

dolphins (*S. clymene*); false killer whales (*Pseudorca crassidens*); melon-headed whales (*Peponocephala electra*); minke whales (*B. acutorostrata*); pantropical spotted dolphins (*S. attenuata*); pygmy killer whales (*Feresa attenuata*); Risso's dolphins (*Grampus griseus*); sei whales; and short-beaked common dolphins (*Delphinus delphis*). Annual take numbers currently authorized for each species would not increase, but would be reallocated to allow for dart tagging of 50 animals of each species of baleen whale and 30 animals of each odontocete species annually. In addition, the permit holder is requesting to reallocate takes of fin whales to increase the number of whales authorized for dart tagging from 10 to 50 whales per year. The purpose of the amendment is to continue to monitor the movement and distribution of these species along the U.S. East Coast; this is work that was previously conducted with a collaborator under a separate research permit. The amendment would be valid for the duration of the permit, until May 31, 2025.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: January 18, 2023.

**Amy Sloan,**

*Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-B159

#### Atlantic Highly Migratory Species; Amendment 14 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan

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

**ACTION:** Notice of agency decision.

**SUMMARY:** NMFS announces the approval of Amendment 14 to the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP). Amendment 14 revises the mechanism or “framework” used in establishing quotas and related management measures for Atlantic shark fisheries. The revised framework will modify the procedures followed in establishing the acceptable biological catch (ABC) and annual catch limits (ACLs) for Atlantic sharks and the process used to account for carryover or underharvests of quotas. It will also allow the option to phase-in ABC control rules and to adopt multi-year overfishing status determination criteria in some circumstances. Amendment 14 does not make changes to the current quotas or other management measures. Any operational changes to fishery management measures as a result of Amendment 14 would be considered in future rulemakings, as appropriate.

**DATES:** Amendment 14 was approved on January 18, 2023.

**ADDRESSES:** Electronic copies of Amendment 14 to the 2006 Consolidated HMS FMP may be obtained on the internet at <https://www.fisheries.noaa.gov/action/amendment-14-2006-consolidated-hms-fishery-management-plan-shark-quota-management>.

**FOR FURTHER INFORMATION CONTACT:** Guy DuBeck ([Guy.DuBeck@noaa.gov](mailto:Guy.DuBeck@noaa.gov)), Karyl Brewster-Geisz ([Karyl.Brewster-Geisz@noaa.gov](mailto:Karyl.Brewster-Geisz@noaa.gov)), or Ann Williamson ([Ann.Williamson@noaa.gov](mailto:Ann.Williamson@noaa.gov)) by email, or by phone at 301-427-8503.

**SUPPLEMENTARY INFORMATION:** Atlantic HMS fisheries (tunas, billfish, swordfish, and sharks) are managed under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS FMP (2006 Consolidated HMS FMP) and its amendments are implemented by regulations at 50 CFR part 635.

The Magnuson-Stevens Act requires that any FMP or FMP amendment be consistent with 10 National Standards (NS). Specifically, NS1 requires “conservation and management measure shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.” In 2016, NMFS revised the NS1 guidelines to improve, streamline, and enhance their utility for managers and the public to facilitate compliance with the requirements of the Magnuson-Stevens

Act and provide management flexibility in doing so (81 FR 71858, October 18, 2016). The revised NS1 guidelines have provided NMFS the opportunity to increase management flexibility to ensure scientific uncertainty and variability in shark harvests are accurately accounted for.

Amendment 14 modifies the mechanism or “framework” used to establish ABC and ACLs for Atlantic shark stocks and management complexes. The new framework incorporates several of the management options in the 2016 revised NS1 guidelines that allow for more flexibility to respond to current conditions in Atlantic shark fisheries. Specifically, Amendment 14 will establish the management measures described below.

**ABC Control Rule:** Implement a general approach to the development of ABC control rules for Atlantic shark stocks and management complexes. The tiered ABC control rule will categorize stocks or management complexes into appropriate tiers, taking into account the stock status of the species, data availability, and data uncertainty in the development of the ABCs. Because of the technical complexity in determining the appropriate level of scientific uncertainty for all stocks across all the different methodologies used in past shark stock assessments, NOAA Fisheries may phase-in the ABC control rule changes for some shark stocks over time.

**Phase-In ABC Control Rule:** Phase-in ABC control rules to allow NMFS to phase in changes in the ABC over up to a three-year period, as long as overfishing is prevented. A phase-in ABC control rule allows for greater flexibility in setting the ABC following a stock assessment.

**ACL Development:** Actively manage all sector ACLs (commercial and recreational) and establish an ACL for each Atlantic shark management group (*i.e.*, a group of shark species that are combined for quota management purposes), without commercial ACL species linkage considerations. This will help ensure the ACL remains below the ABC and improve accountability and monitoring across all sectors.

**Carry-Over of Underharvested ACL:** Change the carry-over provisions to allow carry-over of unused quota to the next year, only for underharvest of commercial quotas (landings only) under certain conditions (*i.e.*, the stock is not overfished and not experiencing overfishing), as long as the overall ACL remains below the ABC. Carry-over allows for fuller utilization of available commercial ACLs, helping to achieve optimum yield.

*Multi-Year Overfishing Status Determination Criteria:* Apply multi-year overfishing status determination criteria to determine if a stock is undergoing overfishing. When an assessment is conducted, NMFS would use a completed stock assessment to determine overfishing status, and outside of an assessment year, NMFS may compare a three-year rolling average of catch to the overfishing limit to determine the overfishing status.

NMFS published a Notice of Availability for draft Amendment 14 on September 24, 2020 (85 FR 60132). The comment period closed on December 31, 2020, and NMFS received 10 written comments. NMFS presented information on draft Amendment 14 at three public webinars and the HMS Advisory Panel meeting in December 2020. Additional oral comments were collected at the Gulf of Mexico and South Atlantic Fishery Management Council meetings in November and December 2020, respectively.

In response to commenters' requests for more information, NMFS published a supplement to draft Amendment 14 on January 24, 2022 (87 FR 3504). The comment period closed on March 10, 2022, and details were presented at one public webinar and at the HMS Advisory Panel meeting in February 2022. Eight written comments were received during the public comment period.

All of the comments received on draft Amendment 14 to the 2006 Consolidated HMS FMP and the supplemental document and responses to those comments can be found in final Amendment 14 to the 2006 Consolidated HMS FMP, at <https://www.fisheries.noaa.gov/action/amendment-14-2006-consolidated-hms-fishery-management-plan-shark-quota-management>.

NMFS has determined that Amendment 14 is consistent with the 2006 Consolidated HMS FMP, the Magnuson-Stevens Act, and other applicable law. Amendment 14 establishes the general framework through which specific management measures would later be developed and adopted, therefore there are no implementing regulations associated with this amendment. Any changes to the management and quotas of HMS-managed Atlantic sharks would be considered in future rulemakings.

*Authority:* 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: January 18, 2023.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XC659]

#### 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; issuance of renewal Incidental Harassment Authorization (IHA).

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA), as amended, notification is hereby given that NMFS has issued a renewal IHA to Carnival Corporation & GHD (Carnival) to harass marine mammals incidental to pile driving for the Long Beach Cruise Terminal improvement project at the Port of Long Beach, California.

**DATES:** This renewal IHA is valid from January 18, 2023 through December 9, 2023.

**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 proposed 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 Detailed Description of Specified Activities section of the initial IHA issuance notice is planned or (2) the activities as described in the Detailed Description of Specified Activities 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 initial IHA issuance, 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