

300 gear hauls, with an average soak time of 90–120 minutes per configuration. Over the period of the EFP, the applicant expects to conduct 5 days total of testing in August and September 2020. The applicant intends to collect data from 90 traditional black sea bass pot deployments and 270 ASBRS gear deployments.

#### **EFP Black Sea Bass Pot Configurations**

Under the EFP, four regulation-sized pots would be connected together with wire connecting clips or zip ties so that only one ASBRS gear device is needed to retrieve four connected pots. Each pot would have the standard black sea bass pot single entrance and would possess one back panel of 2-inch (5.1-cm) uniform mesh. The connected four traps would test both one and two single entrances (on adjacent sides of single traps to replace the allowable two opposite entrances) to four regulation-sized trap interiors and would otherwise comply with the requirements for black sea bass pot dimensions and construction in the South Atlantic. This experimental gear design of the four connected pots is not a chevron-style fish trap, it is standard black sea bass pots connected to adjacent standard black sea bass pots. The goal of this modification is to examine ways to reduce procurement and implementation costs associated with the number of required ASBRSs to fish 35 pots.

The control traps used in the EFP would also be black sea bass pots, with a uniform back panel mesh size of 2-inch (5.1-cm) or greater, and a uniform all over mesh size on remaining sides of 1.5 inches (3.8 cm) or greater. A four pot trawl of single standard black sea bass pot gear would be deployed to compare the catchability between the two configurations.

#### **EFP Gear Markings**

Two of the technologies that would be used in the EFP utilize lift bags and buoys and are therefore unable to be line-marked as they do not incorporate line into their design. For the other technologies being tested under the EFP, all buoy lines on ASBRS gear types that use stored line would be marked in accordance with the most recent requirements per the Atlantic Large Whale Take Reduction Plan and Federal regulations, and would have weak links with a maximum breaking strength of 600 lb (272 kg), 1,700 lb (771 kg) maximum breaking strength sleeves, and line with a breaking strength of less than 2,200 lb (998 kg). These systems that incorporate line would only be fished inshore of the seasonal closure

area of the commercial black sea bass pot component of the snapper-grouper fishery (50 CFR 622.183(b)(6)(i) and (ii)).

#### **EFP Buoy Line**

Six of the eight currently available ASBRS devices require the use of a line for retrieval that is contained and stored at depth by a line management system. The other two release devices do not use line, but instead, utilize the inflation of either a lift bag or inflatable buoy to pull a lead trap to the surface. The styles of line storage vary with device design and includes square, rectangular, domed, circular, and conical cages, oyster mesh bags, canisters, and spools. These have been successfully used in trials and testing in a variety of active fishing operations in the United States and worldwide.

Four of the ASBRS devices in the EFP require floating line to return the buoy or buoys to the surface for retrieval. Currently, the average time for appearance of buoys at depths greater than 100 ft (30.5 m) is approximately 3 minutes. Retrieval generally takes less than 2 minutes, which means that any floating line would be at the surface for less than 5 minutes, and during which time the fishing vessel would be within 20–30 ft (6.1–9.1 m) of the line. Two of the release devices do not incorporate line longer than 10 ft (3.1 m) in their design, and two devices use a harness that clips to the pot. The remaining devices use less than 150 ft (45.7 m) of line which would be stowed inside either a bag or on a spool. Sinking line cannot be used for any ASBRS as it would create a negatively buoyant strain on the buoys and not effectively allow for their return to the surface. All of the ASBRSs with a line storage system would need to be attached between the trap and the buoy. If necessary, several of the ASBRSs may also require a small anchor or weight to be attached between the pot and line-storage device or buoy in areas with higher current to keep them from fouling in the pot, as well as to ensure they are not dragged from their intended deployment area. For lift bag and buoy systems, the actual systems would be secured between the pot and the buoy/bag.

NMFS finds the application warrants further consideration based on a preliminary review. Possible conditions the agency may impose on the permit, if granted, include but are not limited to, a prohibition on conducting fishing gear testing within marine protected areas, marine sanctuaries, special management zones, or areas where they might interfere with managed fisheries without additional authorization. Additionally, NMFS may require special

protections for ESA-listed species and designated critical habitat, and may require particular gear markings. A final decision on issuance of the EFP will depend on NMFS' review of public comments received on the application, consultations with the appropriate fishery management agency of the affected state, the South Atlantic Fishery Management Council, and the U.S. Coast Guard, and a determination that the activities to be taken under the EFP are consistent with all applicable laws.

**Authority:** 16 U.S.C 1801 *et seq.*

Dated: July 9, 2020.

**Ngagne Jafnar Gueye,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2020–15192 Filed 7–14–20; 8:45 am]

**BILLING CODE 3510–22–P**

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

[RTID 0648–XA242]

#### **Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to National Wildlife Refuge Complex Research, Monitoring, and Maintenance Activities in Massachusetts**

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

**ACTION:** Notice; request for comments on proposed Renewal incidental harassment authorization.

**SUMMARY:** NMFS received a request from the U.S. Fish and Wildlife Service (USFWS) for the Renewal of their currently active incidental harassment authorization (IHA) to take marine mammals incidental to conducting biological research, monitoring, and maintenance at the Eastern Massachusetts (MA) National Wildlife Refuge Complex (Complex). These activities are identical to those covered in the current authorization. Pursuant to the Marine Mammal Protection Act (MMPA), prior to issuing the currently active IHA, NMFS requested comments on both the proposed IHA and the potential for renewing the initial authorization if certain requirements were satisfied. The Renewal requirements have been satisfied, and NMFS is now providing an additional 15-day comment period to allow for any additional comments on the proposed

Renewal not previously provided during the initial 30-day comment period.

**DATES:** Comments and information must be received no later than July 30, 2020.

**ADDRESSES:** Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Written comments should be submitted via email to [ITP.Fowler@noaa.gov](mailto:ITP.Fowler@noaa.gov).

**Instructions:** NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. Attachments to comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:**

Amy Fowler, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the original application, Renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed above.

**SUPPLEMENTARY INFORMATION:**

**Background**

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, 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 geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed

incidental take authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as “mitigation measures”). Monitoring and reporting of such takings are also required. The meaning of key terms such as “take,” “harassment,” and “negligible impact” can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency’s regulations at 50 CFR 216.103.

NMFS’ regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed one year for each reauthorization. In the notice of proposed IHA for the initial authorization, NMFS described the circumstances under which we would consider issuing a Renewal for this activity, and requested public comment on a potential Renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-time one-year Renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical, or nearly identical, activities as described in the Description of Specified Activities and Anticipated Impacts section of this notice is planned or (2) the activities as described in the Description of Specified Activities and Anticipated Impacts section of this notice would not be completed by the time the IHA expires and a Renewal would allow for completion of the activities beyond that described in the Dates and Duration section of the notice of proposed IHA for the initial IHA, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed Renewal IHA effective date (recognizing that the Renewal IHA expiration date cannot extend beyond one year from expiration of the initial IHA).
- The request for renewal must include the following:

(1) An explanation that the activities to be conducted under the requested

Renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (e.g., reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed Renewal. A description of the Renewal process may be found on our website at: [www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals](https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals). Any comments received on the potential Renewal, along with relevant comments on the initial IHA, have been considered in the development of this proposed IHA Renewal, and a summary of agency responses to applicable comments is included in this notice. NMFS will consider any additional public comments prior to making any final decision on the issuance of the requested Renewal, and agency responses will be summarized in the final notice of our decision.

**National Environmental Policy Act**

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA Renewal) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA Administrative Order 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that

would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA Renewal qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA Renewal request.

**History of Request**

On June 12, 2019, NMFS issued an IHA to the USFWS to take marine mammals incidental to research, monitoring, and maintenance activities within the Complex (84 FR 32415; July 8, 2019), effective from June 12, 2019 through June 11, 2020. On May 22, 2020, NMFS received an application for the Renewal of that initial IHA. As described in the application for Renewal IHA, the activities for which incidental take is requested are identical to those covered in the initial authorization. As required, the applicant also provided a preliminary monitoring report (available at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities>) which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted.

NMFS has previously issued two additional IHAs to the USFWS for similar activities (82 FR 3738, January 12, 2017; 83 FR 19236, May 2, 2018).

**Description of the Specified Activities and Anticipated Impacts**

The Complex is comprised of eight refuges, including its three coastal refuges: Monomoy National Wildlife Refuge (NWR), Nantucket NWR, and Nomans Land Island (Nomans) NWR in eastern MA. The USFWS conducts ongoing biological tasks for refuge purposes at the Complex. The 2017 and 2018 IHAs covered shorebird and seabird nest monitoring and research, roseate tern (*Sterna dougallii*) staging counts and resighting, red knot (*Calidris canutus*) stopover study, northeastern beach tiger beetle (*Cicindela dorsalis*) census, and coastal shoreline change survey at Monomoy, Nantucket, and

Nomans NWRs. Under the 2019 IHA (the initial IHA), the USFWS conducted identical seabird and shorebird research and monitoring activities, and also conducted New England cottontail (*Sylvilagus transitionalis*) reintroduction on Nomans NWR and protection of seal haulout areas at Nantucket NWR.

As in the initial authorization, NMFS anticipates that take, by Level B harassment only, of gray seals (*Halichoerus grypus atlantica*) and harbor seals (*Phoca vitulina concolor*) could result from the specified activities (84 FR 32415; July 8, 2019).

*Detailed Description of the Activity*

A detailed description of the USFWS proposed seabird and shorebird research and monitoring activities can be found in the **Federal Register** notice of proposed IHA for the 2018 IHA (83 FR 9483; March 6, 2018). A detailed description of the New England cottontail reintroduction and seal haul out protection activities can be found in the **Federal Register** notice of proposed IHA for the initial (2019) IHA (84 FR 18259, April 30, 2019). The locations (as described in the Specific Geographic Region section of the initial IHA), timing, amount, and nature of the specified activities are identical to those described in the previous notices.

The proposed IHA Renewal would be effective from the date of issuance through June 11, 2021.

*Description of Marine Mammals*

A description of the marine mammals in the area of the activities for which authorization of take is proposed here, including information on abundance, status, distribution, and hearing, may be found in the **Federal Register** notice of the proposed IHA for the 2018 IHA (83 FR 9483; March 6, 2018). Summary information is available in the **Federal Register** notices of the proposed and final initial authorization (84 FR 18259, April 30, 2019; 84 FR 32415, July 8, 2019). NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects which species or stocks have the potential to be affected or the pertinent

information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the initial IHA.

*Potential Effects on Marine Mammals and Their Habitat*

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which take is proposed here may be found in the **Federal Register** notice of the proposed IHA for the 2018 IHA (83 FR 9483; March 6, 2018). Summary information is available in the **Federal Register** notices of the proposed and final initial authorization (84 FR 18259, April 30, 2019; 84 FR 32415, July 8, 2019). NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects our initial analysis of impacts on marine mammals and their habitat.

*Estimated Take*

A detailed description of the methods and inputs used to estimate authorized take is found in the **Federal Register** notice of the proposed IHA for the 2018 IHA (83 FR 9483; March 6, 2018). Summary information is available in the **Federal Register** notices of the proposed and final initial authorization (84 FR 18259, April 30, 2019; 84 FR 32415, July 8, 2019). All estimated take is expected to be in the form of Level B harassment. The methods of estimating take for this proposed IHA Renewal are identical to those used in the initial IHA (*i.e.*, by multiplying the maximum number of seals estimated to be present at each location by the number of events at each location that may result in disturbance). Specifically, the frequency of activities and marine mammal occurrence applicable to this authorization remain unchanged from the previously issued IHA (see Table 1). Similarly, the stocks taken, methods of take, and types of take remain unchanged from the previously issued IHA, as do the number of takes, which are indicated below in Table 2.

The total estimated gray seal takes are presented in Table 1.

TABLE 1—ESTIMATED NUMBER OF GRAY SEAL TAKES (BY LEVEL B HARASSMENT) PER ACTIVITY AT MONOMOY, NANTUCKET, AND NOMANS NWRs

Activity	Takes per event	Events per activity	Total takes
Shorebird and Seabird Monitoring & Research.	1000 (Monomoy), 50 (Nantucket), 10 (Nomans).	34 (Monomoy), 8 (Nantucket), 3 (Nomans).	34,430

TABLE 1—ESTIMATED NUMBER OF GRAY SEAL TAKES (BY LEVEL B HARASSMENT) PER ACTIVITY AT MONOMOY, NANTUCKET, AND NOMANS NWRs—Continued

Activity	Takes per event	Events per activity	Total takes
Roseate Tern Staging Counts & Re-sighting.	10 (Monomoy), 10 (Nantucket)	6 (Monomoy), 4 (Nantucket)	100
Red Knot Stopover Study	250 (Monomoy), 150 (Cape Cod)	5 (Monomoy), 5 (Cape Cod)	2,000
Northeastern Beach Tiger Beetle Census	750 (Monomoy)	3 (Monomoy)	2,250
Coastal Shoreline Change Survey	500 (Monomoy)	1 (Monomoy)	500
New England Cottontail Introduction	10 (Nomans)	20 (Nomans)	200
Seal Haul Out Protection	25 (Nantucket)	10 (Nantucket)	250
Total takes			39,730

Estimated take of harbor seals was estimated using methods identical to the initial IHA (i.e., by estimating five percent of gray seal takes). Total proposed takes of gray seals and harbor seals are shown in Table 2.

TABLE 2—TOTAL PROPOSED TAKE OF MARINE MAMMALS, RELATIVE TO POPULATION SIZE

Species	Estimated take by Level B harassment	Stock abundance	Percent (comparison of instances of take to stock abundance)
Gray seal	39,730	<sup>a</sup> 27,131 <sup>b</sup> (451,131)	146 (8.81)
Harbor seal	1,987	75,834	2.62

<sup>a</sup> Abundance in U.S. waters (Hayes *et al.*, 2018).

<sup>b</sup> Overall Western North Atlantic stock abundance (Hayes *et al.*, 2018).

Based on the stock abundance estimate presented in the 2017 Stock Assessment Report, the proposed take number of gray seals exceeds the number of gray seals in U.S. waters (Table 2; Hayes *et al.*, 2018). However, actual take may be slightly less if animals decide to haul out at a different location for the day or if animals are foraging at the time of the survey activities. The number of individual seals taken is also assumed to be less than the take estimate since these species show high philopatry (Waring *et al.*, 2016; Wood *et al.*, 2011). We expect the take numbers to represent the number of exposures (i.e., instances of take), but assume that the same seals may be behaviorally harassed over multiple days, and the likely number of individual seals that may be harassed would be less. In addition, this project occurs in a small portion of the overall range of the Northwest Atlantic population of gray seals. While there is evidence of haulout site philopatry, resights of tagged and branded animals and satellite tracks of tagged animals show movement of individuals between the United States and Canada (Puryear *et al.*, 2016). The percentage of time that individuals are resident in U.S. waters is unknown (NMFS 2017). Genetic evidence provides a high degree of certainty that the Western North Atlantic stock of gray seals is a single

stock (Boskovic *et al.*, 1996; Wood *et al.*, 2011). Thus, although the U.S. stock estimate is only 27,131, the overall stock abundance of animals in United States and Canadian waters is 451,131. The gray seal take estimate for this project represents less than 9 percent of the overall Western North Atlantic stock abundance (Table 2) if every separate instance of take were assumed to accrue to a different individual, and because this is not the case, the percentage is likely significantly lower.

*Description of Proposed Mitigation, Monitoring and Reporting Measures*

The proposed mitigation, monitoring, and reporting measures included as requirements in this authorization are identical to those included in the **Federal Register** notice announcing the issuance of the initial IHA (84 FR 32414; July 8, 2020), and the discussion of the least practicable adverse impact included in that notice remains accurate. The following measures are proposed for this renewal:

Time and Frequency

The USFWS would conduct all proposed research and monitoring activities throughout the course of the year between April 1 and November 30, outside of the seasons of highest seal abundance and pupping at the Complex. Closure of beaches used by seals may occur year-round at Nantucket NWR.

Vessel Approach and Timing Techniques

The USFWS would ensure that its vessels approach beaches with pinniped haul outs so as to not disturb marine mammals as is most practical. To the extent possible, the vessel would approach the beaches in a slow and controlled approach, as far away as possibly from haulouts to prevent or minimize flushing. Staff would also avoid or proceed cautiously when operating boats in the direct path of swimming seals that may be present in the area.

Avoidance of Acoustic Impacts From Cannon Nets

Cannon nets have a measured source level (SL) of 128 decibels (dB) at one meter (m) (estimated based on a measurement of 98.4 dB at 30 m; L. Niles, pers. comm., December 2016); however, the sound pressure level (SPL) is expected to be less than the thresholds for airborne pinniped disturbance (e.g., 90 dB for harbor seals, and 100 dB for all other pinnipeds) at 80 yards (73 meters) from the source. The USFWS proposes to stay at least 100 m from all pinnipeds if cannon nets are to be used for research purposes.

**Avoidance of Visual and Acoustic Contact With People**

The USFWS would instruct its members and research staff to avoid making unnecessary noise and not allow themselves to be seen by pinnipeds whenever practicable. USFWS staff would stay at least 50 yards (46 meters) from hauled out pinnipeds, unless it is absolutely necessary to approach seals closer, or potentially flush a seal, in order to continue conducting endangered species conservation work. When disturbance is unavoidable, staff will work quickly and efficiently to minimize the length of disturbance. Researchers and staff will do so by proceeding in a slow and controlled manner, which allows for the seals to slowly flush into the water. Staff will also maintain a quiet working atmosphere, avoiding loud noises, and using hushed voices in the presence of hauled out pinnipeds. Pathways of approach to the desired study or nesting

site will be chosen to minimize seal disturbance if an activity event may result in the disturbance of seals. USFWS staff will scan the surrounding waters near the haulouts, and if predators (*i.e.*, sharks) are seen, seals will not be flushed by USFWS staff.

**Marine Mammal Monitoring**

The USFWS will monitor seals as project activities are conducted. Proposed monitoring requirements in relation to the USFWS's proposed activities would include species counts, numbers of observed disturbances, and descriptions of the disturbance behaviors during the research activities, including location, date, and time of the event. In addition, the USFWS would record observations regarding the number and species of any marine mammals either observed in the water or hauled out. Behavior of seals will be recorded on a three point scale: 1 = alert reaction, not considered harassment; 2 =

moving at least two body lengths, or change in direction greater than 90 degrees; 3 = flushing (Table 3). USFWS staff would also record and report all observations of sick, injured, or entangled marine mammals on Monomoy NWR to the International Fund for Animal Welfare (IFAW) marine mammal rescue team, and will report to NOAA if injured seals are found at Nantucket NWR and Nomans NWR. Tagged or marked marine mammals will also be recorded and reported to the appropriate research organization or Federal agency, as well as any rare or unusual species of marine mammal. Photographs will be taken when possible. This information will be incorporated into a report for NMFS at the end of the season. The USFWS will also coordinate with any university, state, or Federal researchers to attain additional data or observations that may be useful for monitoring marine mammal usage at the activity sites.

TABLE 3—LEVELS OF PINNIPED BEHAVIORAL DISTURBANCE

Level	Type of response	Definition
1 .....	Alert .....	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length.
2* .....	Movement .....	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.
3* .....	Flush .....	All retreats (flushes) to the water.

\* Only observations of disturbance Levels 2 and 3 are recorded as takes.

If at any time injury, serious injury, or mortality of the species for which take is authorized should occur, or if take of any kind of other marine mammal occurs, and such action may be a result of the USFWS's activities, the USFWS would suspend activities and contact NMFS immediately to determine how best to proceed to ensure that another injury or death does not occur and to ensure that the applicant remains in compliance with the MMPA.

**Reporting**

The USFWS would submit a draft report to NMFS Office of Protected Resources no later than 90 days after the expiration of this authorization. The report will include a summary of the information gathered pursuant to the monitoring requirements set forth in the proposed IHA. The USFWS will submit a final report to NMFS within 30 days after receiving comments from NMFS on the draft report. If the USFWS receives no comments from NMFS on the draft report, NMFS will consider the draft report to be the final report.

**Public Comments**

As noted previously, NMFS published a notice of a proposed IHA (84 FR 18259; April 30, 2019) and solicited public comments on both our proposal to issue the initial IHA for the USFWS's seabird and shorebird research and monitoring activities and on the potential for a Renewal IHA, should certain requirements be met.

All public comments were addressed in the notice announcing the issuance of the initial IHA (84 FR 32415; July 8, 2019). Below, we describe how we have addressed, with updated information where appropriate, any comments received that specifically pertain to the Renewal of the 2019 IHA.

*Comment:* The Marine Mammal Commission (Commission) questioned whether the public notice provisions for IHA renewals fully satisfy the public notice and comment provision in the MMPA and discussed the potential burden on reviewers of reviewing key documents and developing comments quickly. Additionally, the Commission recommended that NMFS use the IHA Renewal process sparingly and

selectively for activities expected to have the lowest levels of impacts to marine mammals and that require less complex analysis.

*Response:* The Commission has submitted this comment multiple times, and NMFS has responded multiple times, including, for example, more recently in the notice of issuance of an IHA to Ørsted Wind Power LLC (84 FR 52464, October 2, 2019), and we refer the Commission to that response. We also include NMFS' original response to the comment received on the 2019 USFWS proposed IHA here:

NMFS has taken a number of steps to ensure the public has adequate notice, time, and information to be able to comment effectively on Renewal IHAs within the limitations of processing IHA applications efficiently. **Federal Register** notices for the proposed initial IHAs identified the conditions under which a one-year Renewal IHA might be appropriate. This information is presented in the Request for Public Comments section of the **Federal Register** notice of the initial proposed IHA (84 FR 18259; April 30, 2019) and

thus encourages submission of comments on the potential of a one-year renewal as well as the initial IHA during the 30-day comment period. In addition, when we receive an application for a Renewal IHA, we will publish notice of the proposed IHA Renewal in the **Federal Register** and provide an additional 15 days for public comment, making a total of 45 days of public comment. We also directly contact all commenters on the initial IHA by email, phone, or, if the commenter did not provide email or phone information, by postal service to provide them the opportunity to submit any additional comments on the proposed Renewal IHA. Where the commenter has already had the opportunity to review and comment on the potential for a Renewal in the initial proposed IHA for these activities, the abbreviated additional comment period is sufficient for consideration of the results of the preliminary monitoring report and new information (if any) from the past year.

NMFS also strives to ensure the public has access to key information needed to submit comments on a proposed IHA, whether an initial IHA or a Renewal IHA. The agency's website includes information for all projects under consideration, including the application, references, and other supporting documents. Each **Federal Register** notice also includes contact information in the event a commenter has questions or cannot find the information they seek.

For more information, NMFS has published a description of the Renewal process on our website (available at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals>).

#### Preliminary Determinations

The seabird and shorebird research and monitoring activities proposed by the USFWS are identical to those analyzed in the initial IHA, as are the expected number of days of activity, the method of taking, and the effects of the action. The potential effects of the USFWS's activities are limited to Level B harassment in the form of behavioral disturbance. In analyzing the effects of the activities in the initial IHA, NMFS determined that the USFWS's activities would have a negligible impact on the affected species or stocks and that the authorized take numbers of each species or stock were small relative to the relevant stocks (e.g., less than 9 percent of all stocks). The numbers of marine mammals proposed to be taken in this authorization are identical to those authorized in the initial IHA. The

mitigation measures and monitoring and reporting requirements as described above also are identical to the initial IHA.

NMFS has preliminarily concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following: (1) The required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) USFWS's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and; (5) appropriate monitoring and reporting requirements are included.

#### Endangered Species Act (ESA)

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

#### Proposed Renewal IHA and Request for Public Comment

As a result of these preliminary determinations, NMFS proposes to issue a Renewal IHA to the USFWS for conducting research and monitoring activities at the Complex from the date of issuance through June 11, 2021, provided the previously described mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed and final initial IHA can be found at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>.

We request comment on our analyses, the proposed Renewal IHA, and any other aspect of this notice. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: July 9, 2020.

#### Donna S. Wieting,

Director, Office of Protected Resources,  
National Marine Fisheries Service.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XA116]

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Gastineau Channel Historical Society Sentinel Island Moorage Float Project, Juneau, Alaska

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

**ACTION:** Notice; issuance of an incidental harassment authorization.

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the Gastineau Channel Historical Society (GCHS) to incidentally harass, by Level B harassment only, marine mammals during construction activities associated with the Sentinel Island Moorage Float project near Juneau, Alaska.

**DATES:** This Authorization is effective from July 15, 2020 to September 20, 2020.

**FOR FURTHER INFORMATION CONTACT:** Dwayne Meadows, Ph.D., Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed above.

#### SUPPLEMENTARY INFORMATION:

##### Background

The MMPA prohibits the "take" of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, 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 geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.