

factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the *Final Rule*,⁶ available at <https://www.govinfo.gov/content/pkg/FR-2013-07-17/pdf/2013-17045.pdf>, prior to submitting factual information in this segment. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).⁷

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information using the formats provided at the end of the *Final Rule*.⁸ Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by Commerce.⁹ In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification

and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This policy also requires that an extension request must be made in a separate, standalone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. Please review the *Final Rule*, available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: October 10, 2024.

Scott Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2024–23914 Filed 10–16–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE297]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Marine Site Characterization Surveys in the New York Bight

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

ACTION: Notice; issuance of renewal 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 a renewal incidental harassment authorization (IHA) to Community Offshore Wind, LLC (COSW) to incidentally harass marine mammals incidental to marine

site characterization surveys offshore from New Jersey and New York in the New York Bight, specifically within the Bureau of Ocean Energy Management (BOEM) Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS) Lease Area OCS–A 0539 (Lease Area) and associated Export Cable Route (ECR) survey area (ECR Area). There are no changes from the proposed authorization to this final authorization.

DATES: This authorization is effective from October 9, 2024 through June 30, 2025.

ADDRESSES: 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/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable>. In case of problems accessing these documents, see **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Rachel Hilt, Office of Protected Resources, NMFS, (301) 427–8401.

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 promulgated 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

⁶ See *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also the frequently asked questions regarding the *Final Rule*, available at https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

⁷ See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule*, 88 FR 67069 (September 29, 2023).

⁸ See section 782(b) of the Act; see also *Final Rule*; and the frequently asked questions regarding the *Final Rule*, available at https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

⁹ See 19 CFR 351.302.

similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as “mitigation measures”). NMFS must also prescribe requirements pertaining to monitoring and reporting of such takings. The definition of key terms such as “take,” “harassment,” and “negligible impact” can be found in the MMPA and the NMFS’s implementing regulations (see 16 U.S.C. 1362; 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 IHA, 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 of an 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); and

- 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: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals>.

History of Request

On June 30, 2023, NMFS issued an IHA to COSW to take marine mammals incidental to Marine Site Characterization Surveys in the New York Bight, specifically within the BOEM Commercial Lease of Submerged Lands for Renewable Energy Development on the OCS Lease Area and associated ECR Area (88 FR 42322), effective from July 1, 2023, through June 30, 2024. On June 14, 2024, NMFS received an application for the renewal of that initial IHA. COSW has met all the conditions for a renewal. As described in the application for renewal IHA, the activities for which incidental take is requested consist of activities that are covered by the initial authorization but were not completed prior to its expiration. As required, the COSW also provided a preliminary monitoring report 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 decided to waive the 60 days renewal requirement, recognizing that the renewal IHA, if issued, will expire one year from the expiration date of the initial IHA, on June 30, 2025, and having ensured that COSW understands that there is a lapse in MMPA authorization coverage between the expiration of the initial IHA and the issuance of any renewal. The notice of the proposed renewal IHA was published for public comment on August 21, 2024 (89 FR 67592). There are no changes from the proposed authorization in this final authorization.

Description of the Specified Activities and Anticipated Impacts

COSW’s 2023 IHA authorized take of marine mammals incidental to marine site characterization surveys, including high-resolution geophysical (HRG) surveys, offshore from New Jersey and New York in the New York Bight, which is within the BOEM Lease Area OCS–A 0539 and associated ECR Area. Hereafter, both the areas are referred to as the Survey Area. The purpose of these surveys is to provide sufficient data to meet BOEM guidelines and support the development of offshore wind facilities in the survey area. Specifically, data collected would support site characterization, siting, and engineering design of offshore wind facilities including turbine generators, offshore substations, submarine cables and data necessary for project review requirements. COSW’s 2023 survey plan included 30,467 kilometers (km) of trackline. Of note, the trackline was broken down by Lease Area survey and ECR survey area. Approximately 28,290 km was planned for the Lease Area and 2,177 km for the ECR Area. The effort for bottlenose dolphins was differentiated to account for the two stocks present in the Survey Area. In the ECR Area trackline, 400 km is in waters <20 meters (m) deep where the Western North Atlantic Migratory Coastal Stock (Coastal Stock) of bottlenose dolphins may be present, whereas the remaining 1,777 km is in waters >20 m deep where the Western North Atlantic Offshore Stock (Offshore Stock) of bottlenose dolphins may be present. In the Lease Area, all 28,290 km of trackline are in waters >20 m deep. COSW actually only completed 11,775 km (120 km of trackline in waters <20 m deep) of trackline prior to the request for the renewal, representing approximately 63 percent. As noted above, the effort for bottlenose dolphins was differentiated to account for the two stocks present in the Survey Area. Tracklines in the Survey Area in waters <20 m and >20 m deep were differentiated to account for differences in density between the two stocks of bottlenose dolphins, and the appropriate percentages of tracklines (70 and 62, respectively).

Under the renewal IHA, COSW plans to continue to conduct survey activities over the remaining approximately 19,092 km of trackline that was not completed in 2023. As a result of a miscommunication, COSW’s initial IHA authorized 400 km less trackline than they intended (*i.e.*, 30,467 km versus 30,867 km) and, therefore, COSW asked that the renewal IHA include the 400 km (19,092 km vs. 18,692) of trackline

that was inadvertently omitted from the initial IHA. NMFS has determined that this correction to the remaining trackline is a minor change that does not affect the previous analyses, mitigation or monitoring requirements, or take estimates (except, of course, for the reduction in the take estimates). The percent of trackline left to survey and estimated take that may occur has been updated accordingly. COSW will have a maximum of three vessels surveying concurrently.

The potential impacts of COSW's planned activities on marine mammals involve acoustic stressors and are unchanged from the impacts described in the **Federal Register** notice for the initial Proposed IHA (88 FR 24574, April 21, 2023). Underwater sound, resulting from particular components of COSW's HRG survey activities, has the potential to result in incidental take of marine mammals, in the form of Level B harassment only, in the specified geographic region.

This renewal IHA is for the remainder of work that was not completed by the expiration date of the 2023 IHA. The renewal IHA authorizes incidental take, by Level B harassment, only of 15 species (16 stocks) of marine mammals for a subset of marine site characterization survey activities to be completed, in the same area, using survey methods identical to those conducted under the 2023 IHA. Neither COSW nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate. Take by Level A harassment (injury) is unlikely, even absent mitigation, based on the characteristics of the signals produced by the acoustic sources planned for use. Therefore, the anticipated effects on marine mammals and the affected stocks also remain the same. All mitigation, monitoring, and reporting measures would remain exactly as described in the **Federal Register** notice for the issued 2023 IHA (88 FR 42322, June 30, 2023).

Detailed Description of the Activity

A detailed description of the surveys for which incidental take is proposed here may be found in the **Federal Register** Notices of the initial Proposed IHA (88 FR 24574, April 21, 2023). The specific geographic region and specified activities, including the types of survey equipment and number of survey vessels planned for use, are identical to those described in the previous notice, with the exception of the reduction in the size of the survey area since a small subset of the survey work planned under the 2023 IHA was completed. This renewal IHA is effective from

[insert date of issuance] through June 30, 2025.

Comments and Responses

A notice of NMFS' proposal to issue a renewal IHA to COSW was published in the **Federal Register** on August 21, 2024 (89 FR 67592). That notice described, in detail, or referenced descriptions of COSW's activity, the marine mammal species that may be affected by the activity, the anticipated effects on marine mammals and their habitat, estimated number and manner of take, and proposed mitigation, monitoring and reporting measures. NMFS received a total of two public comment letters. One public comment letter was from a non-governmental organization (Clean Ocean Action (COA)). The other was from the Wampanoag Tribe of Gay Head (Aquinnah) (Tribe).

We reiterate that NMFS' proposed action concerns only the authorization of marine mammal take incidental to the planned surveys—NMFS' authority under the MMPA does not extend to the surveys themselves or to wind energy development more generally. Some comments requested that NMFS fully study the implications of the Vineyard Wind blade failure on marine mammals before moving forward with offshore wind development, oppose take from offshore wind until the U.S. Coast Guard has finished establishing shipping safety fairways to balance offshore wind development with navigational safety, criticize NMFS and BOEM for improperly segmenting offshore wind activities in the Atlantic Ocean, and criticize BOEM's underdeveloped understanding of marine mammal species' current status such that the agency cannot accurately plan for future protections and mitigation of potential impacts. We do not specifically address these comments because they are out of scope of the proposed Renewal IHA (89 FR 67592, August 21, 2024). All substantive comments, and NMFS' responses, are provided below. The comments and recommendations are available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable>. Please see the comment submissions for full details regarding the recommendations and supporting rationale.

Comment 1: A commenter has suggested that a Letter of Authorization (LOA) would be more appropriate than an IHA for the proposed survey activities, as the survey activities have spanned more than one year and NMFS has not indicated if the additional year

will be sufficient to complete the remaining work. The commenter further stated that it is unclear whether there will be another renewal IHA proposed and authorized at the end of the current IHA, should it be granted.

Response: NMFS disagrees with the commenter that an LOA would be more appropriate than an IHA for the planned survey activities simply because the survey activity has extended for more than a year. The MMPA allows, upon request, the incidental take of small numbers of marine mammals by U.S. citizens, engaged in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made. Two types of authorizations may be issued under Sections 101(a)(5)(A) and (D) of the MMPA. An LOA and accompanying incidental take regulation (ITR) may be issued to authorize U.S. citizens, engaged in a specified activity (other than commercial fishing), to take small numbers of marine mammals for up to 5 years, whereas an IHA may be issued to authorize U.S. citizens, engaged in a specified activity (other than commercial fishing), to take small numbers of marine mammals by harassment for a period of 1 year. Neither the MMPA, nor its legislative history specifically require U.S. citizens to seek an LOA/ITR pursuant to section 101(a)(5)(A) of the MMPA simply because an activity continues for more than one year. A determination of which option to pursue is not solely dependent on whether an activity continues for more than one year.

While the NMFS website recommends that applicants seek an LOA if specified activity has the potential to result in harassment only and is planned for multiple years, it is not dispositive. On our website and in various **Federal Register** notices, NMFS explains that a renewal IHA is available to address those circumstances in which an action under the initial IHA could not be completed within the effective period of the authorization. COSW's request for the initial IHA indicated a project duration of 1 year. As delays may be encountered, the **Federal Register** notices for the Proposed IHA and the Proposed Renewal IHA further establish that NMFS may issue "a one-time, one-year renewal IHA" on a case-by-case basis if certain conditions are met (88 FR 24574, Apr. 21, 2023; 89 FR 67592, Aug. 21, 2024). In order to qualify for a renewal IHA, the proposed renewal must consist of no more than one additional year of identical, or nearly identical, activities as were covered by the initial IHA or a subset of the activities covered by the initial IHA.

Additionally, the request for a renewal IHA must be accompanied by a preliminary monitoring report and explanation that the results do not indicate impacts of a scale or nature not previously analyzed or authorized. NMFS must also find there are no more than minor changes in the activities, the mitigation and monitoring measures remain the same and are appropriate, and the findings in the initial IHA remain valid.

Upon review of the COSW's request for renewal, the status of the affected species or stocks, the preliminary monitoring report, and other pertinent information, NMFS finds: (1) COSW's renewal request is a subset of the activities covered by the initial IHA; (2) there are no more than minor changes in the survey activities (*i.e.*, COSW's correction of the remaining survey tracklines); (3) COSW's preliminary monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized under the initial IHA; (4) mitigation and monitoring requirements are identical to those established in the initial IHA; and (5) the findings in the initial IHA (including the take estimates and small numbers determinations (except, of course, for reductions in each resulting from the change in the survey effort) and negligible impact determinations) remained valid. Therefore, COSW meets the conditions for a renewal IHA.

Comment 2: A commenter states there is considerable uncertainty regarding the effect of preconstruction surveying on marine mammals.

Response: NMFS disagrees. NMFS has issued IHAs for marine site characterization surveys and HRG surveys since 2014 and marine mammal behavioral responses, or lack thereof, from these activities are well documented. Marine mammal monitoring reports from authorized surveys and the best available science indicate that only Level B harassment (*i.e.*, temporary disruption of behavioral patterns) may occur. No mortality or serious injury, or Level A harassment, is expected to occur as a result of COSW's planned surveys, and there is no scientific evidence indicating that any marine mammal could experience mortality or serious injury as a direct result of noise from HRG survey activity.

Comment 3: A commenter stated that Protected Species Observers (PSO) reports are rarely published publicly in any consistent way unless and until a developer applies for an IHA renewal.

Response: NMFS disagrees with the commenter's assertion that PSO reports are rarely published unless a developer

applies for an IHA renewal. All applicants are required to submit a PSO report within 90 days after completion of survey activities that fully documents the methods and monitoring protocols, summarizes the data recorded during monitoring. All PSO reports are made publicly available on NMFS's website after receipt. The preliminary PSO report submitted by the applicant and noted in the **Federal Register** notice (89 FR 67592, August 21, 2024) proposing this action was a requirement under the BOEM Project Design Criteria (PDC) and Best Management Practices (PDC 8). COSW's preliminary PSO report is publicly available on NMFS's website. To view the preliminary PSO information, please visit: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-community-offshore-wind-llc-marine-site-characterization>. NMFS agrees with the need for reporting and indeed, the MMPA calls for IHAs to incorporate reporting requirements and a final marine mammal PSO report is required for the 2023 IHA. As included in the proposed IHA, the final IHA includes requirements for reporting that supports COA's recommendations for consistent reporting, as well as timeframes for when reports will be considered complete and subsequently made publicly available. COSW is required to submit a PSO report to NMFS within 90 days after completion of survey activities that fully documents the methods and monitoring protocols, summarizes the data recorded during monitoring. All final reports and associated data submitted to NMFS are posted on NMFS' website.

Comment 4: Commenters state they do not agree with the use of a Categorical Exclusion (CE) under National Environmental Policy Act (NEPA) and further analysis should be conducted while considering cumulative effects of the proposed IHA relative to other authorized takes in the area, including the activities conducted under the 2023 IHA and other projects in the New York Bight.

Response: NMFS disagrees with the commenter's statement and has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review. A CE may be used to address a category of actions that an agency has determined does not individually or cumulatively have a significant effect on the quality of the human environment and is appropriately applied for such categories of actions so long as there are no extraordinary circumstances present that would indicate that the effects of the action may be significant.

Extraordinary circumstances are situations for which NOAA has determined further NEPA analysis is required because they are circumstances in which a normally excluded action may have significant effects. A determination of whether an action that is normally excluded requires additional evaluation because of extraordinary circumstances focuses on the action's potential effects and considers the significance of those effects in terms of both context (consideration of the affected region, interests, and resources) and intensity (severity of impacts). Potential extraordinary circumstances relevant to this action include: (1) adverse effects on species or habitats protected by the MMPA that are not negligible; (2) highly controversial environmental effects; (3) environmental effects that are uncertain, unique, or unknown; and (4) the potential for significant cumulative impacts when the proposed action is combined with other past, present, and reasonably foreseeable future actions.

The relevant NOAA CE associated with issuance of incidental take authorizations is CE B4, "Issuance of incidental harassment authorizations under section 101(a)(5)(A) and (D) of the MMPA for the incidental, but not intentional, take by harassment of marine mammals during specified activities and for which no serious injury or mortality is anticipated." This action falls within CE B4. In determining whether a CE is appropriate for a given incidental take authorization, NMFS considers the applicant's specified activity and the potential extent and magnitude of takes of marine mammals associated with that activity along with the extraordinary circumstances listed in the Companion Manual for NOAA Administrative Order (NAO) 216-6A and summarized above.

The evaluation of whether extraordinary circumstances (if present) have the potential for significant environmental effects is limited to the decision NMFS is responsible for, which is issuance of the incidental take authorization. Potential effects of NMFS' action are limited to those that would occur due to the authorization of incidental take of marine mammals. NMFS prepared numerous EAs analyzing the environmental impacts of the categories of activities encompassed by CE B4, which resulted in Findings of No Significant Impacts (FONSI) and, in particular, numerous EAs prepared in support of issuance of IHAs related to similar survey actions are part of NMFS' administrative record supporting CE B4. These EAs demonstrate the issuance of a given incidental harassment

authorization does not affect other aspects of the human environment because the action only affects the marine mammals that are the subject of the incidental harassment authorization.

Specifically for this action, NMFS independently evaluated the use of the CE for issuance of COSW's IHA, which included consideration of extraordinary circumstances. As part of that analysis, NMFS considered whether this IHA issuance would result in cumulative impacts that could be significant. In particular, the issuance of an IHA to COSW is expected to result in minor, short-term behavioral effects on marine mammal species due to exposure to underwater sound from site characterization survey activities. Behavioral disturbance is possible to occur intermittently in the vicinity of COSW's survey area during the 1-year timeframe. Level B harassment will be reduced through use of mitigation measures described herein. Additionally, as discussed elsewhere, NMFS has determined that COSW's activities fall within the scope of activities analyzed in GARFO's programmatic consultation regarding geophysical surveys along the U.S. Atlantic coast in the three Atlantic Renewable Energy Regions (completed June 29, 2021; revised September 2021), which concluded surveys such as those planned by COSW are not likely to adversely affect ESA-listed species or adversely modify or destroy critical habitat. Accordingly, NMFS has determined that the issuance of this IHA will result in no more than negligible (as that term is defined by the Companion Manual for NAO 216-6A) adverse effects on species protected by the ESA and the MMPA.

Further, the issuance of this IHA will not result in highly controversial environmental effects or result in environmental effects that are uncertain, unique, or unknown because numerous entities have been engaged in site characterization surveys that result in Level B harassment of marine mammals in the United States. This type of activity is well documented; prior authorizations and analysis demonstrates issuance of an IHA for this type of action only affects the marine mammals that are the subject of the specific authorization and, thus, no potential for significant cumulative impacts are expected, regardless of past, present, or reasonably foreseeable actions, even though the impacts of the action may not be significant by itself. Based on this evaluation, we concluded that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Comment 5: Commenters object to allowing any takes to North Atlantic right whales (NARW) due to the species' fragile status and believe that preserving the existence of NARW warrants pausing offshore development off the Atlantic coast. Commenters state that NMFS needs to study the cumulative harassment of marine mammals and other listed species, particularly the NARW whose existence are an integral part of traditional lifeways and cultural practices. Commenters urge NMFS to assess cumulative impacts to this most endangered species, including the total number, speed, and distance of vessel trips required for marine site characterization survey activities, for all concurrent projects in the region. Commenter's also reference Thorne and Wiley's (2024) paper stating that the conclusion highlights the need for further study on marine mammal strandings and the cumulative impacts of offshore wind.

Response: NMFS disagrees with the commenter's statement. NMFS authorizes take of marine mammals incidental to marine site characterization surveys but the renewal IHA issued to COSW does not authorize the surveys themselves and does not authorize offshore wind development. The purpose of the marine site characterization surveys is to obtain sufficient data to meet BOEM guidelines for geophysical, geotechnical, and geohazard information to support site characterization, sight, and engineering design of future offshore wind project facilities. While NMFS has the authority to modify, suspend, or revoke an IHA if the IHA holder fails to abide by the conditions prescribed therein (including, but not limited to, failure to comply with monitoring or reporting requirements), or if NMFS determines that (1) the authorized taking is having or is likely to have more than a negligible impact on the species or stocks of affected marine mammals, or (2) the prescribed measures are likely not or are not effecting the least practicable adverse impact on the affected species or stocks and their habitat, it is not within NMFS' jurisdiction to impose a blanket moratorium on offshore wind development or to require cessation of the marine site characterization on the basis of unsupported speculation.

NMFS recognizes and appreciates the importance of the NARW as an integral part of traditional lifeways and cultural practices. But, NMFS emphasizes that there is no credible scientific evidence available suggesting that mortality and/or serious injury or Level A harassment is a potential outcome of the planned

survey activity. NMFS notes there have never been reports of any serious injuries or mortalities of any marine mammal associated with any marine site characterization surveys. And, the commenter did not provide any compelling scientific evidence to support their claim that the proposed IHA and specific activities would lead to mortality or serious injury of NARWs.

The best available science indicates that Level B harassment, or disruption of behavioral patterns, may occur as a result of COSW's specified activities. This point has been well supported by other agencies, including the Bureau of Ocean Energy Management and the Marine Mammal Commission (Marine Mammal Commission Newsletter, Spring 2023). A recent study by Thorne and Wiley (2024) reviewed spatio-temporal patterns of strandings, mortalities, and serious injuries of humpback whales along the U.S. East Coast from 2016-2022 and found vessel strikes to be the major driver in the increase of humpback whale strandings, mortalities, and serious injuries. Based upon the spatio-temporal analysis, no evidence was found that offshore wind development contributed to the increased number of strandings, serious injuries or mortalities; for example, spatio-temporal patterns between strandings and site assessment surveys did not seem associated. In fact, the potential for vessel strike increased from 2016-2022 in association with increased container vessel traffic that overlapped with whales in new and shallow foraging areas. This potential for vessel strike also seemed to increase with the increased presence of juvenile humpback whales foraging off the Mid-Atlantic States.

Under the IHA, NMFS requires COSW to abide by vessel speed restrictions and maintain separation distances between vessels and marine mammals that are intended to minimize the risk of any potential vessel strikes. NMFS is not suggesting the study by Thorne and Wiley (2024) presents any final resolution of the issue and generically agrees with the need for continued investigation on offshore wind effects on marine mammals. However, that does not impact our findings here for this IHA, or our determination that the specified activities will have a negligible impact on marine mammals.

There is an ongoing unusual mortality event (UME) for humpback whales along the Atlantic coast from Maine to Florida, which includes animals stranded since 2016. Partial or full necropsy examinations were conducted on approximately half of the whales. Necropsies were not conducted on other

carcasses because they were too decomposed, not brought to land, or stranded on protected lands (e.g., national and state parks) where responders had limited or no access to the carcasses. Of the roughly 90 whales examined, about 40 percent had evidence of human interaction (i.e., vessel strike or entanglement). The remaining 50 necropsied whales either had an undetermined cause of death due to a limited examination or decomposition of the carcass, or had other causes of death (e.g., parasite-caused organ damage and starvation). Ongoing UMEs are also occurring for NARW and minke whales, both since 2017. NMFS will continue to gather data to help us determine the cause of death for these stranded whales. Vessel strikes and entanglement in fishing gear continue to be the greatest human threats to large whales.

We also refer to the GARFO 2021 Programmatic Consultation, which finds that these survey activities are in general not likely to adversely affect marine mammal species listed under the ESA (i.e., GARFO's analysis conducted pursuant to the ESA finds that marine mammals are not likely to be taken at all (as that term is defined under the ESA), much less be taken by serious injury or mortality). That document is found at: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic#offshore-wind-site-assessment-and-site-characterization-activities-programmatic-consultation>. The impacts of Level B harassment authorized here (i.e., behavioral disturbance) are expected to have a negligible impact on the NARW population as well as other potentially impacted marine mammal populations. NMFS has made the required findings based on the best scientific information available and has included mitigation measures to effect the least practicable adverse impacts on NARWs and other potentially impacted marine mammals.

NMFS also notes the cumulative effects of substantially similar activities in the northwest Atlantic Ocean have been analyzed in the past under section 7 of the ESA when NMFS engaged in formal intra-agency consultation, such as the 2013 programmatic Biological Opinion for Bureau of Ocean Energy Management Lease and Site Assessment Rhode Island, Massachusetts, New York, and New Jersey Wind Energy Areas (<https://repository.library.noaa.gov/view/noaa/29291>). Analyzed activities include those for which NMFS issued previous IHAs (82 FR 31562, July 7, 2017; 85 FR 21198, April 16, 2020; 86

FR 26465, May 10, 2021), which are similar to those planned by COSW under this current IHA request.

For NMFS' response on cumulative impacts, please see our response to *Comment 4*.

Comment 6: The Wampanoag Tribe of Gay Head (Aquinnah) (Tribe) stated that NMFS continues to administer Section 7 consultations and take permits without complying with Executive Order 13175 that requires meaningful government-to-government consultation with Tribes on matters that have implications for tribes, and requested that no IHAs are renewed in the New York Bight until the issue is addressed.

Response: Executive Order 13175 directs Federal agencies to establish procedures for meaningful consultation and coordination with Tribal officials in the development of Federal policies that have Tribal implications. 65 FR 67249 (Nov. 9, 2000). "Policies that have tribal implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Additionally, the consultation requirement set forth in Section 5 of Executive Order 13175 provides that "Each agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." NMFS is committed to carrying out its responsibilities under Executive Order 13175, as implemented through NOAA Administrative Order 218-8 (Policy on Government-to-Government Consultation with Federally-Recognized Indian Tribes and Alaska Native Corporations) and the NOAA Tribal Consultation Handbook. However, NMFS disagrees that renewal of the IHA for the take of marine mammals incidental to HRG surveys in the New York Bight should be suspended. We intend to engage with the Tribe going forward to ensure that we satisfy our responsibilities under Executive Order 13175 and address to the extent possible (in context of the actions we are responsible for) the Tribe's concerns regarding wind energy development.

Comment 7: A commenter has requested that NMFS provide documentation for its determination to add an additional 400 km of trackline that was inadvertently excluded from the 2023 IHA—not providing the factual basis for the conclusion would make the

finding arbitrary and capricious. The commenter further states that "nearly identical" has not been defined in NOAA protocols and the standard is subjective.

Response: Please see the Detailed description of the Activity in the **Federal Register** notice of proposed IHA (89 FR 67592, August 21, 2024). The request from COSW to include the additional 400 km of trackline is documented in this notice. NMFS has determined that the inclusion of the additional 400 km to the remaining survey trackline is a minor change that does not affect the analyses, mitigation and monitoring requirements remained the same as those identified in the initial IHA, NMFS's negligible impact determination on the affected species and/or stocks remained the same and, further, the remaining survey trackline for this renewal is less than the total trackline included in the initial IHA. The maximum percent population for each species is small relative to individual stock abundance (less than one third) which meets the criteria for NMFS to make a negligible impact determination for COSW's specified activities.

While "nearly identical" is not explicitly defined, NMFS believes the plain language definition is adequate. The IHA renewal process guidance on our website indicates that the applicant must clearly describe any minor change in the activity and why the change will have either no effect on the impacts to marine mammals, or will decrease the type and/or amount of expected take. An example of an applicant that is qualified for a renewal is an applicant conducting bird research at three sites (resulting in behavioral harassment of pinnipeds) as covered by the initial IHA. Sixty days prior to expiration of the initial IHA, the applicant requests a renewal to authorize take incidental to a second year conducting the same research, at the same three sites, for the same duration, in the same seasons—with no other known changes. An example of an applicant that is not qualified for renewal is an applicant conducting bird research at three sites (resulting in behavioral harassment of pinnipeds) as covered by the initial IHA. Two months prior to the expiration of the initial IHA, the applicant requests a renewal to authorize take incidental to a second year conducting the same research, at the same three sites, for the same duration, in the same seasons—but wishes to add one new site to the research activity, which is associated with the need for additional take authorization (i.e., higher numbers than the initial IHA). Further, examples

illustrating activities that do and do not qualify for a renewal are included on the website. NMFS has determined that the activities planned in the renewal IHA are nearly identical to those identified in the initial IHA, using the same survey equipment and number of survey vessels planned for use and covering the same geographic region. COSW will be using the same sparker systems (applied Acoustics Dura-Spark UHD 400+400 Seismic Sound Source (400 tip/300–1,000 joules (J)) and the Geo-Source 200–400 Marine Multi-Tip Sparker System (400 tip/300–1,000 J)) and implementing the same mitigation, monitoring, and reporting. Since the addition of 400 km of trackline does not increase the take beyond that analyzed or change the negligible impact determination, NMFS has determined that this change is minor and does not affect the previous analysis. For more information about the details and conditions of the IHA renewal process, please visit <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals>.

Comment 8: A commenter suggested NMFS should work with other agencies to produce or commission an independent study about marine mammal mortality on the East Coast, specifically to cross-reference PSO data with the coordinates of marine mammal strandings to determine whether there is a correlation between wind surveying activities and strandings. The commenter states that using PSO data will improve the best available science to predict and potentially prevent impacts to marine mammals, and NMFS should refrain from issuing IHAs until the agency can determine the cause of the marine mammal deaths.

Response: NMFS disagrees that the renewal IHA should be denied, as we have made the necessary findings required by the MMPA for issuance and supported them with the necessary analyses and best available science. Neither the proposed IHA nor this final IHA allow mortality or serious injury of marine mammals to be authorized. NMFS authorizes take of marine mammals incidental to marine site characterization surveys but does not authorize the surveys themselves. Therefore, while NMFS has the authority to modify, suspend, or revoke an IHA if the IHA holder fails to abide by the conditions prescribed therein (including, but not limited to, failure to comply with monitoring or reporting requirements), or if NMFS determines that (1) the authorized taking is having or is likely to have more than a negligible impact on the species or

stocks of affected marine mammals, or (2) the prescribed measures are likely not or are not effecting the least practicable adverse impact on the affected species or stocks and their habitat, it is not within NMFS' jurisdiction to impose a moratorium on offshore wind development or to require surveys to cease on the basis of unsupported speculation.

NMFS appreciates the suggestion to commission a study that would cross-reference PSO data with coordinates of marine mammal strandings to investigate a correlation between the two, but notes that correlation is not equivalent to causation, especially if all potential factors are not considered. The data collected by PSOs, and subsequent analysis, provide the necessary information to inform an estimate of the amount of take that occurred during the activity, better understand the impacts of the activity on marine mammals, address the effectiveness of monitoring and mitigation measures, and to adaptively manage activities and mitigation in the future. Data reported includes information on marine mammal sightings, activity occurring at time of sighting, monitoring conditions, and if mitigation was employed. NMFS has considered the best available science regarding the effect of wind surveying activities and marine mammal strandings and has determined there is no evidence that noise arising from offshore wind development-related site characterization surveys could potentially cause marine mammal stranding, mortality, or serious injury. There is no evidence linking recent large whale mortalities to past or ongoing site characterization surveys. The commenters offer no such evidence. NMFS will continue to gather data to help us determine the cause of death for stranded whales on the East Coast of the United States. We further note the Marine Mammal Commission's recent statement: "There continues to be no evidence to link these large whale strandings to offshore wind energy development, including no evidence to link them to sound emitted during wind development-related site characterization surveys, known as HRG surveys. Although HRG surveys have been occurring off New England and the mid-Atlantic coast, HRG devices have never been implicated or causatively-associated with baleen whale strandings." (Marine Mammal Commission Newsletter, Spring 2023).

Of the strandings documented to date worldwide, NMFS is not aware of any being attributed to the types of HRG equipment proposed for use during COSW's surveys. Recently, there has

been heightened interest in HRG surveys relative to recent marine mammal strandings along the U.S. East Coast. HRG surveys involve the use of certain sources to image the ocean bottom, which are very different from seismic airguns used in oil and gas surveys or tactical military sonar, in that they produce much smaller impact zones. Marine mammals may respond to exposure to these sources by, for example, avoiding the immediate area, which is why offshore wind developers, like COSW, seek authorization for Level B (behavioral) harassment. However, because of the combination of lower source levels, higher frequency, narrower beam-width (for some sources), and other factors, the area within which a marine mammal might be expected to be behaviorally disturbed by HRG sources is much smaller (by orders of magnitude) than the impact areas for seismic airguns or the military sonar with which a small number of marine mammal have been causally associated. Specifically, estimated harassment zones for HRG surveys are typically less than 200 m (such as those associated with the project), while the harassment zones for military mid-frequency active sonar or seismic airgun surveys typically extend for several kms ranging up to 10s of km. Further, because of this much smaller ensonified area, any marine mammal exposure to HRG sources is reasonably expected to be at significantly lower levels and shorter duration (associated with less severe responses), and there is no evidence suggesting that marine mammals exposed to HRG survey noise are likely to be injured, much less strand, as a result. Of note, NMFS has performed a thorough review of a report submitted by Rand (2023), that includes measurements of the Geo-Marine Geo-Source 400 sparker, and suggests that NMFS is assuming lower source and received levels than is appropriate in its assessments of HRG impacts. NMFS has determined that the values in this IHA are appropriate, based on the model methodology (*i.e.*, the assumed source level propagated using spherical spreading) here predicting a peak level 3 dB louder than the maximum measured peak level at the closest measurement range in Rand (2023).

Also of note, in an assessment of monitoring reports for HRG surveys received from 2021 and later, as compared to the takes of marine mammals authorized, an average of fewer than 15 percent of all species with authorized take have been detected within harassment zones, with no more than 27 percent for any species

(common dolphins) and 20 percent or fewer for all other species. The most common behavioral reaction to the HRG sound source reported was “change direction” though detections of “no behavioral change” occurred nearly twice as many times as “change direction,” if not more.

Additionally, a recent paper by Thorne and Wiley (2024) reviewed spatio-temporal patterns of strandings, mortalities, and serious injuries of humpback whales along the U.S. East Coast from 2016–2022. Humpback whales were chosen as a case study for this analysis because of its ongoing UME and since Humpback whales strand more often than other large whale species. Thorne and Wiley (2024) found vessel strikes to be a major driver in the increase of humpback whale strandings, mortalities, and serious injury along the U.S. East Coast. The potential for vessel strike increased during the study period due to increased vessel traffic in new foraging areas, the increased presence of juvenile humpback whales, and humpback whale foraging in shallow areas that overlap with vessel traffic. Based upon the spatio-temporal analysis, no evidence was found that offshore wind development contributed to the increased number of strandings over time. Future studies should focus on gaining a greater understanding of spatial and seasonal habitat use patterns of large whales, spatio-temporal changes in prey abundance and distribution, and how habitat use and foraging behavior affect the risk of vessel strike. Recently, NMFS was made aware of a media article wherein a member of the public conducted a statistical analysis on the correlation between offshore wind vessel use and whale deaths along the U.S. East Coast (Climate Change Dispatch, 2024). NMFS has long recognized that marine mammal strandings have increased over the years, including increases in strandings of three large whale species resulting in the declaration of UMEs for minke, humpback, and NARW in 2018, 2017, and 2017 respectively. Offshore wind development has increased over the same time period. However, NMFS does not ascribe much weight to the analysis. The analysis presented in the Climate Change Dispatch article was not peer-reviewed, and does not appear to separate other vessel movement from offshore wind-related survey activities, did not consider other known factors that are increasing ship strike risk in general (e.g., Thorne and Wiley, 2024) or other factors leading to increased strandings (e.g., entanglement, climate change), and the analysis did not

demonstrate that offshore wind vessel traffic or HRG surveys are the cause of strandings. Overall, while NMFS considered this information, the Climate Change Dispatch article did not provide new information that links whale strandings to offshore wind vessel movement or surveys.

Furthermore, NMFS does not expect that the generally short-term, intermittent, and transitory marine site characterization survey activities planned by COSW will create conditions of acute or chronic acoustic exposure leading to long-term physiological impacts in whales. The best available science indicates that Level B harassment (i.e., disruption of behavioral patterns) may occur as a result of COSW’s specified activities. We also refer to the Greater Atlantic Regional Fisheries Office (GARFO) 2021 Programmatic Consultation, which finds that these survey activities are in general not likely to adversely affect Endangered Species Act (ESA)-listed marine mammal species. That document is found at <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic#offshore-wind-site-assessment-and-site-characterization-activities-programmatic-consultation>.

NMFS does not use PSO data to ‘predict and potentially prevent impacts to marine mammals’, but has reviewed the best available scientific information about the occurrence of marine mammals, including current density data and other relevant information, to understand marine mammal densities in the planned survey area, calculate take estimates, and develop mitigation measures. Habitat-based density models produced by the Duke University Marine Geospatial Ecology Laboratory (Roberts et al., 2016, Roberts et al., 2023) represent the best available information regarding marine mammal densities in the planned survey area. These density data incorporate aerial and shipboard line-transect survey data from NMFS and other organizations and incorporate data from numerous physiographic and dynamic oceanographic and biological covariates, and controls for the influence of sea state, group size, availability bias, and perception bias on the probability of making a sighting. These density models were originally developed for all cetacean taxa in the U.S. Atlantic in 2016 and models for all taxa were updated in 2022 (Roberts et al., 2016, Roberts et al., 2023). More information is available online at <https://seamap.env.duke.edu/models/Duke/EC/>.

Marine mammal density estimates in the survey area (animals/km²) were obtained using the most recent model results for all taxa. NMFS takes seriously the risk of impact to marine mammals through survey activities and has prescribed measures to ensure the least practicable adverse impact on species or stocks and their habitat. The full list of mitigation measures can be found in Condition 4 of the IHA and in the Mitigation section of this notice. The mitigation measures included in COSW’s IHA are not unique, and data from prior IHAs support the effectiveness of these mitigation measures. Level B harassment will be reduced through use of mitigation measures described herein.

Comment 9: A commenter has stated that PSO reports did not address uncertainties related to the cumulative impacts of ecological effects of surveying activities for OSW including changes in migration, breeding, nursing, needing, or sheltering patterns.

Response: PSO reports are not designed to address the cumulative impacts of offshore wind surveying activities on marine mammals, but, as required, help increase our understanding of marine mammals in the area and the impacts of the activity on marine mammals. For NMFS’ response on cumulative impacts, please see our response to *Comment 4*.

Description of Marine Mammals

A description of the marine mammals in the area of the activities for which take is authorized here, including information on abundance, status, distribution, and hearing, may be found in the **Federal Register** notice of the proposed IHA (88 FR 24574, April 21, 2023) for the initial IHA. NMFS has reviewed the monitoring data from the initial IHA, the draft 2023 Stock Assessment Reports (SARs), which included updates to certain stock abundances since the initial IHA was issued, information on relevant UMEs, and other scientific literature. The draft 2023 SAR updated the population estimate (N_{best}) of NARW from 338 to 340 and annual mortality and serious injury from 31.2 to 27.2. The updated population estimate in the draft 2023 SAR is based upon sighting history through December 2021 (89 FR 5495, January 29, 2024). Total annual average observed NARW mortality during the period 2017–2021 was 7.1 animals and annual average observed fishery mortality was 4.6 animals, however, estimates of 27.2 total mortality and 17.6 fishery mortality account for undetected mortality and serious injury (89 FR 5495, January 29, 2024). In

October 2023, NMFS released a technical report identifying that the NARW population size based on sighting history through 2022 was 356 whales, with a 95 percent credible interval ranging from 346 to 363 (Linden, 2023). NMFS conservatively relies in this circumstance on the lower SAR abundance estimate.

The population estimates (N_{best}) also increased for the North Atlantic stock of sperm whales, the Western North Atlantic Offshore stock of common bottlenose dolphins, Western North Atlantic stocks of Risso's dolphins, Atlantic spotted dolphins, and gray seals. However, abundance estimates slightly decreased for the Western North Atlantic stocks of common dolphins and harbor porpoises. NMFS has determined there is no new information that 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 authorized may be found in the Notices of the Proposed (88 FR 24574, April 21, 2023) and Final IHAs (88 FR 42322, June 30, 2023) for the initial IHA. NMFS has reviewed the monitoring data from the initial IHA, recent draft stock assessment reports, information on relevant UMEs and other scientific literature and determined that there is no new information that 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 **Federal Register** Notice of the Final IHA (88 FR 42322, June 30, 2023) for the initial IHA. Specifically, the source levels, days of operation, and marine mammal density/occurrence data applicable to this authorization remain unchanged from the initial IHA. Similarly, the stocks taken, methods of take, and types of take remain unchanged from the initial IHA, as do the number of takes, which are indicated below in table 1. The number of takes authorized are a subset of the initial authorized takes that better represent the amount of the remaining activity COSW has left to complete. These estimated takes, which reflect the remaining survey trackline, are indicated below in table 1.

TABLE 1—AUTHORIZED NUMBER OF TAKES BY LEVEL B HARASSMENT BY SPECIES AND STOCK AND PERCENT OF TAKE BY STOCK ¹

Species	Scientific name	Stock	Abundance	2023 IHA authorized take	2024 renewal IHA		
					Percentage of trackline requested in renewal	Estimate of take for requested trackline	Max percent population
North Atlantic right whale	<i>Eubalaena glacialis</i>	Western Atlantic	340	24	63	15	² 4.4
Fin whale	<i>Balaenoptera physalus</i>	Western North Atlantic	6,802	76	63	48	0.7
Sei whale	<i>Balaenoptera borealis</i>	Nova Scotia	6,292	24	63	15	0.2
Minke whale	<i>Balaenoptera acutorostrata</i>	Canadian East Coastal	21,968	304	63	192	0.9
Humpback whale	<i>Megaptera novaeangliae</i>	West Indies DPS	1,396	46	63	29	2.1
Sperm whale	<i>Physeter macrocephalus</i>	North Atlantic	4,349	10	63	6	0.1
Risso's dolphin	<i>Grampus griseus</i>	Western North Atlantic	35,215	59	63	37	0.1
Long-finned pilot whale	<i>Globicephala melas</i>	Western North Atlantic	39,215	78	63	49	0.1
Atlantic white-sided dolphin	<i>Lagenorhynchus acutus</i>	Western North Atlantic	93,233	427	63	269	0.3
Common dolphin	<i>Delphinus delphis</i>	Western North Atlantic	172,974	5,572	63	3,510	2.0
Atlantic spotted dolphin	<i>Stenella frontalis</i>	Western North Atlantic	39,921	320	63	202	0.5
Common bottlenose dolphin, Offshore stock.	<i>Tursiops truncatus</i>	Western North Atlantic Off-shore (occurs within >20 m deep).	62,851	1,316	62	816	1.3
Common bottlenose dolphin, Northern migratory coastal stock.	<i>Tursiops truncatus</i>	Western North Atlantic Northern Migratory Coastal (occurs within <20 m deep).	6,639	115	70	81	1.2
Harbor porpoise	<i>Phocoena phocoena</i>	Gulf of Maine/Bay of Fundy Stock.	95,543	1,912	63	1,205	1.3
Harbor seal	<i>Phoca vitulina</i>	Western North Atlantic	61,336	1,955	63	1,232	2.0
Gray seal	<i>Halichoerus grypus</i>	Western North Atlantic	27,300	1,955	63	1,232	4.5

¹ Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy (<https://marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies/>; Committee on Taxonomy (2022)).

² Based on the 2023 draft marine mammal stock assessment reports (SAR).

³ NMFS's stock abundance estimate (and associated PBR value) applies to the U.S. population only. Total stock abundance (including animals in Canada) is approximately 451,600. The annual mortality/serious injury given is for the total stock.

Description of Mitigation, Monitoring and Reporting Measures

The mitigation, monitoring, and reporting measures included as requirements in this IHA are identical to those included in the **Federal Register** notice announcing the issuance of the initial IHA (88 FR 42322, June 30, 2023) and the discussion of the least practicable adverse impact determination included in that

document remains applicable and accurate.

The 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, and the discussion of the least practicable adverse impact included in the **Federal Register** notice of the proposed IHA

remains accurate. NMFS will require the following measures for this renewal IHA:

Visual Monitoring and Shutdown Zones

COSW must employ independent, dedicated, trained PSOs, meaning that the PSOs must (1) be employed by a third-party observer provider, (2) have no tasks other than to conduct observational effort, collect data, and

communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements (including brief alerts regarding maritime hazards), and (3) have successfully completed an approved PSO training course appropriate for geophysical surveys. Visual monitoring must be performed by qualified, NMFS-approved PSOs. PSO resumes must be provided to NMFS for review and approval prior to the start of survey activities.

During survey operations (e.g., any day in which use of the sparker source is planned to occur, and whenever the sparker source is in the water, whether activated or not), a minimum of one visual PSO must be on duty on each source vessel and conducting visual observations at all times during daylight hours (i.e., from 30 minutes (min) prior to sunrise through 30 min following sunset). A minimum of two PSOs must be on duty on each source vessel during nighttime hours. Visual monitoring must begin no less than 30 min prior to ramp-up (described below) and must continue until 1 hour after use of the sparker source ceases.

Visual PSOs shall coordinate to ensure 360° visual coverage around the vessel from the most appropriate observation posts and shall conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner. PSOs shall establish and monitor applicable shutdown zones (see below). These zones shall be based upon the radial distance from the sparker source (rather than being based around the vessel itself).

Two shutdown zones are defined, depending on the species and context. Here, an extended shutdown zone encompassing the area at and below the sea surface out to a radius of 500 m from the sparker source (0–500 m) is defined for NARW. For all other marine mammals, the shutdown zone encompasses a standard distance of 100 m (0–100 m) during the use of the sparker. Any observations of marine mammals by crew members aboard any vessel associated with the survey shall be relayed to the PSO team.

Visual PSOs may be on watch for a maximum of 4 consecutive hours followed by a break of at least 1 hour between watches and may conduct a maximum of 12 hours of observation per 24-hr period.

Pre-Start Clearance and Ramp-Up Procedures

A ramp-up procedure, involving a gradual increase in source level output,

is required at all times as part of the activation of the sparker sources when technically feasible. Operators should ramp up sparker to half power for 5 min and then proceed to full power. A 30 min pre-start clearance observation period of the shutdown zones must occur prior to the start of ramp-up. The intent of the pre-start clearance observation period (30 min) is to ensure no marine mammals are within the shutdown zones prior to the beginning of ramp-up. The intent of the ramp-up is to warn marine mammals of pending operations and to allow sufficient time for those animals to leave the immediate vicinity. All operators must adhere to the following pre-start clearance and ramp-up requirements:

- The operator must notify a designated PSO of the planned start of ramp-up as agreed upon with the lead PSO; the notification time should not be less than 60 min prior to the planned ramp-up in order to allow the PSOs time to monitor the shutdown zones for 30 min prior to the initiation of ramp-up (pre-start clearance). During this 30 min pre-start clearance period the entire shutdown zone must be visible, except as indicated below;

- Ramp-ups shall be scheduled so as to minimize the time spent with the source activated;

- A visual PSO conducting pre-start clearance observations must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed;

- Any PSO on duty has the authority to delay the start of survey operations if a marine mammal is detected within the applicable pre-start clearance zone; and

- The operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the acoustic source to ensure that mitigation commands are conveyed swiftly while allowing PSOs to maintain watch.

The pre-start clearance requirement is waived for small delphinids and pinnipeds. Detection of a small delphinid (individual belonging to the following genera of the Family Delphinidae: *Steno*, *Delphinus*, *Lagenorhynchus*, *Stenella*, and *Tursiops*) or pinniped within the shutdown zone does not preclude beginning of ramp-up, unless the PSO confirms the individual to be of a genus other than those listed, in which case normal pre-clearance requirements apply.

If there is uncertainty regarding identification of a marine mammal species (i.e., whether the observed marine mammal(s) belongs to one of the

delphinid genera for which the pre-clearance requirement is waived), PSOs may use best professional judgment in making the decision to call for a shutdown.

- Ramp-up may not be initiated if any marine mammal to which the pre-start clearance requirement applies is within the shutdown zone. If a marine mammal is observed within the shutdown zone during the 30 min pre-start clearance period, ramp-up may not begin until the animal(s) has been observed exiting the zones or until an additional time period has elapsed with no further sightings (30 min for all baleen whale species and sperm whales, 15 min for all other species).

- PSOs must monitor the shutdown zones 30 min before and during ramp-up, and ramp-up must cease and the source must be shut down upon observation of a marine mammal within the applicable shutdown zone.

- Ramp-up may occur at times of poor visibility, including nighttime, if appropriate visual monitoring has occurred with no detections of marine mammals in the 30 min prior to beginning ramp-up. Sparker activation may only occur at night where operational planning cannot reasonably avoid such circumstances.

If the acoustic source is shut down for brief periods (i.e., <30 min) for reasons other than implementation of prescribed mitigation (e.g., mechanical difficulty), it may be activated again without ramp-up if PSOs have maintained constant visual observation and no detections of marine mammals have occurred within the applicable shutdown zone. For any longer shutdown, pre-start clearance observation and ramp-up are required.

Shutdown Procedures

All operators must adhere to the following shutdown requirements:

- Any PSO on duty has the authority to call for shutdown of the sparker source if a marine mammal is detected within the applicable shutdown zone;

- The operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the source to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch;

- When the sparker source is active and a marine mammal appears within or enters the applicable shutdown zone, the source must be shut down. When shutdown is instructed by a PSO, the sparker source must be immediately deactivated and any dispute resolved only following deactivation; and

- Two shutdown zones are defined, depending on the species and context.

An extended shutdown zone encompassing the area at and below the sea surface out to a radius of 500 m from the sparker source (0–500 m) is defined for NARW. For all other marine mammals, the shutdown zone encompasses a standard distance of 100 m (0–100 m) during the use of the sparker.

The shutdown requirement is waived for small delphinids and pinnipeds. If a small delphinid (individual belonging to the following genera of the Family Delphinidae: *Steno*, *Delphinus*, *Lagenorhynchus*, *Stenella*, and *Tursiops*) or pinniped is visually detected within the shutdown zone, no shutdown is required unless the PSO confirms the individual to be of a genus other than those listed, in which case a shutdown is required.

If there is uncertainty regarding identification of a marine mammal species (*i.e.*, whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived or one of the species with a larger shutdown zone), PSOs may use best professional judgment in making the decision to call for a shutdown.

Upon implementation of shutdown, the source may be reactivated after the marine mammal has been observed exiting the applicable shutdown zone or following a clearance period (30 min for all baleen whale species and sperm whales, 15 min for all other species) with no further detection of the marine mammal.

If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized number of takes have been met, approaches or is observed within the Level B harassment zone (158 m), shutdown must occur.

Vessel Strike Avoidance

Crew and supply vessel personnel must use an appropriate reference guide that includes identifying information on all marine mammals that may be encountered. Vessel operators must comply with the below measures except under extraordinary circumstances when the safety of the vessel or crew is in doubt or the safety of life at sea is in question. These requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply.

Vessel operators and crews must maintain a vigilant watch for all marine mammals and slow down, stop their vessel(s), or alter course, as appropriate and regardless of vessel size, to avoid

striking any marine mammals. A single marine mammal at the surface may indicate the presence of submerged animals in the vicinity of the vessel; therefore, precautionary measures should always be exercised. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel (species-specific distances are detailed below). Visual observers monitoring the vessel strike avoidance zone may be third-party observers (*i.e.*, PSOs) or crew members, but crew members responsible for these duties must be provided sufficient training to (1) distinguish marine mammal from other phenomena and (2) broadly to identify a marine mammal as a NARW, other whale (defined in this context as sperm whales or baleen whales other than NARWs), or other marine mammals.

All survey vessels, regardless of size, must observe a 10-knots (kn) (18.52-km/h) speed restriction in specific areas designated by NMFS for the protection of NARWs from vessel strikes. These include all SMAs established under 50 CFR 224.105 (when in effect), any DMAs (when in effect), and Slow Zones. See [www.fisheries.noaa.gov/national/](http://www.fisheries.noaa.gov/national/endangered-species-conservation/reducing-ship-strikes-north-atlantic-right-whales)*endangered-species-conservation/reducing-ship-strikes-north-atlantic-right-whales* for specific detail regarding these areas.

- All vessels must reduce speed to 10 kn (18.52 km/h) or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near a vessel.
- All vessels must maintain a minimum separation distance of 500 m from NARWs, baleen whales (except humpback and minke), sperm whales, and any unidentified large whales. If a NARW, baleen whale (except humpback and minke), sperm whale, and any unidentified large whale is sighted within the relevant separation distance, the vessel must steer a course away at 10 kn (18.52 km/h) or less until the 500-m separation distance has been established. If a whale is observed but cannot be confirmed as a species other than a NARW, the vessel operator must assume that it is a NARW and take appropriate action.
- All vessels must maintain a minimum separation distance of 100 m from all humpback and minke whales.
- All vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 50 m from all other marine mammals, with an understanding that at times this may not be possible (*e.g.*, for animals that approach the vessel).

- When marine mammals are sighted while a vessel is underway, the vessel must take action as necessary to avoid

violating the relevant separation distance (*e.g.*, attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction until the animal has left the area, reduce speed and shift the engine to neutral). This does not apply to any vessel towing gear or any vessel that is navigationally constrained.

- Members of the PSO team will consult NMFS NARW reporting system and Whale Alert, daily and as able, for the presence of NARWs throughout survey operations, and for the establishment of DMAs and/or Slow Zones. It is COSW's responsibility to maintain awareness of the establishment and location of any such areas and to abide by these requirements accordingly.

Seasonal Operating Requirements

As described above, a section of the survey area partially overlaps with a portion of a NARW SMA off the port of New York/New Jersey. This SMA is active from November 1 through April 30 of each year. The survey vessel, regardless of length, would be required to adhere to vessel speed restrictions (<10 kn (18.52 km/h)) when operating within the SMA during times when the SMA is active (see table 4 of the initial IHA (88 FR 42322, June 30, 2023). Based on our evaluation of the applicant's planned measures, as well as other measures considered by NMFS, NMFS has determined that the planned mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved

understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.*, presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.*, source characterization, propagation, ambient noise); (2) affected species (*e.g.*, life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.*, age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.*, marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Monitoring Measures

Visual monitoring must be performed by qualified, NMFS-approved PSOs. COSW must submit PSO resumes for NMFS review and approval prior to commencement of the survey. Resumes should include dates of training and any prior NMFS approval, as well as dates and description of last experience, and must be accompanied by information documenting successful completion of an acceptable training course.

For prospective PSOs not previously approved, or for PSOs whose approval is not current, NMFS must review and approve PSO qualifications. Resumes should include information related to relevant education, experience, and training, including dates, duration, location, and description of prior PSO experience. Resumes must be accompanied by relevant documentation of successful completion of necessary training.

NMFS may approve PSOs as conditional or unconditional. A conditionally-approved PSO may be one who is trained but has not yet attained the requisite experience. An unconditionally-approved PSO is one who has attained the necessary

experience. For unconditional approval, the PSO must have a minimum of 90 days at sea performing the role during a geophysical survey, with the conclusion of the most recent relevant experience not more than 18 months previous.

At least one of the visual PSOs aboard the vessel must be unconditionally-approved. One unconditionally-approved visual PSO shall be designated as the lead for the entire PSO team. This lead should typically be the PSO with the most experience, who would coordinate duty schedules and roles for the PSO team and serve as primary point of contact for the vessel operator. To the maximum extent practicable, the duty schedule shall be planned such that unconditionally-approved PSOs are on duty with conditionally-approved PSOs.

A “trained lookout” may be used on a space-limited nearshore vessel (generally operating in water less than 20 m depth for no more than 12 hours/day) during required breaks for the approved PSO on duty. Project-specific training must be conducted for all vessel crew with “lookout” responsibilities prior to the start of a survey and during any changes in crew such that all relevant survey personnel are fully aware and understand the mitigation, monitoring, and reporting requirements. All vessel crew members operating as a trained lookout must be briefed in the identification of protected species that may occur in the survey area and in relevant mitigation requirements. Reference materials must be available aboard all project vessels for identification of protected species. Should a mitigation action be taken, the Trained Lookout will immediately notify the off-watch PSO to ensure that the appropriate response was taken and sightings and mitigation measures are properly documented (*i.e.*, if shutdown was called for or avoidance measures for large whales/vessel strike avoidance taken, the Trained Lookout immediately notifies the off-watch PSO). If the survey is operating within a DMA or Slow Zone, the survey may only operate with a PSO on-watch.

At least one PSO aboard each acoustic source vessel must have a minimum of 90 days at-sea experience working in the role, with no more than 18 months elapsed since the conclusion of the at-sea experience. One PSO with such experience must be designated as the lead for the entire PSO team and serve as the primary point of contact for the vessel operator. (Note that the responsibility of coordinating duty schedules and roles may instead be assigned to a shore-based, third-party

monitoring coordinator.) To the maximum extent practicable, the lead PSO must devise the duty schedule such that experienced PSOs are on duty with those PSOs with appropriate training but who have not yet gained relevant experience.

PSOs must successfully complete relevant training, including completion of all required coursework and passing (80 percent or more) a written and/or oral examination developed for the training program.

PSOs must have successfully attained a bachelor’s degree from an accredited college or university with a major in one of the natural sciences, a minimum of 30 semester hours or equivalent in the biological sciences, and at least one undergraduate course in math or statistics. The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver shall be submitted to NMFS and must include written justification. Alternate experience that may be considered includes, but is not limited to (1) secondary education and/or experience comparable to PSO duties; (2) previous work experience conducting academic, commercial, or government-sponsored marine mammal surveys; and (3) previous work experience as a PSO (PSO must be in good standing and demonstrate good performance of PSO duties).

COSW must work with the selected third-party PSO provider to ensure PSOs have all equipment (including backup equipment) needed to adequately perform necessary tasks, including accurate determination of distance and bearing to observed marine mammals, and to ensure that PSOs are capable of calibrating equipment as necessary for accurate distance estimates and species identification. Such equipment, at a minimum, shall include:

- At least one thermal (infrared) image device suited for the marine environment;
- Reticle binoculars (*e.g.*, 7 x 50) of appropriate quality (at least one per PSO, plus backups);
- Global Positioning Units (GPSs) (at least one plus backups);
- Digital cameras with a telephoto lens that is at least 300-mm or equivalent on a full-frame single lens reflex, also known as an SLR (at least one plus backups). The camera or lens should also have an image stabilization system;
- Equipment necessary for accurate measurement of distances to marine mammal;

- Compasses (at least one plus backups);
- Means of communication among vessel crew and PSOs; and
- Any other tools deemed necessary to adequately and effectively perform PSO tasks.

The equipment specified above may be provided by an individual PSO, the third-party PSO provider, or the operator, but COSW is responsible for ensuring PSOs have the proper equipment required to perform the duties specified in the IHA.

The PSOs will be responsible for monitoring the waters surrounding the survey vessel to the farthest extent permitted by sighting conditions, including Shutdown Zones, during all HRG survey operations. PSOs will visually monitor and identify marine mammals, including those approaching or entering the established Shutdown Zones during survey activities. It will be the responsibility of the PSO(s) on duty to communicate the presence of marine mammals as well as to communicate the action(s) that are necessary to ensure mitigation and monitoring requirements are implemented as appropriate.

PSOs must be equipped with binoculars and have the ability to estimate distance and bearing to detect marine mammals, particularly in proximity to Shutdown Zones. Reticulated binoculars must also be available to PSOs for use as appropriate based on conditions and visibility to support the sighting and monitoring of marine mammals. During nighttime operations, appropriate night-vision devices (e.g., night-vision goggles with thermal clip-ons and infrared technology) would be used. Position data would be recorded using hand-held or vessel GPS units for each sighting.

During good conditions (e.g., daylight hours; Beaufort sea state (BSS) 3 or less), to the maximum extent practicable, PSOs must also conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the active acoustic sources and between acquisition periods, to the maximum extent practicable. Any observations of marine mammals by crew members aboard the vessel associated with the survey would be relayed to the PSO team. Data on all PSO observations would be recorded based on standard PSO collection requirements (see Reporting Measures). This would include dates, times, and locations of survey operations; dates and times of observations, location and weather; details of marine mammal sightings (e.g., species, numbers, behavior); and details of any observed

marine mammal behavior that occurs (e.g., noted behavioral disturbances). Members of the PSO team shall consult the NMFS NARW reporting system and Whale Alert, daily and as able, for the presence of NARWs throughout survey operations.

Reporting Measures

COSW shall submit a draft comprehensive report to NMFS on all activities and monitoring results within 90 days of the completion of the survey or expiration of the IHA, whichever comes sooner. The report must describe all activities conducted and sightings of marine mammals, must provide full documentation of methods, results, and interpretation pertaining to all monitoring, and must summarize the dates and locations of survey operations and all marine mammal sightings (dates, times, locations, activities, associated survey activities). The draft report shall also include geo-referenced, time-stamped vessel tracklines for all time periods during which acoustic sources were operating. Tracklines should include points recording any change in acoustic source status (e.g., when the sources began operating, when they were turned off, or when they changed operational status such as from full array to single gun or vice versa). GIS files shall be provided in Environmental Systems Research Institute, Inc. shapefile format and include the Coordinated Universal Time date and time, latitude in decimal degrees, and longitude in decimal degrees. All coordinates shall be referenced to the WGS84 geographic coordinate system. In addition to the report, all raw observational data shall be made available. The report must summarize the information. A final report must be submitted within 30 days following resolution of any comments on the draft report. All draft and final marine mammal monitoring reports must be submitted to PR.ITP.MonitoringReports@noaa.gov, nmfs.gar.incidental-take@noaa.gov and ITP.hilt@noaa.gov.

PSOs must use standardized electronic data forms to record data. PSOs shall record detailed information about any implementation of mitigation requirements, including the distance of marine mammal to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the acoustic source. If required mitigation was not implemented, PSOs should record a

description of the circumstances. At a minimum, the following information must be recorded:

1. Vessel names (source vessel), vessel size and type, maximum speed capability of vessel;
2. Dates of departures and returns to port with port name;
3. PSO names and affiliations;
4. Date and participants of PSO briefings;
5. Visual monitoring equipment used;
6. PSO location on vessel and height of observation location above water surface;
7. Dates and times (Greenwich Mean Time (GMT)) of survey on/off effort and times corresponding with PSO on/off effort;
8. Vessel location (decimal degrees) when survey effort begins and ends and vessel location at beginning and end of visual PSO duty shifts;
9. Vessel location at 30-second intervals if obtainable from data collection software, otherwise at practical regular interval;
10. Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any change;
11. Water depth (if obtainable from data collection software);
12. Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including BSS and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon;
13. Factors that may contribute to impaired observations during each PSO shift change or as needed as environmental conditions change (e.g., vessel traffic, equipment malfunctions);
14. Survey activity information (and changes thereof), such as acoustic source power output while in operation, number and volume of airguns operating in an array, tow depth of an acoustic source, and any other notes of significance (i.e., pre-start clearance, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, etc.); and
15. Upon visual observation of any marine mammal, the following information must be recorded:
 - a. Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);
 - b. Vessel/survey activity at time of sighting (e.g., deploying, recovering, testing, shooting, data acquisition, other);
 - c. PSO who sighted the animal;
 - d. Time of sighting;
 - e. Initial detection method;
 - f. Sightings cue;

- g. Vessel location at time of sighting (decimal degrees);
- h. Direction of vessel's travel (compass direction);
- i. Speed of the vessel(s) from which the observation was made;
- j. Identification of the animal (*e.g.*, genus/species, lowest possible taxonomic level or unidentified); also note the composition of the group if there is a mix of species;
- k. Species reliability (an indicator of confidence in identification);
- l. Estimated distance to the animal and method of estimating distance;
- m. Estimated number of animals (high/low/best);
- n. Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, *etc.*);
- o. Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars, or markings, shape and size of dorsal fin, shape of head, and blow characteristics);
- p. Detailed behavior observations (*e.g.*, number of blows/breaths, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior before and after point of closest approach);
- q. Mitigation actions; description of any actions implemented in response to the sighting (*e.g.*, delays, shutdowns, ramp-up, speed or course alteration, *etc.*) and time and location of the action;
- r. Equipment operating during sighting;
- s. Animal's closest point of approach and/or closest distance from the center point of the acoustic source; and,
- t. Description of any actions implemented in response to the sighting (*e.g.*, delays, shutdown, ramp-up) and time and location of the action.

If a NARW is observed at any time by PSOs or personnel on the project vessel, during surveys or during vessel transit, COSW must report the sighting information to the NMFS NARW Sighting Advisory System (866-755-6622) within 2 hours of occurrence, when practicable, or no later than 24 hours after occurrence. NARW sightings in any location may also be reported to the U.S. Coast Guard via channel 16 and through the Whale Alert app (<http://www.whalealert.org>).

In the event that personnel involved in the survey activities discover an injured or dead marine mammal, the incident must be reported to NMFS as soon as feasible by phone (866-755-6622) and by email (nmfs.gar.incidental-take@noaa.gov and PR.ITP.MonitoringReports@noaa.gov).

The report must include the following information:

1. Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
2. Species identification (if known) or description of the animal(s) involved;
3. Condition of the animal(s) (including carcass condition if the animal is dead);
4. Observed behaviors of the animal(s), if alive;
5. If available, photographs or video footage of the animal(s); and
6. General circumstances under which the animal was discovered.

In the event of a vessel strike of a marine mammal by any vessel involved in the activities, COSW must report the incident to NMFS by phone (866-755-6622) and by email (nmfs.gar.incidental-take@noaa.gov and PR.ITP.MonitoringReports@noaa.gov) as soon as feasible. The report would include the following information:

1. Time, date, and location (latitude/longitude) of the incident;
2. Species identification (if known) or description of the animal(s) involved;
3. Vessel's speed during and leading up to the incident;
4. Vessel's course/heading and what operations were being conducted (if applicable);
5. Status of all sound sources in use;
6. Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;
7. Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;
8. Estimated size and length of animal that was struck;
9. Description of the behavior of the marine mammal immediately preceding and/or following the strike;
10. If available, description of the presence and behavior of any other marine mammals immediately preceding the strike;
11. Estimated fate of the animal (*e.g.*, dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and
12. To the extent practicable, photographs or video footage of the animal(s).

Determinations

COSW's HRG survey activities are a subset but otherwise unchanged from those analyzed in support of the 2023 IHA. The effects of the activity, taking into consideration the required

mitigation and related monitoring measures, remain unchanged from those evaluated in support of the 2023 IHA. NMFS expects that all potential takes would be short-term Level B harassment in the form of temporary avoidance of the area or decreased foraging, reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.*, Southall et al., 2007). In addition to being temporary, the maximum harassment zone around a survey vessel is 158 m (rounded up from the 157.7 m Level B harassment isopleth) from a three sparker array with 400 tips (either Geo-Source 200-400 or Applied Acoustics Dura-Spark UHD). Although this distance is assumed for all survey activity evaluated here and in estimating authorized take numbers, in reality, much of the survey activity would involve use of acoustic sources with a reduced acoustic harassment zone producing expected effects of particularly low severity. Therefore, the ensounded area surrounding each vessel is relatively small compared to the overall distribution of the animals in the area and the available habitat.

NMFS authorizes incidental take of small numbers of marine mammals from specified activities that are a subset of, but otherwise identical to, those analyzed in the initial IHA and to require mitigation, monitoring, and reporting measures that are also identical to those in the initial IHA. The number of takes by Level B harassment is less than that authorized in the initial IHA. In the initial IHA, NMFS determined that COSW's specified activities would have a negligible impact on the affected species and/or stocks and the authorized take for each stock would be small relative to individual stock abundance (less than one third).

NMFS has concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. This includes consideration of the estimated abundance of one stock increasing slightly. Specifically, NMFS is authorizing 15 takes of NARW by Level B harassment only, and the impacts resulting from the project's activities are neither reasonably expected nor reasonably likely to adversely affect the stock through effects on annual rates of recruitment or survival. 15 takes of NARW equates to approximately 4.4 percent of the stock abundance, if each incident of take is assumed to accrue to a separate individual whale.

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) COSW'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.

National Environmental Policy Act

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental take 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.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

NMFS' Office of Protected Resources is proposing to authorize take of four species of marine mammals that are listed under the ESA (*i.e.*, NARW, fin whale, sei whale, and sperm whale) and has determined these activities fall within the scope of activities analyzed in the NMFS Greater Atlantic Regional Fisheries Office programmatic consultation regarding geophysical surveys along the U.S. Atlantic coast in the three Atlantic renewable energy regions (completed June 29, 2021; revised September 2021).

Renewal

NMFS has issued a renewal IHA to COSW for the take of marine mammals incidental to conducting marine site characterization with HRG surveys off the coast of New Jersey and New York in the New York Bight from July 1, 2024, through June 30, 2025.

Dated: October 10, 2024.

Kimberly Damon-Randall,

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

[FR Doc. 2024-23984 Filed 10-16-24; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE376]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of hybrid meeting open to the public offering both in-person and virtual options for participation.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a four-day meeting to consider actions affecting the Gulf of Mexico fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will convene Monday, November 4 through Thursday, November 7, 2024. Daily schedule will be 8:30 a.m.–5 p.m., EST.

ADDRESSES: The meeting will take place at the Hilton St. Petersburg Bayfront Hotel, located at 333-1st Street South, St. Petersburg, FL 33701. If you prefer to “listen in”, you may access the log-in information by visiting our website at <https://www.gulfcouncil.org>.

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348-1630.

FOR FURTHER INFORMATION CONTACT: Dr. Carrie Simmons, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348-1630.

SUPPLEMENTARY INFORMATION:

Monday, November 4, 2024; 8:30 a.m.–5 p.m., EST

The meeting will begin in Full Council with review and adoption of Proposed Council Committee Assignments for November 2024 through August 2025 and Current Council Committee Assignments.

Committee Sessions will follow beginning with the Habitat Protection & Restoration Committee's review of the Final Essential Fish Habitat Contract Report. The Law Enforcement Committee will convene to receive a report from the October 2024 Law Enforcement Technical Committee meeting.

Sustainable Fisheries Committee will gather to discuss Research and Monitoring Priorities for 2025–2028 including Scientific and Statistical Committees (SSC) Recommendations, review and discuss SSC Recommendations for the following items: Southeast Data, Assessment, and Review (SEDAR) Process Changes and Assessment Approaches; Consideration of Carryover and Phase-in for Gulf Stocks in Proposed Acceptable Biological Catch (ABC) Control Rule Management Strategy Evaluation (MSE) Simulations; and receive a presentation for Consideration of *Wahoo* for Federal Management.

Following lunch, the *Shrimp* Committee will review Draft *Shrimp* Framework Action: Modification of the Vessel Position Data Collection Program for the Gulf of Mexico *Shrimp* Fishery and presentation.

The *Reef Fish* Committee will review the *Reef Fish* and Individual Fishing Quota (IFQ) Program Landings, and State Program Landings for Red Snapper.

Tuesday, November 5, 2024; 8:30 a.m.–5:30 p.m., EST

The Council will receive a Litigation update. Following, the *Reef Fish* Committee will reconvene to review and discuss Draft Options: *Reef Fish* Amendment 58B: Modifications to *Deep-water Grouper* Management Measures, Presentation: Modifications to *Lane Snapper* Minimum Size and Recreational Bag Limits and Draft Options: *Reef Fish* Amendment 58A: Modifications to *Shallow-water Grouper* Management Measures and receive a presentation for *Reef Fish* Amendment 60: Individual Fishing Quota Distributional Issues.

The Committee will also review draft options for Federal For-hire Fishing Season for *Red Snapper*, receive the SSC Summary Report for SEDAR 88 Stock Assessment for Gulf *Red Grouper*, Recreational *Red Snapper* Texas Calibration Simulation and Southeastern U.S. *Black Grouper* Management Strategy. The Committee will discuss updated NMFS Bottom Longline Index for Gulf *Red Snapper* and Request for an update on the *Greater Amberjack* Count.