

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[RTID 0648–XB148]

**Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Pelagic Longline Fishery Management; Rule Reconsideration**

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

**ACTION:** Notice of public webinars; request for information.

**SUMMARY:** NMFS published a final rule on April 2, 2020, that, among other things, established the Spring Gulf of Mexico Monitoring Area in an area previously closed to pelagic longline fishing in April and May annually. This Monitoring Area is open to pelagic longline fishing to collect fishery-dependent data during a 3-year evaluation period. The rule also established a threshold amount of bluefin tuna incidental catch in the pelagic longline fishery in the area that, if reached, would close the area to pelagic longline fishing. Subsequently, the Congressional Joint Explanatory Statement (JES) that accompanied the 2021 Appropriations Act included text on “Western Atlantic Bluefin Tuna” directing NMFS to reconsider the decision in the final rule to open the Spring Gulf of Mexico Monitoring Area to pelagic longline fishing or to take additional monitoring action. This notice announces NMFS’s request for public input and two public webinars to gather information regarding the Spring Gulf of Mexico Monitoring Area that may not have been considered in the final rule.

**DATES:** Comments and information related to the reconsideration of the Spring Gulf of Mexico Monitoring Area must be received on or before July 15, 2021. NMFS will hold two public webinars on June 23, 2021, from 10 a.m. to 12 p.m., and on June 30, 2021, from 2 p.m. to 4 p.m. For webinar registration information, see the **ADDRESSES** section of this document.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2018–0035, by electronic submission. Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter “NOAA–NMFS–2018–0035” in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after July 15, 2021, may not be considered by NMFS. All information received generally will be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

NMFS will hold two public webinars. Webinar details will be posted to the web page for information related to the Gear Restricted Area-Weak Hook final rule at <https://www.fisheries.noaa.gov/action/pelagic-longline-bluefin-tuna-area-based-and-weak-hook-management-measures>. At the beginning of the conference call, the moderator will explain how the conference call will be conducted and how and when attendees can provide comments.

**FOR FURTHER INFORMATION CONTACT:**

Craig Cockrell at [craig.cockrell@noaa.gov](mailto:craig.cockrell@noaa.gov) or 301–427–8503.

**SUPPLEMENTARY INFORMATION:****Background**

On April 2, 2020, NMFS published a final rule in the **Federal Register** (85 FR 18812) that adjusted regulatory measures put in place to reduce incidental catch of bluefin tuna in the pelagic longline fishery for Atlantic highly migratory species (HMS). Specifically, the final measures converted the Spring Gulf of Mexico Gear Restricted Area to the “Spring Gulf of Mexico Monitoring Area” and established a 3-year (2020–2022) evaluation period. During this period, NMFS would evaluate whether gear restrictions in this area during the months of April and May were still needed in tandem with other measures to appropriately manage incidental catch of bluefin tuna in the pelagic longline fishery. During the evaluation period, the area remains open to pelagic longline fishing provided the amount of Individual Bluefin Quota (IBQ) allocation used to account for bluefin catch (landings and dead discards) stays below a specified threshold for the area. The threshold for the Spring Gulf of Mexico Monitoring Area is 63,150 pounds (28.6 metric tons) for each year of the evaluation period. If the threshold is reached, the area closes. After the 3-year evaluation period, NMFS will review data collected from the

Monitoring Area, including information from vessel monitoring system (VMS) vessel track and set report data, IBQ System data, electronic monitoring data, and other data streams; compile a report; and may take any further action if needed.

Since April 2, 2020, no pelagic longline sets have occurred within the boundaries of the Spring Gulf of Mexico Monitoring Area. NMFS continues to monitor any fishing activity and incidental catch occurring during the evaluation period. Details on bluefin tuna catch data are available and updated periodically on the web page for information related to the Gear Restricted Area-Weak Hook final rule at <https://www.fisheries.noaa.gov/action/pelagic-longline-bluefin-tuna-area-based-and-weak-hook-management-measures>.

**Reconsideration Process**

The JES that accompanied the 2021 Appropriations Act included text on “Western Atlantic Bluefin Tuna” directing NMFS to reconsider the decision in the Gear Restricted Area-Weak Hook final rule to open the Spring Gulf of Mexico Monitoring Area to pelagic longline fishing or to take additional monitoring action. The Appropriations Act and JES language can be found at <https://www.govinfo.gov/content/pkg/CREC-2020-12-21/pdf/CREC-2020-12-21-house-bk3.pdf>. NMFS developed a plan for the reconsideration of the Spring Gulf of Mexico Monitoring Area, which is available on the web page for information related to the Gear Restricted Area-Weak Hook final rule at <https://www.fisheries.noaa.gov/action/pelagic-longline-bluefin-tuna-area-based-and-weak-hook-management-measures>. The plan, which NMFS reviewed with the Atlantic HMS Advisory Panel on May 18, 2021, provides the public an opportunity to submit information that may not have been considered in the final rule. Once public input and information received are assessed, the agency’s conclusions will be communicated via appropriate mechanisms.

**Request for Information**

NMFS will consider public input and information provided through this process. Comments and information may be submitted via [www.regulations.gov](http://www.regulations.gov) and at the public webinar. NMFS requests information be submitted by July 15, 2021.

NMFS will hold two public webinars on June 23, 2021, from 10 a.m. to 12 p.m., and on June 30, 2021, from 2 p.m. to 4 p.m. Registration information for

the webinars can be found on the web page for information related to the Gear Restricted Area-Weak Hook final rule at <https://www.fisheries.noaa.gov/action/pelagic-longline-bluefin-tuna-area-based-and-weak-hook-management-measures>. Requests for sign language interpretation or other auxiliary aids should be directed to Craig Cockrell at [craig.cockrell@noaa.gov](mailto:craig.cockrell@noaa.gov) or 301-427-8503, at least 7 days prior to the meeting.

The public is reminded that NMFS expects participants at the public webinars to conduct themselves appropriately. At the beginning of each the webinar, the moderator will explain how the webinar will be conducted and how and when participants can provide comments. NMFS will structure the webinars so that all members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject. Participants are expected to respect the ground rules, and those that do not may be asked to leave the webinar.

Dated: June 10, 2021.

**Jennifer M. Wallace**,  
Acting Director, Office of Sustainable  
Fisheries, National Marine Fisheries Service.  
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XB094]

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Navy Construction at Naval Station Norfolk in Norfolk, Virginia

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

**ACTION:** Notice of issuance of letter of authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that a Letter of Authorization (LOA) has been issued to the U.S. Navy (Navy) for the take of marine mammals incidental to

construction activities at Naval Station Norfolk in Norfolk, Virginia.

**DATES:** Applicable from June 8, 2021 to June 6, 2026.

**ADDRESSES:** The LOA and supporting documentation are available online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-us-navy-construction-naval-station-norfolk-norfolk-virginia>. In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

**FOR FURTHER INFORMATION CONTACT:** Leah Davis, Office of Protected Resources, NMFS, (301) 427-8401.

**SUPPLEMENTARY INFORMATION:**

#### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce 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 authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding,

feeding, or sheltering (Level B harassment).

#### Summary of Request

On May 6, 2021, we issued a final rule upon request from the Navy for authorization to take marine mammals incidental to construction activities (86 FR 24340). The Navy plans to conduct construction activities including marine structure maintenance, pile replacement, and select waterfront improvements at Naval Station Norfolk. This construction will include use of vibratory pile driving and removal, and impact pile driving. The use of both vibratory and impact pile driving is expected to produce underwater sound at levels that have the potential to result in behavioral harassment of marine mammals.

#### Authorization

We have issued a LOA to Navy authorizing the take of marine mammals incidental to construction activities, as described above. Take of marine mammals will be minimized through the implementation of the following planned mitigation measures: (1) Required monitoring of the construction area to detect the presence of marine mammals before beginning construction activities; (2) shutdown of construction activities under certain circumstances to avoid injury of marine mammals; and (3) soft start for impact pile driving to allow marine mammals the opportunity to leave the area prior to beginning impact pile driving at full power. Additionally, the rule includes an adaptive management component that allows for timely modification of mitigation or monitoring measures based on new information, when appropriate. The Navy will submit reports as required.

Based on these findings and the information discussed in the preamble to the final rule, the activities described under this LOA will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stock for subsistence uses.

Dated: June 8, 2021.

**Catherine Marzin**,  
Acting Director, Office of Protected Resources,  
National Marine Fisheries Service.

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