

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 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, regulations are promulgated (when applicable), and public notice and an opportunity for public comment are provided.

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). If such findings are made, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to as “mitigation”); and requirements pertaining to the monitoring and reporting of such takings.

NMFS promulgated a final rule in the **Federal Register** on February 14, 2024 (89 FR 11342), which governs the incidental take of marine mammals incidental to Empire Wind’s construction of the Project in Federal and State waters offshore New York, 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–0512 and along two export cable routes to sea-to-shore transition points. The rule became effective on February 22, 2024, and is valid through February 21, 2029. The regulations allow NMFS to approve requests for modification to the LOA’s specified activity or the mitigation, monitoring, or reporting measures if NMFS determines the requested change does not change the findings made for promulgation of the regulations and does not result in more than a minor change in the total estimated number of takes (see 50 CFR 217.287(b)).

NMFS issued a LOA to Empire Wind on February 22, 2024, and published a notice of issuance in the **Federal Register** on February 27, 2023 (89 FR 14442). The LOA authorized Empire Wind to take, by harassment, marine mammals incidental to specified

construction activities, specifically impact pile driving of wind turbine generator and offshore substation jacket foundations, vibratory pile driving of cofferdams and goal posts, pneumatic hammering of casing pipes, and high-resolution geophysical vessel-based site characterization surveys, within the specified geographical region.

Summary of Request and Analysis

On December 4, 2024, NMFS received a request from Empire Wind to transfer the LOA to Empire Leaseholder LLC (Empire Leaseholder), an affiliate wholly owned by Empire Wind. To ensure safety during vessel transit, Empire Wind requested for NMFS to modify the LOA safety exemption language to include a provision for allowing deviations from the vessel strike avoidance requirements (LOA measure 3(b)) so Project vessels could maintain safe maneuvering speed when oceanographic, hydrographic, and/or meteorological conditions restrict vessel maneuverability. Empire Wind also requested revisions to the reporting timeline for bubble curtain performance and maintenance report for piles for which abbreviated sound field verification (SFV) monitoring is performed. These provisions will be more practicable and align with the Project’s Biological Opinion, issued on September 8, 2023. In addition, Empire Wind requested for NMFS to allow the Pile Driving Mitigation and Monitoring Plan (PDMMP) to specify the number and location of PAM operators and to allow the PAM Plan to specify PAM operator protocols during foundation pile driving, instead of these requirements being specified in the LOA. NMFS determined none of these changes will affect the amount, the type of take authorized, or our findings as described in the final rule. Therefore, we have modified the attached LOA, specifically measures 3(b), 3(c)(7)(v), and 4(c)(2), thus fulfilling Empire Wind’s request.

In reviewing Empire Wind’s request, NMFS also recognized the need to update additional measures to improve clarity and better align the LOA with the Biological Opinion. NMFS moved the safety exemption for foundation pile driving to the beginning of the foundation pile driving section (LOA measure 3 (c)) to clarify that this measure applies to all foundation pile driving activities. In addition, NMFS modified the language for the maximum hammer energies ((3)(c)(2)) and soft start requirements ((3)(c)(4)) to provide additional flexibility for application of these requirements in the field. NMFS made minor revisions to the language in

the mitigation and monitoring sections to improve the clarity of the requirements. To better align with the Biological Opinion, NMFS made minor revisions to the language in the sound field verification (SFV) monitoring requirements (LOA measures 3(c)(13)). NMFS also clarified the Protected Species Observer (PSO) and PAM Operator experience qualification requirements in section 4(a) of the LOA for foundation installation, cable landfall construction/marina activities, and high-resolution geophysical (HRG) surveys. NMFS’ evaluation of the requested and necessary additional LOA modifications indicated that these modifications would not change the amount or nature of anticipated impacts of activities on marine mammals. Specifically, none of the benefits of any of the mitigation or monitoring measures that have been modified here were considered quantitatively in the analyses (*i.e.*, only the 10-decibel sound attenuation and seasonal restrictions were quantitatively considered such that take numbers were reduced). In consideration of the above, NMFS has determined that these modifications do not result in changes in the total estimated take numbers or otherwise change any of the findings made for the regulations.

Authorization

NMFS has issued a modified LOA to Empire Wind authorizing the take, by harassment, of small numbers of marine mammals incidental to specified construction activities associated with the Project, which includes the modified mitigation, monitoring, and reporting measures discussed herein.

Dated: January 16, 2025.

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–XE606]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the New London Pier Extension Project at the Naval Submarine Base

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for the re-issuance of a previously issued incidental harassment authorization (IHA) with the only change being effective dates. The initial IHA authorized take of six species of marine mammals, by Level B harassment, and for take of harbor seals, gray seals, and harp seals by Level A harassment, incidental to construction associated with the New London Pier Extension Project at the Naval Submarine Base (SUBASE) New London in Groton, Connecticut. The project has been delayed and none of the work covered in the initial IHA has been conducted. The scope of the activities and anticipated effects remain the same, authorized take numbers are not changed, and the required mitigation, monitoring, and reporting remains the same as included in the initial IHA. NMFS is, therefore, issuing a second identical IHA to cover the incidental take analyzed and authorized in the initial IHA.

DATES: This IHA is effective from February 1, 2026, through January 31, 2027.

ADDRESSES: An electronic copy of the final 2024 IHA previously issued to the Navy, the Navy's application, and the **Federal Register** notices proposing and issuing the initial IHA may be obtained by visiting <https://www.fisheries.noaa.gov/action/incidental-take-authorization-united-states-navys-construction-us-naval-submarine-base-new>. In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

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

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the Marine Mammal Protection Act (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 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.

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 June 14, 2024, NMFS published final notice of our issuance of an IHA authorizing take of marine mammals incidental to the New London Pier Extension Project at Naval the SUBASE New London in Groton, Connecticut (89 FR 50565). The effective dates of that IHA were December 1, 2024, through November 30, 2025. On November 20, 2024, the Navy informed NMFS that the project was delayed. None of the work identified in the initial IHA (*e.g.*, pile driving and removal) has occurred. The Navy submitted a request that we issue an identical IHA that would be effective from February 1, 2026, through January 31, 2027, in order to conduct the construction work that was analyzed and authorized through the previously issued IHA. Therefore, issuance of the IHA is appropriate.

Summary of Specified Activity and Anticipated Impacts

The planned activities (including mitigation, monitoring, and reporting), authorized incidental take, and anticipated impacts on the affected stocks are the same as those analyzed

and authorized through the previously issued IHA.

The purpose of this project is to extend the existing Pier 31 to provide two berths for a submarine platform that is approximately 80 ft longer than the existing submarines. The location, timing, and nature of the activities, including the types of equipment planned for use, are within scope of those described in the initial IHA. The mitigation and monitoring are also as prescribed in the initial IHA.

Species that are expected to be taken by the planned activity include Atlantic white-sided dolphin (*Lagenorhynchus acutus*), harbor porpoise (*Phocoena phocoena*), gray seal (*Halichoerus grypus*), harbor seal (*Phoca vitulina*), and harp seal (*Pagophilus groenlandicus*). A description of the methods and inputs used to estimate take anticipated to occur and the take that was authorized is found in the **Federal Register** notice of the proposed IHA (89 FR 27717, April 18, 2024). The data inputs and methods of estimating take are identical to those used in the initial IHA. NMFS has reviewed recent Stock Assessment Reports, information on relevant Unusual Mortality Events, and recent scientific literature, and determined that our original analysis of impacts and take estimate under the initial IHA remains valid.

We refer to the documents related to the previously issued IHA, which include the **Federal Register** notice of the issuance of the initial 2024 IHA for the Navy's construction work (89 FR 50565, June 14, 2024), the Navy's application, the **Federal Register** notice of the proposed IHA (89 FR 27717, April 18, 2024), and all associated references and documents.

Determinations

The Navy will conduct activities as analyzed in the initial 2024 IHA. As described above, the number of authorized takes of the same species and stocks of marine mammals are identical to the numbers that were found to meet the negligible impact and small numbers standards and authorized under the initial IHA and no new information has emerged that would change those findings. The new issued IHA includes identical required mitigation, monitoring, and reporting measures as the initial IHA, and there is no new information suggesting that our analysis or findings should change.

Based on the information 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; and (4) the Navy's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are potentially effected by this action.

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 National

Environmental Policy Act review. NMFS has determined that the application of this categorical exclusion remains appropriate for this reissued IHA.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA; 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.

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS determined that formal consultation under section 7 of the ESA is not required for this action.

Authorization

NMFS has issued an IHA to the Navy for in-water construction activities associated with the specified activity

from February 1, 2026, through January 31, 2027. All previously described mitigation, monitoring, and reporting requirements from the initial 2024 IHA are incorporated.

Dated: January 15, 2025.

Kimberly Damon-Randall,

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

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DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[NTIA-2024-0005]

RIN: RIN 0660-XC065

Impact of L-Band MSS 'Direct-to-Device' Operations on GPS

Correction

In notice document 2024-30760, appearing on pages 105542 through 105553 in the issue of Friday, December 27, 2024, make the following correction:

On page 105552, at the bottom of the page, Figure 1 should appear as below.

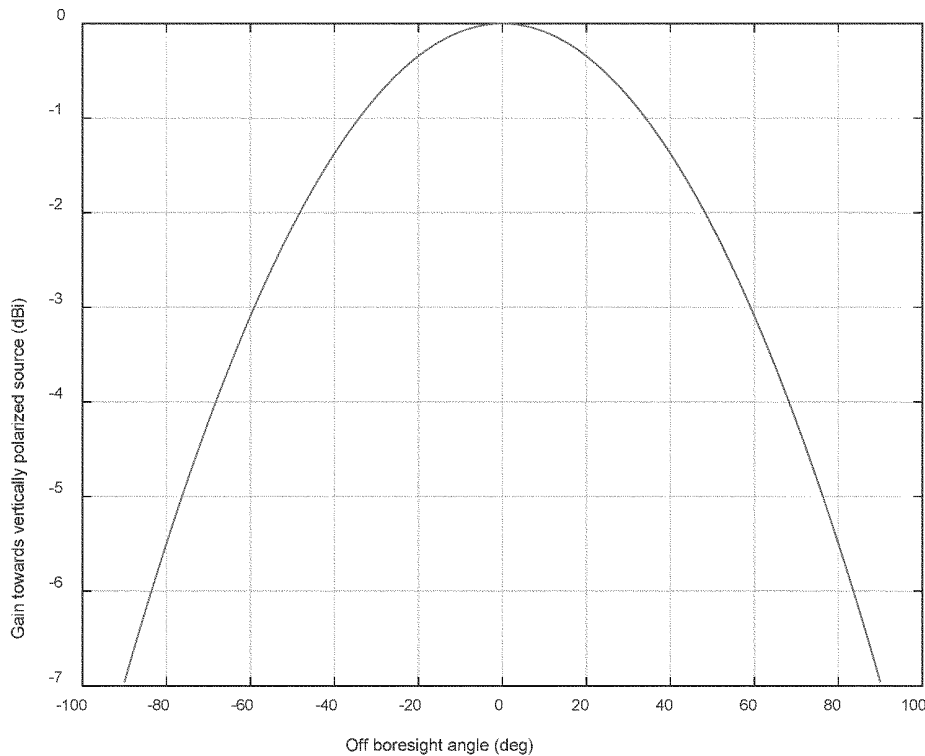


Figure 1. Representative HPR Antenna Gain Pattern Towards Vertically Polarized Source