DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC633]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Pile Driving for the Long Beach Cruise Terminal Improvement Project

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 Carnival Corporation & GHD (Carnival) for the renewal of their currently active incidental harassment authorization (IHA) to take marine mammals incidental to pile driving for the Long Beach Cruise Terminal improvement project at the Port of Long Beach, California. These activities are nearly identical to those covered through the current authorization. Pursuant to the Marine Mammal Protection Act, prior to issuing the original 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 January 13, 2023.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, and should be submitted via email to *ITP.cockrell@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: Craig Cockrell, 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 Marine Mammal Protection Act (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, an incidental harassment authorization is issued.

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 1-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 1-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, activities as described in the Detailed Description of Specified Activities section of the initial IHA issuance notice is planned or (2) the activities as described in the Description of the Specified Activities and Anticipated Impacts section of the initial IHA issuance notice would not be completed by the time the initial IHA expires and a renewal would allow for completion of the activities beyond that described in the **DATES** section of the notice of issuance of the initial IHA, provided all of the following conditions are met:

1. 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 1 year from expiration of the initial IHA).

2. The request for renewal must include the following:

- 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).

- 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.

3. 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.* 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.,* issuance of an IHA renewal) with respect to potential impacts on the human environment. This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassment authorizations with no anticipated serious injury or mortality) 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 determined that the issuance of the initial IHA qualified to be categorically excluded from further NEPA review. NMFS has preliminarily determined that the application of this categorical exclusion remains appropriate for this renewal IHA.

History of Request

On November 19, 2019, NMFS issued an IHA to Carnival to take marine mammals incidental to pile driving for the Long Beach Cruise Terminal improvement project in Long Beach, California (84 FR 64833), effective from November 19, 2019 through November 18, 2020. The original IHA was reissued in 2020 (85 FR 81452) and again in 2021 (86 FR 54943), with the latter of these referred to herein as the ''initial IHA'' for purposes of this proposed renewal IHA. On November 30, 2022, 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 nearly identical to those covered through the initial authorization. No activity has yet been conducted under any of the issued IHAs and, therefore, there are no monitoring results to report.

Description of the Specified Activities and Anticipated Impacts

Carnival was issued an initial authorization for take of marine mammals incidental to in-water construction activities associated with the Port of Long Beach Cruise Terminal Improvement Project in Long Beach, California. The purpose of the project is to make improvements to its existing berthing facilities at the Long Beach Cruise Terminal at the Queen Mary located at Pier H in the Port of Long Beach, in order to accommodate a new, larger class of cruise ships. As described in detail in the notice of proposed IHA for the original IHA (84 FR 54867), in-water construction would include installation of a maximum of 49 permanent, 36-inch (91.4 centimeters (cm)) steel pipe piles using impact and vibratory pile driving. A minor change to the in-water construction activities was described in the renewal request by Carnival. In addition to the 49 permanent piles, 30 24-inch temporary steel pipe piles would be placed to provide a template for placement of the permanent piles. Vibratory driving and removal will be used for the temporary piles. Pile driving activities were initially expected to occur over a period of approximately 26 days. Including the aforementioned minor change to the proposed construction activities, pile driving activities are likely to occur over a longer total duration. Sounds produced by these activities may result in take, by Level A harassment and Level B harassment, of marine mammals located in Long Beach, California. In addition, related dredging activities would occur for approximately 30 days. No take of marine mammals is anticipated to occur incidental to the planned dredging. No work has been completed under the original IHA or subsequent reissuances.

Incidental takes to the in-water pile driving and removal and dredging in this renewal would be at the same level as authorized in the initial IHA. Five marine mammal species are expected to experience Level B harassment and one species has the potential for Level A harassment (see *Estimated Take*).

All documents related to the original and initial IHAs are available on our website: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-cruise-terminal-improvement-project-port-long-beach-ca.*

Detailed Description of the Activity

A detailed description of the construction activities for which take is proposed here may be found in the Notices of the Proposed and Final IHAs for the original authorization. The location of the activities and the types of equipment planned for use are identical to those described in the previous notices. The only minor change is the addition of vibratory installation and removal of temporary 24-inch steel piles. Sound source levels using vibratory hammers on 24-inch steel piles will create smaller harassment zones than those analyzed in the initial IHA and, therefore, no modifications to the Level A and Level B harassment zones are needed. The addition of pile driving activity associated with the temporary piles is expected to extend the total project duration. However, NMFS has preliminarily determined that the amount of take authorized through the initial IHA remains sufficient to cover the likely effects of the planned activity, and no changes to authorized take numbers are proposed.

The proposed renewal would be effective for a period not exceeding 1-year from the date of expiration of the initial IHA.

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 Notices of the Proposed and Final IHAs for the original authorization. NMFS has reviewed the 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 original IHA.

It should be noted that the Final 2021 NMFS' Marine Mammal Stock Assessment Reports (SARs) updated stock abundances for short-beaked common dolphins and long-beaked common dolphins (Carretta *et al.,* 2022). For short-beaked common dolphins the abundance increased slightly from the original IHA stock abundance estimate of 969,861 individuals to 1,056,308 individuals. For long-beaked common dolphins the abundance decreased from the initial IHA stock abundance estimate of 101,305 individuals to 83,379 individuals. None of these population trends impact the findings made in support of the original IHA. Additional information on all stocks affected by this action is available in the NMFS' U.S. Pacific SARs (available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*).

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 the authorization of take is proposed here may be found in the Notices of the Proposed and Final IHAs for the initial authorization. NMFS has reviewed 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 take for the specified activity are found in the Notices of the Proposed and Final IHAs for the original authorization. Specifically, the source levels and marine mammal density/occurrence data applicable to this authorization remain unchanged from the previously issued IHA. 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 1.

TABLE 1—ESTIMATED TAKE BY LEVEL A AND LEVEL B HARASSMENT, BY SPECIES AND STOCK, RESULTING FROM PROPOSED CARNIVAL PROJECT ACTIVITIES

Common name	Stock	Level A take	Total proposed take	Proposed take as Percentage of stock
Short-beaked common dolphin	CA/OR/WA	0	942	0.10
Long-beaked common dolphin	California	0	942	0.92
Common bottlenose dolphin	Coastal California	0	122	26.93
California sea lion	U.S.	0	2,232	0.87
Harbor seal	California	5	984	3.18

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 original IHA, and the discussion of the least practicable adverse impact included in that document and the notice of the proposed IHA remains accurate. The following standard mitigation measures are proposed for this renewal.

- Conduct briefings between construction supervisors and crews and the marine mammal monitoring team prior to the start of all pile driving activity, and when new personnel join the work, to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures;
- For in-water heavy machinery work other than pile driving (*e.g.,* standard barges, *etc.*), if a marine mammal comes within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include the following activities: (1) movement of the barge to the pile location; or (2) positioning of the pile on the substrate via a crane (*i.e.,* stabbing the pile);
- Work may only occur during daylight hours, when visual monitoring of marine mammals can be conducted;
- For those marine mammals for which Level B harassment take has not been requested, in-water pile driving would shut down immediately if such species are observed within or entering the monitoring zone (*i.e.,* Level B harassment zone); and,
- If take reaches the authorized limit for an authorized species, pile installation would be stopped as these species approach the Level B harassment zone to avoid additional take.

Additional mitigation measures proposed for this renewal are as follows.

- Shutdown zones as specified in the proposed IHA vibratory pile driving would be implemented.
- The use of seven protected species observers (PSO) that would be placed on vessels at entrances to the Port of Long Beach outside the breakwaters to observe marine mammals traveling into the shutdown zones.
- Soft start procedures for impact pile driving consisting of an initial set of strikes from the hammer at reduced energy, with each strike followed by a 30-second waiting period.
- The use of a marine pile-driving energy attenuator (*i.e.,* air bubble curtain system) would be implemented by Carnival during impact and vibratory pile driving of all steel pipe piles.
- Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 minutes or longer occurs, PSOs would observe the shutdown and monitoring zones for a period of 30 minutes.
- Carnival would only conduct pile driving activities during daylight hours.

Monitoring and reporting requirements associated with this renewal are as follows.

- A total of seven PSOs will be based on land and vessels would monitor pile driving 30 minutes before, during, and 30 minutes after pile driving activities.
- Observers would be required to use approved data forms.
- A draft report would be submitted to NMFS within 90 days of the completion of marine mammal monitoring. The report would include marine mammal observations pre-activity, during-activity, and post-activity during pile driving days (and associated PSO data sheets).

Comments and Responses

As noted previously, NMFS published a notice of a proposed IHA (84 FR 54867, October 11, 2019) and solicited

public comments on both our proposal to issue the initial IHA for pile driving for the Long Beach Cruise Terminal Improvement Project 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 64833, November 25, 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) recommended that NMFS refrain from using the proposed renewal process for Carnival's authorization. If NMFS elects to use the renewal process frequently or for authorizations that require a more complex review or for which much new information has been generated, the Commission recommended that NMFS provide the Commission and other reviewers the full 30-day comment period as set forth in section 101(a)(5)(D)(iii) of the MMPA.

Response: We appreciate the Commission's input and direct the reader to a response to a similar comment, which can be found at 84 FR 52464 (October 2, 2019).

This renewal request does not present any new information not considered by NMFS during our review. The installation and removal of 30 temporary 24-inch steel piles does not change the analysis in the initial IHA. Therefore, abbreviated additional comment period is sufficient for consideration of this renewal request.

Preliminary Determinations

The construction activities are nearly identical to those analyzed for the original IHA, as are the method of taking and the effects of the action. The addition of the 30 temporary 24-inch steel piles does not increase the size of the Level A and Level B harassment zones. In analyzing the effects of the activities for the original IHA, NMFS determined that the Carnival'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 one-third of the abundance of all stocks). Although some marine mammal abundances have changed since the original IHA, none of this new information affects NMFS' determinations supporting issuance of the original and initial IHAs. The mitigation measures and monitoring and reporting requirements as described above 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 original IHA. This includes consideration of the estimated abundance of short-beaked common dolphins and long-beaked common dolphins decreasing/increasing slightly. 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) Carnival'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

No incidental take of ESA-listed species is authorized 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 Carnival for conducting pile driving for the Long Beach Cruise Terminal improvement project, Long Beach, California, effective through December 9, 2023, 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: December 23, 2022.

Catherine G. Marzin,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC614]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public hearings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold two public hearings via webinar pertaining to Amendment 53 to the Fishery Management Plan (FMP) for Snapper Grouper Resources in the South Atlantic Region. This amendment addresses a rebuilding plan, catch levels, sector allocations, and changes to commercial and recreational management measures for the South Atlantic stock of gag and modifications to recreational management measures for black grouper.

DATES: The public hearings will be held January 10 and 11, 2023, via webinar beginning at 6 p.m., EDT.

ADDRESSES:

Meeting addresses: The hearings will be held via webinar. Registration is required. Information, including a link to webinar registration will be posted on the Council's website at: *https://safmc.net/public-hearings-and-scoping/* as it becomes available.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: Public hearing documents, an online public comment form, and other materials will be posted to the Council's website at *https://safmc.net/public-hearings-and-scoping/* as they become available. Written comments should be addressed to John Carmichael, Executive Director, SAFMC, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405. Written comments must be received by February 13, 2023, by 5 p.m. During the hearings Council staff will provide an overview of actions being considered in the amendment. Staff will answer clarifying questions on the presented information and the proposed actions. Following the presentation and questions, the public will have the opportunity to provide comments on the amendment.