occur between December 5 and December 31. A minimum of 24 hours is required between completion of previous AIR survey and beginning a new AIR survey.

Flight crews will record and report environmental parameters including air temperature, dew point, wind speed and direction, cloud ceiling, and percent humidity, and a flight log will be provided to the FWS within 48 hours of the flight.

(5) ONSITE MONITORING AND OBSERVATION REPORTS—The regulations also require that each holder of an LOA submit a monitoring report indicating the nature and extent of all takes of marine mammals that occurred incidentally to the specific activity. Since the inception of incidental take authorizations for polar bears (*Ursus maritimus*), Pacific walruses (walruses) (*Odobenus rosmarus divergens*), and northern sea otters (otters) (*Enhydra lutris kenyoni*), we have required monitoring and reporting during oil and gas industry activities. The purpose of monitoring and reporting requirements is to assess the effects of industrial activities on polar bears, walruses, and otters to ensure that take is minimal to marine mammal populations, and to detect any unanticipated effects of take. The monitoring focus has been site-specific, area-specific, or population-specific. Site-specific monitoring measures animal-human encounter rates, outcomes of encounters, and trends of animal activity in the industrial areas, such as polar bear numbers, behavior, and seasonal use. Area-specific monitoring includes analyzing animal spatial and temporal use trends, sex/age composition, and risk assessment to unpredictable events, such as oil spills. Population-specific monitoring includes investigating species' life-history parameters, such as population size, recruitment, survival, physical condition, status, and mortality.

A. IN-SEASON MONITORING (ACTIVITY PROGRESS REPORTS)

(50 CFR 18.172(a)(1))—Activity progress reports. Holders of an LOA must:

- Notify the FWS at least 48 hours prior to the onset of activities;
- Provide the FWS weekly progress reports of any significant changes in activities and/or locations; and
- Notify the FWS within 48 hours after ending of activities.

B. *IN-SEASON MONITORING (POLAR BEAR OBSERVATION*

REPORTS) (50 CFR 18.172(a)(2))—Holders of an LOA must report, within 48 hours, all observations of polar bears and potential polar bear dens, during any industry activity. Upon request, monitoring report data must be provided in a common electronic format (to be specified by the FWS). Information in the observation report must include, but is not limited to:

- Date, time, and location of observation;
- Number of bears;
- Sex and age of bears (if known);
- Observer name and contact information;
- Weather, visibility, sea state, and sea-ice conditions at the time of observation;
- Estimated closest distance of bears from personnel and facilities;
- Industry activity at time of sighting;
- Possible attractants present;
- Bear behavior;
- Description of the encounter;
- Duration of the encounter; and
- Mitigation actions taken.

(6) *NOTIFICATION OF LOA INCIDENT REPORT* (50 CFR 18.172(b))—

Holders of an LOA must report, as soon as possible, but within 48 hours, all LOA incidents during any industry activity. An LOA incident is any situation when specified activities exceed the authority of an LOA, when a mitigation measure was required but not enacted, or when injury or death of a marine mammal occurs. Reports must include:

- All information specified for an observation report;
- A complete detailed description of the incident; and
- Any other actions taken.

(7) MITIGATION—INTERACTION PLAN (50 CFR 18.170(a)(3) and 50 CFR 18.167(c)(4))—All holders of an LOA must have an approved polar bear safety, awareness, and interaction plan on file with the FWS’s Marine Mammals Management Office and onsite and provide polar bear awareness training to certain personnel. Interaction plans must include:

- The type of activity and where and when the activity will occur (i.e., a summary of the plan of operation);
- A food, waste, and other “bear attractants” management plan;
- Personnel training policies, procedures, and materials;
- Site-specific polar bear interaction risk evaluation and mitigation measures;
- Polar bear avoidance and encounter procedures; and
- Polar bear observation and reporting procedures.

(8) MITIGATION—3rd-PARTY NOTIFICATIONS (50 CFR 18.170(d)(1))—All applicants for an LOA must contact affected subsistence communities and hunter organizations to discuss potential conflicts caused by the activities and provide the FWS documentation of communications as described in § 18.167.

(9) MITIGATION—PLAN OF COOPERATION (50 CFR 18.170(d)(2))—When appropriate, a holder of an LOA will be required to develop and implement a FWS-approved plan of cooperation (POC). The POC must include a description of the procedures by which the holder of the LOA will work and consult with potentially affected subsistence hunters and a description of specific measures that have been or will be taken to avoid or minimize interference with subsistence hunting of polar bears and to ensure continued availability of the species for subsistence use. The FWS will review the POC to ensure that any potential adverse

effects on the availability of the animals are minimized. The FWS will reject POCs if they do not provide adequate safeguards to ensure the least practicable adverse impact on the availability of polar bears for subsistence use.

(10) COMMUNITY CONSULTATION (50 CFR 18.170(d)(1))—Community consultation. Prior to receipt of an LOA, applicants must consult with potentially affected communities and appropriate subsistence user organizations to discuss potential conflicts with subsistence polar bear hunting caused by the location, timing, and methods of operations and support activities. If community concerns suggest that the activities may have an adverse impact on the subsistence uses of this species, the applicant must address conflict avoidance issues through a POC.

Title of Collection: Incidental Take of Marine Mammals During Specified Activities, 50 CFR 18.27 and 50 CFR part 18, Subpart N.

OMB Control Number: 1018–New

Form Numbers: None.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Individuals/households, private sector (oil and gas industry companies), State/local/Tribal governments, and Federal Government.

Respondent’s Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for applications; annually or on occasion for reports.

Total Estimated Annual Nonhour Burden Cost: \$50,000 (associated with the polar bear den detection survey and report).

Type of Action	Number of Annual Respondents	Number of Responses Each	Total Annual Responses	Average Completion Time (Hours)	Total Annual Burden Hours
<i>Incidental Take of Marine Mammals–Application for Regulations (50 CFR §18.27(d))</i>					
Reporting–Private Sector	1	1	1	20	150
Recordkeeping–Private Sector				130	
<i>Final Monitoring Report (50 CFR §18.172(c))</i>					

Reporting–Private Sector	1	1	1	6	22
Recordkeeping–Private Sector				16	
<i>Requests–Letters of Authorization (50 CFR §18.27(f) and 18.167)</i>					
Reporting–Private Sector	1	1	1	6	22
Recordkeeping–Private Sector				16	
<i>Polar Bear Den Detection Report (50 CFR 18.170(b)(1)(iv))</i>					
Reporting–Private Sector	1	1	1	8	50
Recordkeeping–Private Sector				42	
<i>In-season Monitoring–Activity Progress Reports (50 CFR 18.172(a)(1))</i>					
Reporting–Private Sector	1	1	1	.5	1
Recordkeeping–Private Sector				.5	
<i>In-season Monitoring–Polar Bear Observation Reports (50 CFR 18.172(a)(2))</i>					
Reporting–Private Sector	10	1	10	.25	13
Recordkeeping–Private Sector				1	
<i>Notification of LOA Incident Report (50 CFR 18.172(b) and 18.170(a)(3))</i>					
Reporting–Private Sector	1	1	1	.25	1
Recordkeeping–Private Sector				.5	
<i>Mitigation–Interaction Plan (50 CFR 18.170(a)(3) and 18.167(c)(4))</i>					
Reporting–Private Sector	1	1	1	2	8
Recordkeeping–Private Sector				6	
<i>Mitigation–(Amendment) Interaction Plan (50 CFR 18.170(a)(3) and 18.167(c)(4))</i>					
Reporting–Private Sector	1	1	1	1	4
Recordkeeping–Private Sector				3	
<i>Mitigation–3rd Party Notifications (50 CFR 18.170(d)(1))</i>					
Reporting–Private Sector	3	1	3	1	6
Recordkeeping–Private Sector				1	
<i>Mitigation–Plan of Cooperation (50 CFR 18.170(d)(2))</i>					
Reporting–Private Sector	1	1	1	10	40
Recordkeeping–Private Sector				30	
<i>Mitigation–(Amendment) Plan of Cooperation (50 CFR 18.170(d)(2)(ii))</i>					
Reporting–Private Sector	1	1	1	5	20
Recordkeeping–Private Sector				15	
<i>Community Consultation (50 CFR 18.170(d)(1))</i>					
Reporting–Private Sector	1	1	1	10	40
Recordkeeping–Private Sector				30	
Totals:	24		24		341

Send your written comments and suggestions on this information collection by the date indicated in **DATES** to OMB, with a copy to the FWS Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB/PERMA (JAO), 5275 Leesburg Pike, Falls Church,

VA 22041–3803 (mail); or by email to Info_Coll@fws.gov. Please reference “1018–New/1018–BG75) in the subject line of your comments.

Energy Effects

Executive Order 13211 requires agencies to prepare statements of energy effects when undertaking certain actions. This proposed rule provides exceptions from the MMPA’s taking prohibitions for entities engaged in specified seismic exploration activities in the specified geographic region. By providing certainty regarding compliance with the MMPA, this proposed rule will have a positive effect on the seismic exploration activities. Although the proposed rule requires an applicant to take a number of actions, these actions have been undertaken by seismic exploration activities for many years as part of similar past regulations. Therefore, this proposed rule is not expected to significantly affect energy supplies, distribution, or use, and does not constitute a significant energy action. No statement of energy effects is required.

References

For a list of the references cited in this proposed rule, see Docket No FWS–R7–ES–2023–0086, available at <https://www.regulations.gov>.

List of Subjects in 50 CFR Part 18

Administrative practice and procedure, Alaska, Imports, Indians, Marine mammals, Oil and gas exploration, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

For the reasons set forth in the preamble, the FWS proposes to amend part 18, subchapter B of chapter 1, title 50 of the Code of Federal Regulations as set forth below.

PART 18—MARINE MAMMALS

1. The authority citation of 50 CFR part 18 continues to read as follows:

AUTHORITY: 16 U.S.C. 1361 et seq.

2. Amend part 18 by adding and reserving subpart M and adding subpart N. These additions read as follows.

Subpart M [Reserved]

Subpart N—Taking of Polar Bears Incidental to Seismic Survey Exploration Activities on the North Slope of Alaska

18.164 Specified activities covered by this subpart.

18.165 Specified geographic region where this subpart applies.

18.166 Dates this subpart is in effect.

18.167 Procedure to obtain a letter of authorization (LOA).

18.168 Authorized take allowed under an LOA.

18.169 Prohibited take under an LOA.

18.170 Mitigation.

18.171 Monitoring.

18.172 Reporting requirements.

18.173 Information collection requirements.

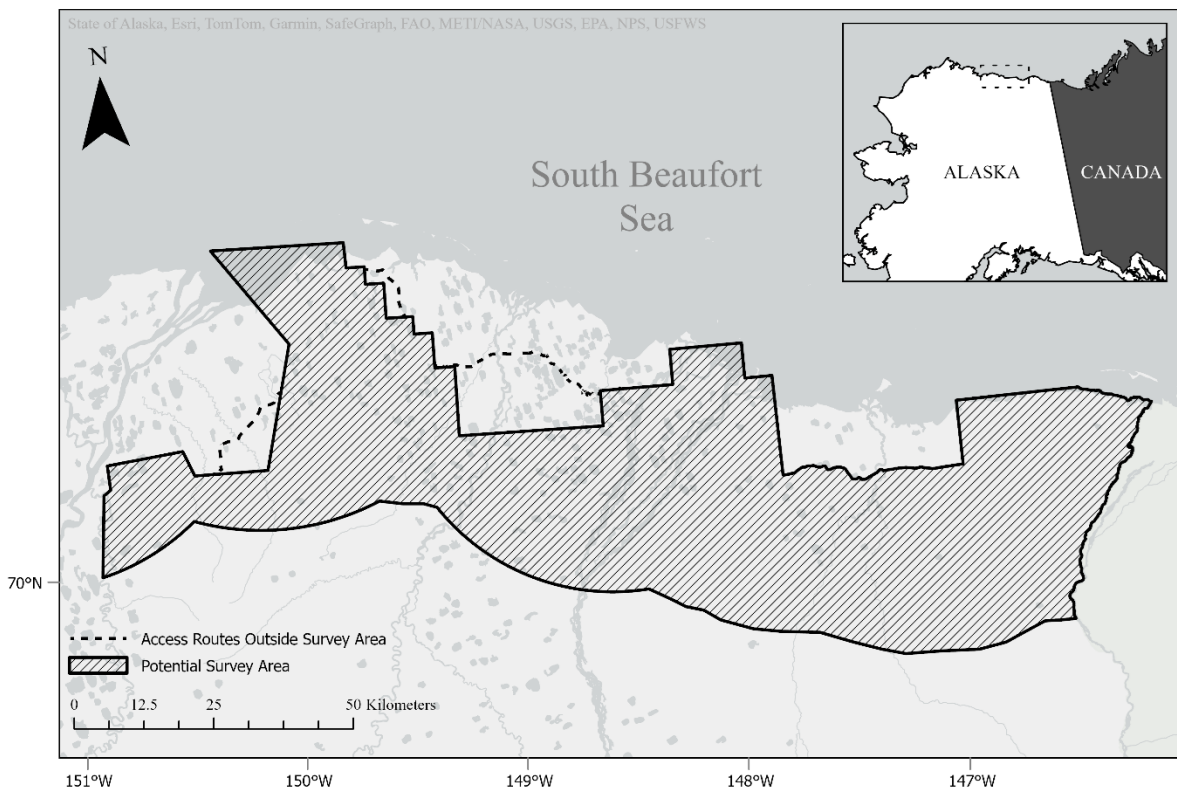
§ 18.164 Specified activities covered by this subpart.

Regulations in this subpart apply to the incidental, but not intentional, take of small numbers of polar bears by certain entities while engaged in seismic exploration surveys and associated activities on the North Slope of Alaska. A letter of authorization (LOA) from the FWS is required to authorize incidental take that may occur during the specified activities. The entities described in § 18.167 may request an LOA pursuant to the regulations in this subpart.

§ 18.165 Specified geographic region where this subpart applies.

This subpart applies to the area where the seismic exploration activities will occur in Alaska and includes the specified geographic region that extends from the Colville River (150.85° W) in the west to the Canning River (145.98° W) in the east and south approximately 40 km (25 mi) inland. Figure 1 shows the area where this subpart applies.

Figure 1 to § 18.165—Map of the North Slope, Alaska, region where the activities covered by this subpart will occur.



§ 18.166 Dates this subpart is in effect.

The regulations in this subpart are effective until June 30, 2031.

§ 18.167 Procedure to obtain a letter of authorization (LOA).

(a) An applicant for an LOA under the regulations in this subpart must be from:

- (1) SAExploration, Inc.;
- (2) Any of their corporate affiliates; or
- (3) Any of their respective contractors, subcontractors, partners, owners, co-lessees,

designees, or successors-in-interest.

(b) The applicant must submit the request for an LOA to the U.S. Fish and Wildlife Service (FWS) Alaska Region Marine Mammals Management (MMM) Office, MS 341, 1011 East Tudor Road, Anchorage, Alaska 99503, at least 90 days prior to the start of the specified activity.

(c) The request for an LOA must comply with the requirements set forth in §§ 18.170 through 18.172 and must include the following information:

(1) An operational plan that describes in detail the activity (e.g., type of project, methods, and types and numbers of equipment and personnel), the dates and duration of the activity, and the specific locations affected by the activity;

(2) A digital geospatial file of the project footprint;

(3) Estimates of monthly human occupancy of project locations;

(4) An interaction plan for polar bears that describes the policies and procedures that will provide for the safety and awareness of personnel, avoid interactions with polar bears, and minimize impacts to polar bears;

(5) A marine mammal monitoring and mitigation plan that specifies the procedures to monitor and mitigate the effects of the activities on polar bears, including frequency and dates of aerial infrared (AIR) surveys; and

(6) If necessary, a plan of cooperation (POC) to mitigate potential conflicts between the activity and subsistence hunting.

(i) Applicants must provide documentation of communication with potentially affected subsistence communities along the Beaufort Sea coast (i.e., Kaktovik and Nuiqsut) and appropriate subsistence user organizations to discuss the location, timing, and methods of activities and identify and mitigate any potential conflicts with subsistence polar bear hunting activities. Applicants must specifically inquire of relevant communities and organizations if the activity will interfere with the availability of polar bears for the subsistence use of those groups.

(ii) Documentation must include a summary of any concerns identified by community members and hunter organizations and the applicant's responses to identified concerns.

§ 18.168 Authorized take allowed under an LOA.

(a) To incidentally take marine mammals pursuant to the regulations in this subpart, the applicant must apply for and obtain an LOA in accordance with §§ 18.27(f) and § 18.167.

(b) An LOA issued under this subpart allows for the incidental take, as defined under section 3 of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1362), of polar bears during activities specified in § 18.164 within the North Slope region of Alaska described in § 18.165.

(c) Each LOA will set forth:

(1) Permissible methods of incidental take;

(2) Means of effecting the least practicable adverse impact (i.e., mitigation) on the species, its habitat, and the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

§ 18.169 Prohibited take under an LOA.

(a) Any incidental take that fails to comply with the regulations in this subpart or with the terms and conditions of an LOA remain prohibited. The regulations in this subpart do not authorize any intentional take.

(b) If specified activities cause unauthorized take, the holder of an LOA must:

(1) Cease activities immediately (or reduce activities to the minimum level necessary to maintain safety) and report the details of the incident within 48 hours to the FWS MMM at 1–800–362–5148 (business hours); and

(2) Suspend further activities until the FWS has reviewed the circumstances, determined whether additional mitigation measures are necessary to avoid further unauthorized taking, and notified the LOA holder that project activities may resume.

§ 18.170 Mitigation.

(a) *Mitigation measures for all LOAs.* Holders of an LOA must implement policies and procedures to conduct activities in a manner that effects the least practicable adverse impact on polar bears, their habitat, and the availability of these marine mammals for subsistence uses.

Adaptive management practices, such as temporal or spatial activity restrictions in response to the presence of polar bears at a particular time or location or the occurrence of polar bears engaged in a biologically significant activity (e.g., resting, feeding, denning, or nursing, among

others), must be used to avoid interactions with and minimize impacts to these animals and their availability for subsistence uses. All holders of an LOA must:

(1) Cooperate with the FWS's MMM Office and other designated Federal, State, and local agencies to monitor and mitigate the impacts of activities on polar bears. Where information is insufficient to evaluate the potential effects of activities on polar bears and the subsistence use of this species, holders of an LOA may be required to participate in joint monitoring and/or research efforts to address these information needs and ensure the least practicable adverse impact to these resources.

(2) Designate trained and qualified personnel to monitor for the presence of polar bears, initiate mitigation measures, and monitor, record, and report the effects of the activities on polar bears.

(3) Have an approved polar bear safety, awareness, and interaction plan on file with the FWS's MMM Office and onsite and provide polar bear awareness training to certain personnel prior to their participation in the activities. Interaction plans must include:

(i) The type of activity and where and when the activity will occur (i.e., a summary of the plan of operation);

(ii) A food, waste, and other "bear attractants" management plan;

(iii) Personnel training policies, procedures, and materials;

(iv) Site-specific polar bear interaction risk evaluation and mitigation measures;

(v) Polar bear avoidance and encounter procedures; and

(vi) Polar bear observation and reporting procedures.

(b) *Mitigation measures for onshore activities.* Holders of an LOA must undertake the following activities to limit disturbance around known polar bear dens:

(1) *Attempt to locate polar bear dens.* In coordination with the FWS, the applicant adopted the high and moderate denning zones developed by the FWS within the specified geographical area where this subpart applies to delineate areas of polar bear denning density.

Holders of an LOA seeking to carry out onshore activities during the denning season (November–April) must conduct surveys for occupied polar bear dens in all denning habitat within 1.6 km (1 mi) of specified activities using AIR imagery. The applicant must conduct at least three separate surveys for occupied polar bear dens in high density denning zones, at least two surveys for occupied polar bear dens in moderate density denning zones, and one survey for occupied polar bear dens in other onshore project areas.

(i) The first survey must occur between the dates of November 25 and December 25 and the second survey must occur between December 15 and January 15. If activities will occur within the high density polar bear denning zone, a third forward-looking infrared survey must occur between December 5 and December 31. At least 24 hours must pass between the completion of the surveys.

(ii) AIR surveys will be conducted during darkness or civil twilight and not during daylight hours. Ideal environmental conditions during surveys would be clear, calm, and cold; AIR detection should not be attempted if there is blowing snow, any form of precipitation, or other sources of airborne moisture. Flight crews will record and report environmental parameters including air temperatures, dew point, wind speed and direction, cloud ceiling, and percent humidity, and a flight log will be provided to the FWS within 48 hours of the flight.

(iii) A scientist experienced in interpreting AIR imagery will be on board the survey aircraft to analyze the AIR data in real-time. The data (infrared video) will be made available for viewing by the FWS immediately upon return of the survey aircraft to the base of operations.

(iv) All observed or suspected polar bear dens must be reported to the FWS prior to the initiation of activities.

(2) *Observe 1-mile operational exclusion zone around known polar bear dens.* Operators must observe a 1.6-km (1-mi) operational exclusion zone around all known or suspected polar bear dens during the denning season (November–April, or until the female and cubs leave the areas). Should previously unknown occupied dens be discovered within 1 mile of activities, work

must cease, and the FWS must be contacted for guidance. The FWS will evaluate these instances on a case-by-case basis to determine the appropriate action. Potential actions may range from cessation or modification of work to conducting additional monitoring, and the holder of the LOA must comply with any additional measures specified.

(3) *Use the den habitat map developed by the U.S. Geological Survey (USGS).* To determine the areas that require surveys, operators must use the map of suitable coastal polar bear denning habitat developed by USGS:

<https://data.usgs.gov/datacatalog/search?otherKeyword=%5B%22Denning%20habitat%22%5D>.

Doing so will inform LOA holders of the potential locations of polar bear dens for consideration when conducting activities in the coastal areas. Geographical data defining suitable denning habitat will be entered into the navigation system that allows vehicles to display the program area, hazards, and avoidance areas.

(4) *Use vehicle-mounted or handheld forward-looking infrared and thermal scopes.* When transiting or entering new terrain within the project area, operators must use vehicle-mounted or handheld forward-looking infrared units and thermal scopes to enhance detection of dens and/or traveling family units (female with cubs) following den emergence. Areas along any major drainages, snow drifts greater than 1.5 m (5 ft) in height, snow piles, and any other areas that may provide suitable snow buildup for denning polar bears during seismic surveys should be surveyed.

(5) *Restrict activity in denning habitat.* To reduce the risk of den disturbance, operators must restrict activity and travel that would occur over polar bear denning habitat and avoid steep terrain and areas with pressure ridges that may support polar bear dens.

(6) *Observe polar bear den restrictions.* Restrict the timing of the activity to limit disturbance around dens, including known or suspected dens.

(7) *Observe den emergence restrictions.* If a female and cubs of the year are observed during the den emergence period (February–April), LOA holders must immediately halt or delay

activities in a manner that provides the female and cubs a clear and unimpeded path to the sea ice. LOA holders must also notify the FWS and personnel conducting operations between the female and cubs and the coastline.

(8) *Restrict activities during open-water season.* Operators must conclude specified cleanup activities no later than the end of August to reduce the likelihood of disturbance to polar bears and potential for human–polar bear interactions.

(c) *Mitigation measures for aircraft to avoid disturbance.* Holders of an LOA must undertake the following activities to minimize the impact of aircraft activities on polar bears:

(1) *Follow aircraft elevation and flight path restrictions.* Operators of support aircraft shall, at all times, conduct their activities at the maximum distance practicable from concentrations of polar bears.

(i) Aircraft operations within the project area will maintain a minimum altitude of 457 m (1,500 ft) above ground level when safe and operationally possible.

(ii) Under no circumstances, other than an emergency, will aircraft operate at an altitude lower than 457 m (1,500 ft) within 805 m (0.5 mi) of a polar bear observed on ice or land measured in a straight line between the polar bear and the ground directly underneath the aircraft. Helicopters may not hover or circle above such areas or within 805 m (0.5 mi) of such areas. Aircraft may be operated below 457 m (1,500 ft) only when necessary to avoid adverse weather conditions. However, when weather conditions necessitate operation of aircraft at altitudes below 457 m (1,500 ft), the operator must avoid areas of known polar bear concentrations and should take precautions to avoid flying directly over or within 805 m (0.5 mi) of these areas.

(iii) Operators must plan all aircraft routes to minimize any potential conflict with active or anticipated polar bear hunting activity as determined through community consultations.

(2) *Follow aircraft landing and take-off spatial restrictions.* Aircraft will not land within 805 m (0.5 mi) of a polar bear. If a polar bear is observed while the aircraft is grounded in remote areas, personnel will board the aircraft and leave the area. The aircraft operator will also

avoid flying over the polar bear if possible. Operators should avoid making any sudden maneuvers, especially when traveling at lower altitudes, even if such maneuvers are intended to avoid polar bears. If a polar bear is observed within the landing zone or work area, operators should travel away from the site, and slowly increase altitude to 457 m (1,500 ft) or a level that is safest and viable given current traveling conditions. Aircraft may not be operated in such a way as to separate individual polar bears from a group (i.e., two or more polar bears).

(d) *Mitigation measures for the subsistence use of polar bears.* Holders of an LOA must conduct their activities in a manner that, to the greatest extent practicable, minimizes adverse impacts on the availability of polar bears for subsistence uses.

(1) *Community consultation.* Prior to receipt of an LOA, applicants must consult with potentially affected communities and appropriate subsistence user organizations to discuss potential conflicts with subsistence polar bear hunting caused by the location, timing, and methods of operations and support activities (see § 18.167 for details). If community concerns suggest that the activities may have an adverse impact on the subsistence uses of this species, the applicant must address conflict avoidance issues through a POC as described in paragraph (d)(2) of this section.

(2) *Plan of cooperation.* Based on community consultations, the holder of an LOA will be required to modify their POC as directed by the FWS.

(i) The POC must include a description of the procedures by which the holder of the LOA will work and consult with potentially affected subsistence hunters and a description of specific measures that have been or will be taken to avoid or minimize interference with subsistence hunting of polar bears and to ensure continued availability of the species for subsistence use.

(ii) The FWS will review the POC to ensure that any potential adverse effects on the availability of polar bears are minimized. The FWS will reject or require modification of POCs if they do not provide adequate safeguards to ensure the least practicable adverse impact on the availability of polar bears for subsistence use.

§ 18.171 Monitoring.

Holders of an LOA must develop and implement a site-specific, FWS-approved marine mammal monitoring and mitigation plan to monitor and evaluate the effectiveness of mitigation measures and the effects of activities on polar bears and the subsistence use of this species and provide trained, qualified, and FWS-approved onsite observers to carry out the activities identified in the marine mammal monitoring and mitigation plan.

§ 18.172 Reporting requirements.

Holders of an LOA must report the results of monitoring and mitigation activities to the FWS's MMM Office via email at: fw7_mmm_reports@fws.gov.

(a) *In-season monitoring reports.*

(1) *Activity progress reports.* Holders of an LOA must:

(i) Notify the FWS at least 48 hours prior to the onset of activities;

(ii) Provide the FWS weekly progress reports of any significant changes in activities and/or locations; and

(iii) Notify the FWS within 48 hours after ending of activities.

(2) *Polar bear observation reports.* Holders of an LOA must report, within 48 hours, all observations of polar bears and potential polar bear dens, during any industry activity. Upon request, monitoring report data must be provided in a common electronic format (to be specified by the FWS). Information in the observation report must include, but is not limited to:

(i) Date and time of the observation;

(ii) Locations of the observer and polar bears (GPS coordinates if possible);

(iii) Number of polar bears;

(iv) Sex and age class of polar bears (if known);

(v) Observer name and contact information;

(vi) Weather, visibility, and if at sea, sea state, and sea-ice conditions at the time of the observation;

- (vii) Estimated closest distance of polar bears from personnel and facilities;
- (viii) Industry activity at time of the observation;
- (ix) Possible attractants present;
- (x) Polar bear behavior;
- (xi) Description of the observation;
- (xii) Duration of the observation; and
- (xiii) Mitigation actions taken.

(b) *Notification of LOA incident report.* Holders of an LOA must report, as soon as possible, but within 48 hours, all LOA incidents during any industry activity. An LOA incident is any situation in which specified activities exceed the authority of an LOA, a mitigation measure was required but not enacted, or injury or death of a polar bear occurs.

(1) Reports must include all information specified for an observation report, a complete detailed description of the incident, and any other actions taken.

(2) Injured, dead, or distressed polar bears that are clearly not associated with the specified activities (e.g., animals found outside the project area, previously wounded animals, or carcasses with moderate to advanced decomposition or scavenger damage) must also be reported to the FWS immediately, and not later than 48 hours after discovery. Photographs, video, location information, or any other available documentation must be included.

(c) *Final report.* The results of monitoring and mitigation efforts identified in the marine mammal monitoring and mitigation plan must be submitted to the FWS for review within 90 days of the expiration of an LOA. Upon request, final report data must be provided in a common electronic format (to be specified by the FWS). Information in the final report must include, but is not limited to:

- (1) Copies of all observation reports submitted under the LOA;
- (2) A summary of the observation reports;

(3) A summary of monitoring and mitigation efforts including areas, total hours, total distances, and distribution;

(4) Analysis of factors affecting the visibility and detectability of polar bears during monitoring;

(5) Analysis of the effectiveness of mitigation measures;

(6) Analysis of the distribution, abundance, and behavior of polar bears observed; and

(7) Estimates of take in relation to the specified activities.

§ 18.173 Information collection requirements.

OMB has approved the collection of information contained in this subpart and assigned OMB control number 1018–NEW. We may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Direct comments regarding the burden estimate or any other aspect of this requirement to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, at the address listed in 50 CFR part 2.1.

Kevin Lilly,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, Exercising the Delegated Authority of the Assistant Secretary for Fish and Wildlife and Parks.

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