

the AK BSAI Pacific cod pot fishery to authorize the incidental take of ESA-listed species or stocks during commercial fishing operations. If, during the three-year authorization, there is a significant change in the information or conditions used to support any of these determinations, NMFS will re-evaluate whether to amend or modify the authorization, after notice and opportunity for public comment.

### ESA Section 7 and National Environmental Policy Act Requirements

ESA section 7(a)(2) requires federal agencies to ensure that actions they authorize, fund, or carry out do not jeopardize the existence of any species listed under the ESA, or destroy or adversely modify designated critical habitat of any ESA-listed species. The effects of the AK BSAI Pacific cod pot fishery on ESA-listed marine mammals, were analyzed in the ESA section 7 Biological Opinion for the BSAI Groundfish Fishery Management Plan.

Under section 7 of the ESA, Biological Opinions analyze the effects of the proposed action on ESA-listed species and their critical habitat and, where appropriate, exempt anticipated future take of ESA-listed species as specified in the incidental take statement. Under MMPA section 101(a)(5)(E), NMFS analyzes previously documented M/SI incidental to commercial fisheries through the negligible impact determination process, and when the necessary findings can be made, issues a MMPA section 101(a)(5)(E) permit that allows for an unspecified amount of incidental taking of specific ESA-listed marine mammal stocks while engaging in commercial fishing operations. Thus, the applicable standards and resulting analyses under the MMPA and ESA differ, and as such, may not always align.

The National Environmental Policy Act (NEPA) requires Federal agencies to evaluate the impacts of alternatives for their actions on the human environment. Because the permit would not modify any fishery operation and the effects of the fishery operations have been evaluated in accordance with NEPA, no additional NEPA analysis beyond that conducted for the associated Fishery Management Plan is required for the permit. Issuing the permit would have no additional impact on the human environment or effects on threatened or endangered species beyond those analyzed in these documents.

### Public Comments

On December 15, 2021, NMFS published a notice and request for comments in the **Federal Register** for the proposed issuance of a permit under MMPA section 101(a)(5)(E) to vessels registered in the Category II AK BSAI Pacific cod pot fishery (86 FR 71236). The public comment period closed on December 30, 2021. NMFS received one non-substantive comment letter opposing the proposed issuance of the permit and underlying preliminary negligible impact determination.

### References

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and migratory destination for North Pacific humpback whales in both summer feeding areas and winter mating and calving areas. International Whaling Commission. SC/68c/1A/03. 32 p. <https://archive.iwc.int/>.

Dated: January 28, 2022.

**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–XB776]

### Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Pacific Fishery Management Council's (Pacific Council) Ad Hoc Groundfish Electronic Monitoring Policy Advisory Committee and Technical Advisory Committee (Committees) will hold two webinars, which are open to the public.

**DATES:** The online meetings will be held February 23 and March 30, 2022, from 9 a.m. to 12 p.m., Pacific Time each day or until work for the day is completed.

**ADDRESSES:** These meetings will be held online. Specific meeting information, including directions on how to join the meetings and system requirements will be provided in the meeting announcements on the Pacific Council's website (see [www.pcouncil.org](http://www.pcouncil.org)). You may send an email to Mr. Kris Kleinschmidt ([kris.kleinschmidt@noaa.gov](mailto:kris.kleinschmidt@noaa.gov)) or contact him at (503) 820–2412 for technical assistance.

*Council address:* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

**FOR FURTHER INFORMATION CONTACT:** Brett Wiedoff, Staff Officer, Pacific Council; telephone: (503) 820–2424.

**SUPPLEMENTARY INFORMATION:** The purpose of these webinars is to discuss continued development of the West Coast Electronic Monitoring Program (EM Program). The Committees will begin scoping EM Program issues and conduct a workload planning process to identify future meetings and topics at the February 23rd webinar. The March 30th webinar will be a work session to

discuss meeting materials and topics that will be presented at the April 2022 Council meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

### Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt ([kris.kleinschmidt@noaa.gov](mailto:kris.kleinschmidt@noaa.gov); (503) 820-2412) at least 10 days prior to the meeting date.

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

Dated: January 31, 2022.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XB764]

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Navy Construction at Naval Station Newport, Rhode Island

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

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

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

**DATES:** LOA effective from May 15, 2022 through May 14, 2027.

**ADDRESSES:** The LOA and supporting documentation are available online at: <https://www.fisheries.noaa.gov/action/>

*incidental-take-authorization-us-navy-construction-naval-station-newport-rhode-island.* In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

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

### SUPPLEMENTARY INFORMATION:

#### Background

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

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

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

#### Summary of Request

On December 15, 2021, we issued a final rule upon request from the Navy for authorization to take marine mammals incidental to construction activities (86 FR 71162). The Navy plans to conduct construction activities for bulkhead replacement and repairs at Naval Station Newport. This

construction will include use of vibratory pile driving and removal, and impact pile driving. The use of both vibratory and impact pile driving is expected to produce underwater sound at levels that have the potential to result in Level A and Level B harassment of marine mammals.

### Authorization

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

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

Dated: January 28, 2022.

**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-XB768]

#### Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

**ACTION:** Notice of SEDAR 68OA Life History Topical Working Group data