

RECORD OF DECISION
for the
FINAL PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT
for
Surveying and Mapping Projects in U.S. Waters for Coastal and Marine Data Acquisition

National Oceanic and Atmospheric Administration
National Ocean Service

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I. Introduction

This document is the National Oceanic and Atmospheric Administration (NOAA) National Ocean Service (NOS) Record of Decision (ROD) for the *Final Programmatic Environmental Impact Statement (PEIS) for Surveying and Mapping Projects in U.S. Waters for Coastal and Marine Data Acquisition*, published on November 25, 2022 (87 FR 72447).¹ This ROD includes a description of the NOS decision, descriptions of all alternatives considered, a description of the environmentally preferable alternative, and a discussion of factors that NOS considered in making its decision.

NOS prepared the PEIS and ROD for this action in accordance with the National Environmental Policy Act (NEPA) (42 United States Code [U.S.C.] § 4321, et seq.); Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations [CFR] §§ 1500–1508 (1978)); NOAA Administrative Order 216-6A1; and other relevant federal and state laws and regulations. While the CEQ regulations implementing NEPA were revised on September 14, 2020 (85 Federal Register [FR] 43304, July 16, 2020) and again on May 20, 2022 (87 FR 23453, April 20, 2022), NOS prepared the Final PEIS and ROD using the 1978 CEQ regulations because those regulations were in effect when NOS published a Notice of Intent (NOI) to conduct scoping on December 19, 2016.

NOS has considered all information received from state, tribal, and local governments and public commenters in preparing the Final PEIS and ROD.

II. Decision

NOS has decided to implement *Alternative B: Conduct Surveys and Mapping for Coastal and Marine Data Collection with Equipment Upgrades, Improved Hydroacoustic Devices, and New Tide Stations - NOS Preferred Alternative*, which will continue NOS data collection projects in the action area (i.e., the United States [U.S.] territorial sea, the contiguous zone, the Exclusive

¹ <https://oceanservice.noaa.gov/about/environmental-compliance/surveying-mapping.html> and <https://www.federalregister.gov/documents/2022/11/25/2022-25309/notice-of-availability-of-a-final-programmatic-environmental-impact-statement-for-surveying-and>

Economic Zone [EEZ], rivers, and states' offshore waters, and some supporting activities in coastal and riparian lands such as the installation of tide gauges). Under Alternative B, NOS will use new data collection techniques and technologies, and the number of projects overall would be approximately 10 percent higher than the status quo.

These projects would include surveys performed from crewed vessels and remotely operated or autonomous vehicles. Field crews would include NOS personnel, other NOAA personnel on behalf of NOS, contractors, grantees, or permit/authorization holders. These crews and vehicles may use echo sounders and other active acoustic equipment and employ other equipment, including bottom samplers and conductivity, temperature, and depth instruments to collect the needed data. A project could also involve supporting activities, such as the use of divers and the installation of tide buoys.

In selecting Alternative B, NOS has decided to undertake NOS mapping and surveying with the suite of technologies, methods, and general levels of effort analyzed under that alternative. Alternative B does not identify the specific time or place for individual projects or activities over the next five years. The analysis in the Final PEIS will be used to inform NOS on environmental impacts before a decision is made on how to execute each project. All individual projects will require a project-specific review and approval before proceeding to verify that each project is within the scope of the PEIS and to ensure that appropriate mitigation measures are applied. The project-specific review process is described in more detail in Section IX of this ROD.

The decision to select Alternative B is based on the analyses in the accompanying Final PEIS, as summarized below.

III. Alternatives Considered

In the Final PEIS, NOS considered three alternatives. NOS identified a “No Action” alternative (Alternative A), which represents the actions and resulting effects that would occur if NOS continued coastal and marine data collection at 2019 levels of effort using current technology and methods (i.e., the status quo). The two action alternatives (Alternatives B and C) would use many of the same technologies, equipment, and methods for surveying and mapping, but they differ primarily in their overall level of survey effort.

Alternative A: No Action – Conduct Surveys and Mapping for Coastal and Marine Data Collection with Current Technology and Methods, at Current Funding Levels

Under Alternative A, NOS would continue to operate a variety of equipment and technologies to gather accurate and timely data on the nature and condition of the marine and coastal environment. This alternative reflects the technology, equipment, scope, and methods currently in use by NOS, at the level of effort reflecting NOS funding levels in fiscal year 2019. NOS

operations were widely disrupted during the 2020 field season and subsequent seasons due to the COVID-19 pandemic. Therefore, the PEIS relies on 2019 as the baseline year for Alternative A as it is the most recent example of typical field operations that would be enacted if NOS chose to continue historical levels of project effort.

Alternative B: NOS Preferred Alternative – Conduct Surveys and Mapping for Coastal and Marine Data Collection with Equipment Upgrades, Improved Hydroacoustic Devices, and New Tide Stations

Alternative B consists of Alternative A plus the more widespread adoption of new techniques and technologies (such as remotely operated vehicles [ROVs], microwave water level [MWWL] radar sensors, etc.) to more efficiently perform surveying, mapping, charting and related data gathering. Specific examples of adaptive methods and equipment that NOS programs are likely to adopt under Alternative B in the next five years include:

- Greater use of ROVs with echo sounder technologies;
- Greater use of autonomous underwater vehicles (AUVs) and uncrewed surface vehicles (USVs) with echo sounder technologies;
- Conversion of one or more existing 10-m (33-ft) crewed survey boats into USVs;
- Greater use of more efficient, wide-beam sonar systems (i.e., phase-differencing bathymetric systems) for nearshore hydrographic surveys;
- Increased field operations in the National Marine Sanctuary System with associated requirements for hydroacoustic charting, surveying, mapping and associated activities; and
- Installation, operation, and maintenance of additional water level stations, including transitioning to mostly MWWL radar sensors and upgraded storm strengthening to make stations more climate resilient.

Under Alternative B, all of the activities and equipment operation described in Alternative A would continue, many at a higher level of effort. The nature of these actions would not change, but the total number of nautical miles surveyed by crewed vessels and the discrete number of projects would increase by approximately 10 percent compared with Alternative A. The magnitude of individual activities increases between alternatives, but not uniformly, reflecting priorities in funding allocation and technology use (see Section 2.6 Comparison of Alternatives on page 55 of the Final PEIS).

Alternative C: Upgrades and Improvements with Greater Funding Support

Like Alternative B, Alternative C adopts new techniques and technologies to encourage greater program efficiencies regarding surveying, mapping, charting, and related data gathering activities. In addition, Alternative C would include NOS program implementation with an overall

funding increase of 20 percent relative to Alternative B. Under Alternative C, all of the activities and equipment operation described in Alternative B would continue, many at a higher level of effort. The nature of these actions would not change, but the total number of nautical miles surveyed by crewed vessels and the discrete number of projects would increase by approximately 10 percent compared to Alternative B. The magnitude of individual activities increases between alternatives, but not uniformly, reflecting priorities in funding allocation and technology use (see Section 2.6 Comparison of Alternatives on page 55 of the Final PEIS).

Alternatives Considered but Eliminated from Further Analysis

NOS also considered, but did not carry forward, three alternatives identified during the NEPA process.

NOS eliminated from further consideration an alternative that would discontinue hydroacoustic surveying, mapping, charting, or related data gathering in waters with known populations of federally protected species such as marine mammals, including complete avoidance of all Biologically Important Areas (BIAs). This alternative was eliminated because time-area restrictions for BIAs would significantly impact the ability to collect data during suitable conditions for using acoustic sources, result in lost survey time, and affect the crew's ability to work safely. Prohibiting data collection in these areas would not allow NOS to meet the purpose and need for the Proposed Action. This alternative would prevent NOS from providing the coastal and marine data necessary for safe navigation, economic security, and environmental sustainability in large parts of U.S. waters. Therefore, NOS rejected this alternative because it did not allow national, regional, and local data needs to be met.

NOS also considered, but eliminated from further evaluation, an alternative in which NOS would gather data using light detection and ranging (lidar) technology exclusively. Bathymetric lidar technology measures depths of nearshore waters using laser pulses emitted from a scanner on board a low-altitude airplane typically flying at speeds of 140 to 175 knots and altitudes of 300 to 365 m (1,000 to 1,200 ft) for up to five hours per flight. Lidar systems used for bathymetry emit visible green laser pulses to measure the timed sea floor bottom return, and near-infrared laser pulses measure the sea surface return. Depth is determined by the time of the return back to the lidar sensor from the energy reflected off the sea floor. Lidar technology can efficiently survey large areas, identify features in a short period of time, and safely survey nearshore areas that are hazardous to mariners. However, lidar has distinct limitations in deeper water and under challenging environmental conditions. NOS rejected this alternative because it does not meet national, regional, and local data needs, and thus fails to meet the stated purpose and need. Relying on lidar exclusively would not meet the accuracy standards needed for reliable charts, maps, and other products.

Similarly, NOS also considered, but eliminated from further evaluation, an alternative in which NOS would gather data using satellite-derived bathymetry (SDB) exclusively. SDB refers to data from optical satellite imagery and is a “passive” technology which measures the reflected sunlight intensity that is used to infer water depth. Similar to optical systems like lidar, environmental conditions (e.g., water turbidity, cloud cover, and sun glint) can degrade accuracy, which prevents SDB from being used exclusively as a replacement for hydroacoustic methods. Therefore, NOS rejected this alternative because it does not meet national, regional, and local data needs, and thus fails to meet the purpose and need for this Proposed Action.

Environmental Impacts of the Alternatives

Adverse impacts for the three analyzed alternatives range from negligible to moderate, and beneficial impacts range from negligible to moderate. The differences in impacts among the three alternatives are very small. All environmental consequences from each of the alternatives are anticipated to be adverse, ranging from negligible to moderate, and insignificant, except for the environmental consequences to socioeconomic resources which are anticipated to be indirect, beneficial, and moderate. The primary difference in impacts among the alternatives is one of scale, as both the total number of nautical miles surveyed by crewed vessels and the discrete number of projects increase by approximately 10 percent between each subsequent alternative. In general, the impacts from Alternative B are the same or slightly, but not appreciably, larger than those under Alternative A, and the impacts from Alternative C are the same or slightly, but not appreciably, larger than those under Alternatives A and B for each impact-causing factor.

Data collected under all three alternatives would continue to improve the quality and quantity of ocean data and related data products, including marine charts, maps, and hydrographic models of ocean conditions. These data and data products would contribute to the ocean economy indirectly, primarily by increasing operational efficiency and reducing risks associated with using ocean resources in a variety of economic sectors (e.g., route-planning, fishing ground selection, targeting of oil and gas resources, closing/opening recreational areas). Indirect economic benefits would likely range in the magnitude of hundreds of millions of dollars for each sector, although it is important to note these estimates are broadscale and contingent on assumptions of data use and availability. Benefits would be most pronounced in the recreational, commercial fishing, and environmental health and safety sectors of the ocean economy; the energy and transportation sectors would also indirectly benefit from data collected, but to a lesser extent.

NOS assessed effects on marine mammals, sea turtles, fish, and aquatic macroinvertebrates from impact causing factors including sound, presence and movement, and water column disruption from vessel traffic; vessel strikes; accidental spills; underwater activities and equipment; and onshore activities. NOS determined that the impacts would be insignificant and overall minor to moderate.

NOS identified the potential for acoustic disturbance to marine mammals as a concern warranting more detailed analysis. After conducting quantitative acoustic impacts modeling, NOS determined that impacts on marine mammals under all alternatives would be largely limited to temporary or short-term behavioral disturbances that would not be outside the natural range of variability of species' populations, their habitats, or the natural processes sustaining them. NOS concluded that potential impacts of underwater sound from active acoustic sources under any alternative include injury exposures in the form of hearing loss, but such injury would be rare and confined to a few individuals of cetacean species with high-frequency hearing ranges. While more individual animals comprising cetaceans, pinnipeds, sirenians, and fissipeds are expected to be exposed to sound levels that could lead to behavioral disruption, the amount of time individuals would be exposed would last only a few minutes. Similarly, the potential for masking would continue to be minimal during surveys because animals would not spend much time in ensonified zones. Overall, the potential impacts would likely continue to be limited to short-term disruption of acoustic habitat and behavioral patterns. NOS's findings on this subject are consistent with the best available science, including the overall findings of recently-released peer-reviewed papers such as Ruppel et al. (2022)².

NOS also evaluated potential cumulative impacts to all the affected resources in the action area based on multiple past, present, and foreseeable future activities, including (1) other surveying and mapping efforts; (2) offshore oil and natural gas development; (3) offshore renewable energy development; (4) climate change; (5) commercial shipping and recreational boating; (6) assessment and extraction of marine minerals; (7) offshore carbon storage resource assessments; (8) construction and operation of offshore liquified natural gas (LNG) terminals; (9) national defense and homeland security activities; (10) construction of new submarine telecommunication cable infrastructure; (11) commercial and recreational fishing; and (12) coastal development. Other human activities considered in the cumulative impact analysis included: accumulation of marine debris from marine or terrestrial sources; accidental or illicit discharges; habitat encroachment from onshore and nearshore development; illegal, unreported, and unregulated fishing; and flows of non-point source pollutants. NOS identified impact-producing factors that could affect marine mammals and other resources, including: injury, disturbance and displacement, reduced fitness due to pollutants, and alteration of habitat. NOS considered the magnitude of cumulative effects and concluded that the contribution to these aggregate, adverse cumulative impacts from all three alternatives would be negligible.

IV. Environmentally Preferable Alternative

Alternative A, the No Action alternative, represents the environmentally preferable alternative because it would have the lowest level of effort, and thus would cause the least adverse impacts on the human environment. The Final PEIS concluded that the magnitude of adverse impacts

² Ruppel, C.D., T.C. Weber, E.R. Staaterman, S.J. Labak, and P.E. Hart. 2022. Categorizing Active Marine Acoustic Sources Based on Their Potential to Affect Marine Animals. *Journal of Marine Science and Engineering*, 10(9): 1278, <https://doi.org/10.3390/jmse10091278>.

would be similar across all the alternatives. Under Alternatives B and C, all of the activities and equipment operation proposed in Alternative A would continue but at a higher level of effort, although the percentage of nautical miles in each geographic region would be the same for all alternatives. Alternatives B and C would also include new techniques and technologies to more efficiently perform NOS activities, resulting in an increase in the number of projects and activities. In addition, there would be an overall funding increase of 20 percent for Alternative C relative to Alternative B, thus the level of project activity would increase further; greater project activity would result in increased impacts.

Projects would take place in the same geographic areas and timeframes under all the alternatives; however, Alternative B would include more projects and activities, and thus more nautical miles traveled, than Alternative A, and Alternative C would include more projects and activities, and thus more nautical miles traveled, than Alternatives A and B. The types and mechanisms of impacts would be the same under all the alternatives across all regions over the five-year period. Therefore, the difference between the alternatives is a matter of scale with an increased activity level, although distributed unevenly among the different types of activities, leading to a corresponding, incremental increase in effects under Alternative B as compared to Alternative A, and under Alternative C as compared to Alternatives A and B. The additional projects and nautical miles traveled under Alternatives B and C across five regions would result in greater impacts on resources overall, but not so great that the magnitude of a particular impact causing factor would increase (e.g., from negligible to minor).

V. Rationale for Selection of Alternative B

NOS selected Alternative B because it takes advantage of newer, more efficient technology, responds to the needs of anticipated new national marine sanctuaries, and most efficiently addresses the nation's needs for coastal and marine data, while reflecting a reasonably-foreseeable level of funding. Alternative B most effectively balances satisfying the need for surveying and mapping products produced by NOS while minimizing adverse effects, such as injury and behavioral disturbance exposures of marine mammals to active underwater acoustic sources.

NOS developed Alternative B based on input from stakeholders and the public at various stages of the PEIS process, including during scoping, consultation with other agencies, and the public comment period for the Draft PEIS. NOS selected Alternative B because it will best fulfill the NOS mission to provide science-based solutions through collaborative partnerships to address evolving economic, environmental, and social pressures on our ocean and coasts, while giving consideration to environmental, economic, sustainability, and other factors. Alternative B provides the greatest benefit while meeting the NOS priorities of safe and efficient transportation and commerce; preparedness and risk reduction; and stewardship, recreation, and tourism; and can be implemented at realistic funding levels.

VI. Mitigation Measures

The Final PEIS includes mitigation measures to be implemented under Alternative B on each project as appropriate to minimize the environmental impacts of surveying and mapping activities. NOS developed a suite of robust mitigation measures in coordination with subject matter experts, field crews, the National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the Office of National Marine Sanctuaries (ONMS). NOS also considered mitigation recommendations received during the public comment process. NOS identified mitigation measures that minimize the impacts of project activities on protected species, habitats, cultural and historic resources, and subsistence hunting and fishing. All practicable mitigation measures have been adopted.

NOS will include mitigation measures during field projects to minimize adverse impacts from surveying and mapping activities. NOS has developed mitigation measures that include maintaining safe distances from marine mammals achieved by decreasing vessel speeds, vessel maneuvering, and observing time-area restrictions in specific protected species habitats (e.g., North Atlantic right whale). NOS will continue to use the lowest power appropriate to perform surveys and employ mitigation measures including protected species observers (PSOs) to minimize disturbance of marine animals in the vicinity of the project. During nighttime operations, NOS will continue to use the appropriate lighting to comply with navigation rules and best safety practices. NOS will also use mitigation measures to protect habitat (e.g., discharge restrictions, invasive species prevention, and avoiding sea floor disturbance), cultural resources (e.g., not collecting bottom samples for sediment verification or anchoring on shipwrecks), and coral reefs (e.g., no contact with coral reefs including collection of bottom samples, anchoring, or standing). All mitigation measures are listed in the Final PEIS *Appendix D: Mitigation Measures During NOS Mapping and Surveying Activities*.

NOS also considered the necessity and practicality of additional mitigation measures for BIAs. NOS determined that such measures, including entirely prohibiting mapping and surveying data collection or time-area restriction within the BIAs, would be unwarranted and impracticable due to safety concerns. For example, such restrictions could force NOS crews to operate at times and locations where sea conditions prevent safe vessel operation. Additionally, time-area restrictions for BIAs affect data collection and continuity and result in a significant amount of lost survey time. NOS believes that the implementation of mitigation measures to further reduce the minor and temporary expected impacts will provide substantial protection for marine mammals during NOS surveying and mapping activities and complete avoidance of protected species and BIAs is unnecessary.

NOS also considered mitigation measures requested in public comments, including speed restrictions for all vessels at all times, ramp-up of acoustic equipment, use of passive acoustic monitoring, and a prohibition on night time work. NOS determined that such measures would be

impracticable for a variety of reasons, including time constraints, data continuity, and safety concerns. More detail on these measures can be found in the Final PEIS *Appendix C: Response to Public Comments on the National Ocean Service Draft PEIS*.

Mitigation measures will be applied to individual projects through the project-specific review process as discussed in Section IX below. Additional mitigation may also be developed through the MMPA authorization process, consultation under the ESA and National Historic Preservation Act (NHPA), and through tribal consultations.

VII. Public Involvement

As noted earlier, NOS published a Notice of Intent to conduct scoping on December 19, 2016, receiving a single comment on a matter outside the scope of the EIS. NOS subsequently published a “Notice of Availability of a Draft Programmatic Environmental Impact Statement for Surveying and Mapping Projects in U.S. Waters for Coastal and Marine Data Acquisition” in the Federal Register on June 25, 2021, to announce the availability of the Draft PEIS for public review. NOS prepared a comprehensive public involvement and outreach plan outlining the development and distribution of materials to inform the public and solicit input on the scope of the Proposed Action and related impact analysis. In conjunction with publication of the Draft PEIS, an interested party letter inviting public comment on the draft was distributed via email or U.S. mail to federal agencies; relevant states and territories; Non-Governmental Organizations (NGOs); tribes; regional organizations; Alaska regional and village corporations; Native Hawaiian Organizations; and NOS grantees, partners, and permit/authorization recipients with potential interest in the Proposed Action. During the public comment period for the Draft PEIS, NOS received 31 comment submissions from 30 commenters via Regulations.gov and email. Commenters included State Historic Preservation Officers, Tribal Historic Preservation Officers, state Coastal Management program offices, federally recognized tribes, Alaska Native corporations, Alaska Native Organizations, NGOs, and members of the public. The comments addressed a range of issues, including the following:

- Protection of cultural and historic resources;
- Federal consistency under the Coastal Zone Management Act (CZMA);
- Incorporation of mitigation measures;
- Environmental justice concerns pertaining to subsistence hunting and fishing in Alaska communities;
- Future coordination between NOS and other key stakeholders, such as Alaska Eskimo Whaling Commission, North Slope Borough Department of Wildlife Management, Calista Corporation in Alaska, Donlin Gold, Natural Resources Defense Council, Cultural Heritage Partners representing the Upper Mattaponi Indian Tribe, the Chickahominy Indian Tribe, and the Seneca Nation of New York;

- The NEPA process, scope of the PEIS, selection of a programmatic NEPA approach, alternatives to the Proposed Action, cumulative effects analysis, references and data cited in the effects analysis;
- Impacts to marine mammals, fish, habitats, birds, and sea turtles;
- Methodology and data consideration for the acoustic modeling;
- Impacts to socioeconomic resources such as fisheries; and
- Access to surveying and mapping data collected during NOS projects through data sharing.

NOS has considered all of the input received and has responded to comments in Appendix C of the Final PEIS. Revisions to the Final PEIS have been made in response to comments, where appropriate.

VIII. Regulatory Consultations

The MMPA of 1972 (16 U.S.C. §§ 1361 et seq.), as amended, prohibits, with certain exceptions, the “take” of marine mammals in U.S. waters and by U.S. citizens in international waters. The MMPA defines “take” as: “to harass, hunt, capture, or kill, or attempt to harass, hunt, capture or kill any marine mammal” (16 U.S.C. § 1362). Section 101(a)(5)(A-D) of the MMPA provides a mechanism for allowing, upon request, the “incidental” but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographic region. Authorization for incidental takes may be granted if the Services (i.e., NMFS and USFWS) find that the taking would be of small numbers, would have no more than a “negligible impact” on those marine mammal species or stocks, and would not have an “unmitigable adverse impact” on the availability of the species or stock for “subsistence” uses. NOS submitted a Letter of Authorization application to the NMFS Office of Protected Resources (OPR) on June 3, 2022. NOS submitted an Incidental Take Regulation request to USFWS on September 12, 2022. NOS is waiting for responses from NMFS and USFWS to the application and request, respectively.

The ESA of 1973 as amended (16 U.S.C. §§ 1531, et seq.), provides for the conservation of species that are endangered or threatened throughout all or a significant portion of their range, and the conservation of the ecosystems on which they depend. The ESA directs all federal agencies to work to conserve endangered and threatened species and to use their authorities to further the purposes of the Act. Under Section 7(a)(2) of the ESA, each federal agency shall, in consultation with the Services, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. NOS prepared the Draft PEIS to serve as a Biological Assessment (BA) for Section 7 consultation with NMFS and USFWS. NOS initiated consultation with NMFS OPR under Section 7 of the ESA on August 26, 2021. NOS initiated consultation with USFWS under Section 7 of the ESA on August 21, 2021. On December 8, 2021, USFWS sent NOS a letter requesting additional information for completing consultation

under Section 7 of the ESA for the Proposed Action. NOS provided the requested additional information and proposed revisions to the Draft PEIS on June 1, 2022. NOS received concurrence from NMFS OPR on December 14, 2022. Based on this concurrence, projects that are determined to be within the scope of the PEIS and that include the requested mitigation measures will not require additional review from NMFS unless a re-initiation of consultation is required. NOS is waiting for a response from USFWS for the ESA consultation and will perform project-specific reviews to ensure compliance under the ESA until this consultation is completed.

The Magnuson-Stevens Fishery Conservation and Management Act (MSA), enacted in 1976, is the primary law governing marine fisheries management in U.S. federal waters. The MSA (16 U.S.C. § 1801, et seq.) encourages the conservation and restoration of Essential Fish Habitat (EFH) and resources. NOS submitted an EFH Assessment to NMFS's Office of Habitat Conservation (OHC) on June 2, 2022, and received a final response from OHC on November 1, 2022. The EFH consultation concluded on January 5, 2023, when NOS formally agreed to the conservation recommendations proposed by OHC. The response indicated that the adverse effects to EFH are not substantial as long as the NOS mitigation measures and conservation recommendations from NMFS are implemented.

The CZMA (16 U.S.C. §§ 1456 et seq) was enacted in 1972 to encourage coastal states, Great Lakes states, and U.S. Territories and Commonwealths (collectively referred to as "coastal states" or "states") to be proactive in managing natural resources for their benefit and the benefit of the nation. The CZMA is a voluntary program for states; currently, all U.S. coastal states participate except Alaska, which voluntarily withdrew from the program in 2011. Section 307 of the CZMA is known as the "federal consistency" provision. The federal consistency provision requires federal actions (inside or outside a state's coastal zone) that affect any land or water use or natural resource of a state's coastal zone, to be consistent with the enforceable policies of the state coastal management program (CMP). NOS provided Consistency Determination letters to all coastal states and territories with approved CMPs in August 2022. The Consistency Determinations evaluate the coastal effects of proposed activities according to the relevant enforceable policies of the state or territory to make a consistency determination under CZMA. On November 30, 2022, NOS completed coordination with the federal consistency provisions of Section 307 of the CZMA for all relevant states and territories.

The NHPA is the primary federal statute addressing the management of historic properties. Section 106 of the NHPA (54 U.S.C. § 306108) requires federal agencies to take into account the effects of their undertakings on historic properties, which they do in accordance with regulations issued by the Advisory Council on Historic Preservation (ACHP) at 36 CFR Part 800. NOS will initiate project-specific consultations under Section 106 of the NHPA before a decision is made on how to execute any project with the potential to affect historic properties. The programmatic decision to select Alternative B does not have the potential to affect historic properties because it

does not authorize any individual projects to proceed, and it does not restrict the subsequent consideration of alternatives to avoid, minimize, or mitigate any project’s potential adverse effects on historic properties.

On June 28, 2021, NOS sent letters to tribes notifying them of the availability of the Draft PEIS and inviting them to request government-to-government consultation under Executive Order (EO) 13175, Consultation and Coordination with Indian Tribal Governments. NOS did not receive any requests from federally recognized tribes to initiate government-to-government consultation on the Draft PEIS. Additionally, no requests were received to initiate government-to-corporation consultation from any Alaska Native corporation. NOS intends to notify individual federally recognized tribes and Alaska Native corporations consistent with EO 13175 before conducting any project that may have tribal implications. Federally recognized tribes are welcome to request government-to-government consultation at any time for a project that may have tribal implications.

The National Marine Sanctuaries Act (NMSA) (16 U.S.C. § 1431 et seq.) authorizes the Secretary of Commerce to designate and manage areas of the marine environment with special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities as national marine sanctuaries. Section 304(d) of the NMSA requires interagency consultation between NOAA and federal agencies taking actions, including authorization of private activities, “likely to destroy, cause the loss of, or injure a sanctuary resource.” In addition, federal agencies are required to consult on Proposed Actions that “may affect” the resources of Stellwagen Bank National Marine Sanctuary. Consultation is initiated by submitting a sanctuary resource statement (SRS) to the ONMS describing the potential effects of the activity on sanctuary resources. If the ONMS finds injury is likely, it must recommend “reasonable and prudent alternatives” for the agency to implement to protect sanctuary resources. NOS submitted an SRS to ONMS on June 1, 2022, that includes a programmatic-level evaluation of impacts from Alternative B on each sanctuary. NOS is waiting for a response from ONMS and will perform project-specific reviews to ensure compliance under NMSA until this consultation is completed. NOS will obtain all necessary permits to conduct any prohibited activities in national marine sanctuaries, consistent with regulations at 15 CFR 922.

IX. Project-Specific Environmental Reviews

The Final PEIS is a comprehensive document that provides detailed analyses of the environmental effects for the suite of surveying and mapping data collection activities based on regional conditions, habitat types, species, and other factors. However, the Final PEIS does not identify the specific time or place for individual projects or activities over the next five years. The analysis in the Final PEIS demonstrates that NOS has sufficient information to analyze the potential effects of projects regardless of their timing and location.

The analysis in the Final PEIS informs NOS and the public on the environmental impacts of the surveying and mapping program. NOS will consult the Final PEIS before a decision is made on how to execute each project through a project-specific review and approval process that will conclude before the project begins. NOS will document this review in a “Record of Environmental Consideration” (REC) that will determine whether the project falls within the scope of the activities and effects detailed in the Final PEIS. NOS will also review the project to ensure that all applicable mitigation measures are incorporated into project plans and instructions. Prior to project approval, NOS will review compliance requirements for all other applicable environmental laws such as ESA, MMPA, NHPA, CZMA, NMSA, and MSA. NOS will ensure its responsibilities for government-to-government consultation with federally recognized tribes are met (EO 13175). Any additional compliance requirements will be fulfilled prior to project approval, as needed.

If NOS determines that all applicable environmental requirements for the proposed project have been satisfied, then the REC will be signed by the appropriate NOS authority. NOS will proceed with the proposed project only after the REC has been signed and it has been determined that no additional review or analysis is required. If NOS determines that any of the project activities are outside of the scope of the Final PEIS, an additional project or site-specific NEPA effects analysis and environmental compliance review will be conducted to satisfy NEPA requirements prior to beginning any relevant project.

Nicole R. LeBoeuf
Assistant Administrator
for Ocean Services and Coastal Zone Management
National Oceanic and Atmospheric Administration

Date