

marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

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

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

On January 19, 2021, we issued a final rule with regulations to govern the unintentional taking of marine mammals incidental to geophysical survey activities conducted by oil and gas industry operators, and those persons authorized to conduct activities on their behalf (collectively “industry operators”), in U.S. waters of the GOM over the course of 5 years (86 FR 5322, January 19, 2021). The rule was based on our findings that the total taking from the specified activities over the 5-year period will have a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of those species or stocks for subsistence uses. The rule became effective on April 19, 2021.

Our regulations at 50 CFR 217.180 *et seq.* allow for the issuance of LOAs to industry operators for the incidental take of marine mammals during geophysical survey activities and prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on

marine mammal species or stocks and their habitat (often referred to as mitigation), as well as requirements pertaining to the monitoring and reporting of such taking. Under 50 CFR 217.186(e), issuance of an LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations and a determination that the amount of take authorized under the LOA is of no more than small numbers.

NMFS subsequently discovered that the 2021 rule was based on erroneous take estimates. We conducted another rulemaking using correct take estimates and other newly available and pertinent information relevant to the analyses supporting some of the findings in the 2021 final rule and the taking allowable under the regulations. We issued a final rule in April 2024, effective May 24, 2024 (89 FR 31488, April 24, 2024).

The 2024 final rule made no changes to the specified activities or the specified geographical region in which those activities would be conducted, nor to the original 5-year period of effectiveness. In consideration of the new information, the 2024 rule presented new analyses supporting affirmance of the negligible impact determinations for all species, and affirmed that the existing regulations, which contain mitigation, monitoring, and reporting requirements, are consistent with the “least practicable adverse impact” (LPAI) standard of the MMPA.

NMFS issued a LOA to Murphy on March 20, 2024, for the take of marine mammals incidental to a three-dimensional (3D) ocean bottom node survey in the Green Canyon protraction areas, including approximately 44 lease blocks, effective April 1, 2024, through October 31, 2024. Please see the **Federal Register** notice of issuance (89 FR 20946, March 26, 2024) for additional detail regarding the LOA and the survey activity.

Murphy subsequently requested, and NMFS issued, a modification to the LOA expiration date, extending it to January 31, 2025 (89 FR 83464, October 16, 2024). On November 1, 2024 Murphy informed NMFS that the survey had further delays, and requested a second modification to the expiration date of the LOA (from December 31, 2025 to March 15, 2025) to accommodate the delays. There are no other changes to Murphy’s planned activity.

Authorization

NMFS has changed the expiration date of the LOA from January 31, 2025

to March 15, 2025. There are no other changes to the LOA as described in the October 16, 2024, **Federal Register** notice of issuance (89 FR 83464): the specified survey activity, estimated take by incidental harassment, and small numbers analysis and determination remain unchanged and are referenced in this notice.

Dated: November 19, 2024.

Kimberly Damon-Randall,
Director, Office of Protected Resources,
National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE482]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the Duckabush Estuary Restoration Project in Washington

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

ACTION: Notice; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Army Corps of Engineers (USACE) for authorization to take marine mammals incidental to the Duckabush Estuary Restoration Project (DERP) in Hood Canal, Washington, for a period of 5 years (2025–2029). Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of USACE’s request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on USACE’s application and request.

DATES: Comments and information must be received no later than December 26, 2024.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to ITP.Pauline@noaa.gov.

Instructions: NMFS is not responsible for comments sent by any other method,

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

An electronic copy of USACE's application may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>. In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Robert Pauline, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an immitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined "negligible impact" in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term "take" means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

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

Summary of Request

On April 17, 2024, NMFS received an application from the USACE requesting authorization for take of marine mammals incidental to in-water construction activities associated with the DERP in Hood Canal. We provided comments on the application and the USACE submitted a revised version on September 27, 2024. The application was deemed adequate and complete on November 5, 2024. The requested regulations under which we would issue the requested LOA would be valid for 5 years, November 2025 through October 2029. The USACE's DERP would reconnect floodplain and intertidal wetlands to improve tidal exchange, sediment transport, and estuary development plans to restore the Duckabush River Estuary. Construction-related activities include building temporary work platforms, bridge demolition, bridge construction, road realignment, channel excavation, causeway and training berms demolition. Construction activities are expected to disturb nearby pinnipeds, resulting in incidental take by Level B harassment only. Therefore, the USACE requests authorization to incidentally take marine mammals.

Specified Activities

The purpose of the DERP is to reconnect floodplain and intertidal wetlands to improve tidal exchange, sediment transport, and estuary development plans to restore the Duckabush River Estuary. Construction-related activities include building temporary work platforms, bridge demolition, bridge construction, road realignment, channel excavation, and causeway demolition.

The USACE anticipates construction will take up to 764 workdays across 48 months to complete. Time estimates assume that construction will operate 8 hours per day, 5 days per week for most

of the project and 12 hours per day, 7 days per week for some components of the work. The number of work days per year would range from 28 (Year 1) to 263 (Years 2 and 3). Take by Level B harassment has been requested for harbor seal (*Phoca vitulina*). The USACE's application contains mitigation and monitoring measures designed to reduce impacts to marine mammals. The application also contains proposed marine mammal monitoring and reporting plans.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning USACE's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by USACE, if appropriate.

Dated: November 20, 2024.

Catherine Marzin,

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

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COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Extend Collection 3038-0104: Clearing Exemption for Swaps Between Certain Affiliated Entities

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is announcing an opportunity for public comment on the proposed renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act ("PRA"), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on reporting requirements relating to uncleared swaps between certain affiliated entities electing the exemption under Commission regulation 50.52 (Exemption for swaps between affiliates).

DATES: Comments must be submitted on or before January 24, 2025.