

## **2019 Biological Opinion on Steller Sea Lion Research Permits (Permit Nos. 22289, 22293, 22298)**

### **Adoption of the Conference – Arctic ringed seal critical habitat**

OPR-2019-00001 (<https://doi.org/10.25923/71nz-2892>)

April 17, 2024

#### **Background**

In 2019, the National Marine Fisheries Service (NMFS) Permits and Conservation Division requested formal consultation on a batch of Marine Mammal Protection Act research permits for Steller sea lion research. In the 2019 biological opinion (OPR-2019-00001; hereafter referred to as the 2019 opinion), we, the NMFS Endangered Species Act Interagency Cooperation Division, conferenced on ringed seal proposed critical habitat. On April 10, 2024, the NMFS Permits and Conservation Division requested reinitiation of the 2019 consultation and adoption of the conference.

This document evaluates the differences between the proposed and final ringed seal critical habitat designation, and the sufficiency of the effects analysis in the 2019 opinion in light of these changes.

#### **Summary of the 2019 Effects Analysis for Ringed Seal Proposed Critical Habitat; Sections 7.5.3 and 7.5.8.3**

In the 2019 opinion, we conferred on the proposed designation of critical habitat for the Arctic subspecies of ringed seal (Section 7.5.3). The final rule designating Arctic ringed seal critical habitat was published on April 1, 2022 (87 FR 19232).

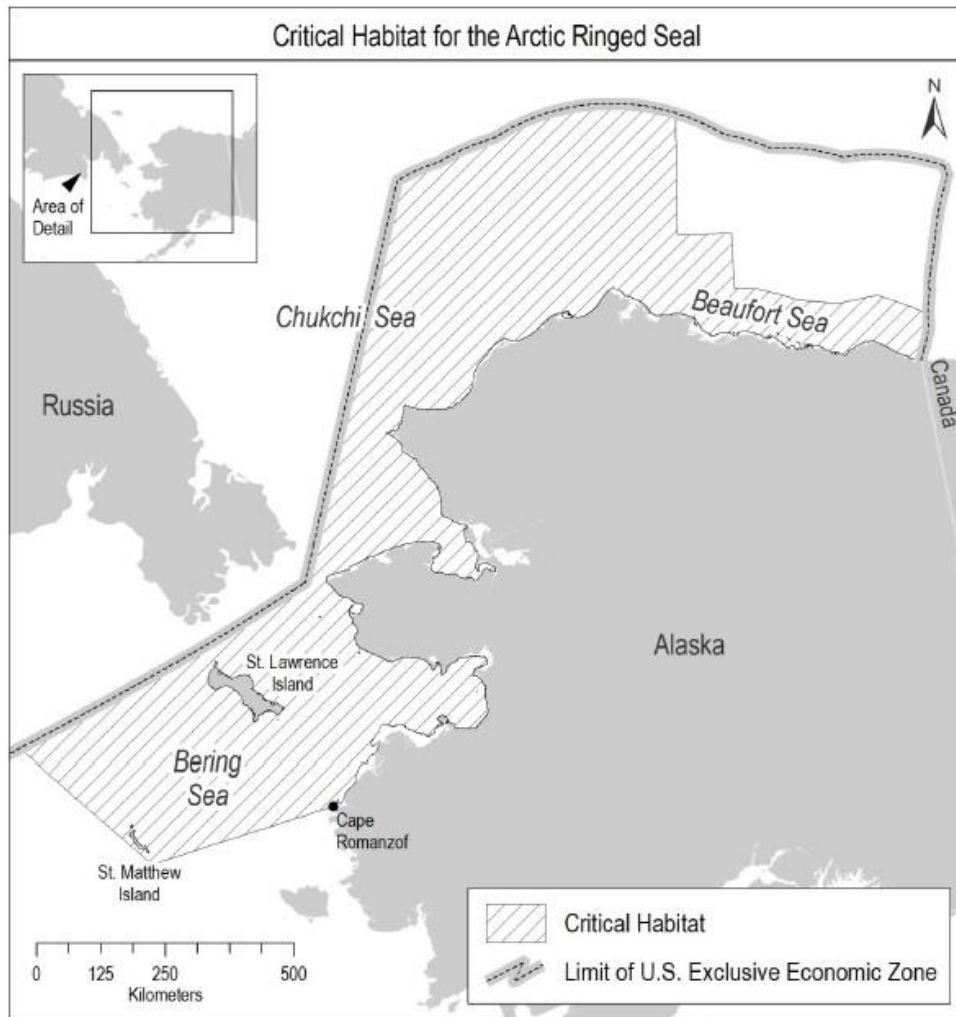
The proposed research activities considered in the opinion are temporary and minimal, only overlapping with a small portion of the proposed critical habitat area. The proposed research activities were not expected to affect physical and biological features (PBFs) that support foraging, such as adequate prey resources and available sea ice habitat. We determined that, at most, there could be incremental and transient disturbances from increased human presence. However, we did not expect that changes in prey distribution would be measureable due to the short period of time researchers may be within the proposed critical habitat. We determined the research activities were not expected to impact available sea ice habitat for Arctic ringed seals. We concluded the effects to the proposed critical habitat would be insignificant and concluded the action was not likely to adversely affect proposed Arctic ringed seal critical habitat (Section 7.5.8.3).

#### **Comparison between Proposed Critical Habitat and Final Designation**

Because of new information that came forth after the public comment period, the final designation differed slightly from the proposal. These changes included: 1) revising the description of the primary prey resources (i.e., species) feature; 2) revising the minimum water

depth description of sea ice feature; 3) redefining the shoreward boundary of specific area(s) containing one or more of the PBFs based on the minimum water depth description of sea ice; and 4) revising the boundaries of the area excluded from critical habitat based on national security impacts.

The PBFs essential for the conservation of Arctic ringed seals are: 1) snow-covered sea ice habitat suitable for the formation and maintenance of subnivean birth lairs used for sheltering pups during whelping and nursing, which is defined as waters 3 meters or more in depth (relative to mean lower low water [MLLW]) containing areas of seasonal landfast (shorefast) ice or dense, stable pack ice, that have undergone deformation and contain snowdrifts of sufficient depth to form and maintain birth lairs; 2) sea ice habitat suitable as a platform for basking and molting, which is defined as areas containing sea ice of 15% or more concentration in waters 3 meters or more in depth (relative to MLLW); and 3) primary prey resources to support Arctic ringed seals, which are defined to be small, often schooling, fishes, in particular, Arctic cod, saffron cod, and rainbow smelt; and small crustaceans, in particular, shrimps and amphipods.



**Figure 1. Map of designated critical habitat for the Arctic subspecies of ringed seal.**

## **Conclusion**

After reviewing the NMFS Permits and Conservation Division's request to adopt the conference and changes from the proposed designation to final designation, we confirmed that the research activities have not changed from what was analyzed and will not result in effects that are greater than what was considered in our effects analysis for Arctic ringed seal critical habitat in the 2019 opinion.

Changes to the description of prey species and the boundaries of designated critical habitat from the proposed to the final rule do not change the overlap between critical habitat and the research activities. Therefore, the modifications to the final critical habitat designation for Arctic ringed seal do not change the effects analysis in the 2019 opinion. Therefore, we adopt the Arctic ringed seal critical habitat conference concurrence within the 2019 opinion as final concurrence and confirm the action may affect, but is not likely to adversely affect Arctic ringed seal critical habitat.