

The proposed amendment would result in the following Export Products under Export Trade in the Certificate:

Export Products

ALCC plans to export frozen at-sea, headed and gutted, Alaska cod (*Gadus macrocephalus*), also known as Pacific cod. Headed and gutted means the head and viscera are removed prior to freezing. Frozen-at-sea means that the Alaska cod is frozen on the longline catcher-processor vessel while at-sea immediately after being headed and gutted. The catch accrues against cod allocations to the Members.

ALCC also plans to export byproducts of ALCC frozen-at-sea, headed and gutted Alaska cod, caught via hook-and-line gear: cod heads; cod collars; cod roe; cod chu; cod milt; ray wings; headed and gutted pollock; headed and gutted sablefish; sablefish heads; sablefish collars. The cod heads, cod collars, cod roe, cod chu, and cod milt are derived from parts of the Alaska cod remaining after the heading-and-gutting of the cod to produce frozen-at-sea headed and gutted Alaska cod. The ray wings are derived from various species of skate, which are caught incidentally while targeting Alaska cod. The remaining products are also products and byproducts that are caught incidentally while targeting Alaska cod, except as specified below.

ALCC also plans to export the following products and byproducts caught on longline catcher-processor vessels using longline hook-and-line and longline pot gear: headed and gutted sablefish; sablefish heads; sablefish collars. The catch accrues against sablefish allocations to the Members.

ALCC also plans to export the following products and byproducts caught on longline catcher-processor vessels using longline hook-and-line gear and, when permitted by regulation, longline pot gear: headed, gutted, and tailed Greenland turbot; and turbot heads. The catch accrues against Greenland turbot allocations to the Members.

Membership remains the same following this amendment:

1. Akulurak LLC, Seattle, WA;
2. Alaskan Leader Fisheries LLC, Lynden, WA;
3. Alaskan Leader Seafoods LLC, Lynden, WA;
4. Alaskan Leader Vessel LLC, Lynden, WA;
5. Aleutian Longline, LLC, Seattle, WA;
6. Aleutian Spray Fisheries, Inc., Seattle, WA;

7. Beauty Bay Washington, LLC, Bothell, WA;
8. Bering Leader Fisheries LLC, Lynden, WA;
9. Bristol Leader Fisheries LLC, Lynden, WA;
10. Bristol Wave Seafoods, LLC, Seattle, WA;
11. Coastal Alaska Premier Seafoods, LLC, Anchorage, AK;
12. Coastal Villages Longline LLC, Anchorage, AK;
13. Deep Sea Fisheries, Inc., Everett, WA;
14. Gulf Mist, Inc., Everett, WA;
15. Gulf Prowler, LLC, Juneau, AK;
16. Kodiak Leader Fisheries LLC, Lynden, WA;
17. Northern Leader Fisheries LLC, Lynden, WA;
18. Romanzof Fishing Company, L.L.C., Seattle, WA;
19. Shelford's Boat, Ltd., Mill Creek, WA;
20. Siu Alaska Corporation, Anchorage, AK;
21. Starfish Reverse, LLC, Seattle, WA;
22. Tatoosh Seafoods, LLC, Kingston, WA.

Dated: September 13, 2024.

Amanda Reynolds,

Acting Director, Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE152]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to SouthCoast Wind Energy Marine Site Characterization Surveys off the Coast of Massachusetts and Rhode Island

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

ACTION: Notice; request for comments on proposed renewal incidental harassment authorization.

SUMMARY: NMFS received a request from SouthCoast Wind Energy, LLC (SouthCoast Wind; formerly known as Mayflower Wind Energy, LLC) for the renewal of their prior incidental harassment authorization (IHA) (hereinafter, the "initial IHA") to take marine mammals incidental to marine site characterization surveys offshore of

Massachusetts and Rhode Island. SouthCoast Wind's activities are identical to those covered in the 2023-2024 authorization, and consist of a subset of the initially planned activities. Pursuant to the Marine Mammal Protection Act (MMPA), prior to issuing the previous IHA, NMFS requested comments on both the proposed IHA and the potential for renewing the initial authorization if certain requirements were satisfied. The renewal requirements have been satisfied, and NMFS is now providing an additional 15-day comment period to allow for any additional comments on the proposed renewal not previously provided during the initial 30-day comment period.

DATES: Comments and information must be received no later than October 4, 2024.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, and should be submitted via email to ITP.gatzke@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, including all attachments, must not exceed a 25-megabyte file size. Attachments to comments will be accepted in Microsoft Word, 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/permit/incidental-take-authorizations-under-marine-mammal-protection-act> 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.

Electronic copies of the original application, renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed below.

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

SUPPLEMENTARY INFORMATION:

Background

The 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 IHA 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 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 one 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>. Any comments received on the potential renewal, along with relevant comments on the initial IHA, have been considered in the development of this proposed IHA renewal, and a summary of agency responses to applicable comments is included in this notice. NMFS will consider any additional public comments prior to making any final decision on the issuance of the requested renewal, and agency responses will be summarized in the final notice of our decision.

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.

History of Request

On October 23, 2020, NMFS received a request from SouthCoast Wind (formerly known as Mayflower Wind Energy) seeking authorization to take marine mammals by Level B harassment only incidental to high-resolution geophysical site characterization surveys (HRG) off Massachusetts and Rhode Island in the area of Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf Lease Area OCS–A–0521 and along potential submarine export cable routes. NMFS published a notice of the proposed IHA in the **Federal Register** on May 20, 2021 (86 FR 27393). NMFS subsequently issued an IHA that was effective for a period of one year, from July 1, 2021, through June 30, 2022, hereinafter referred to as the 2021 IHA (86 FR 38033; July 19, 2021).

On November 16, 2022, SouthCoast Wind submitted an application for a renewal IHA in order to complete the remaining subset of the planned survey activity that could not be completed under the 2021 IHA. After NMFS determined the application was ineligible for renewal due to the updates in marine mammal density information, on January 13, 2023, SouthCoast submitted an updated request for a standard IHA. That proposed IHA was published in the **Federal Register** on March 8, 2023 (88 FR 14335). Since all other aspects of the project remained the same (*i.e.*, the scope of the activities, the survey location, the acoustic source use, and the level of impact expected to occur (*i.e.*, Level B harassment only)), NMFS relied on the information associated with the issuance of the 2021 IHA. On May 11, 2023, NMFS issued an

IHA to SouthCoast Wind to take marine mammals incidental to marine site characterization surveys in Massachusetts (88 FR 31678, May 18, 2023), effective from May 12, 2023, through May 11, 2024, and hereinafter referred to as the 2023 IHA. The present request for renewal is based on this 2023 IHA application.

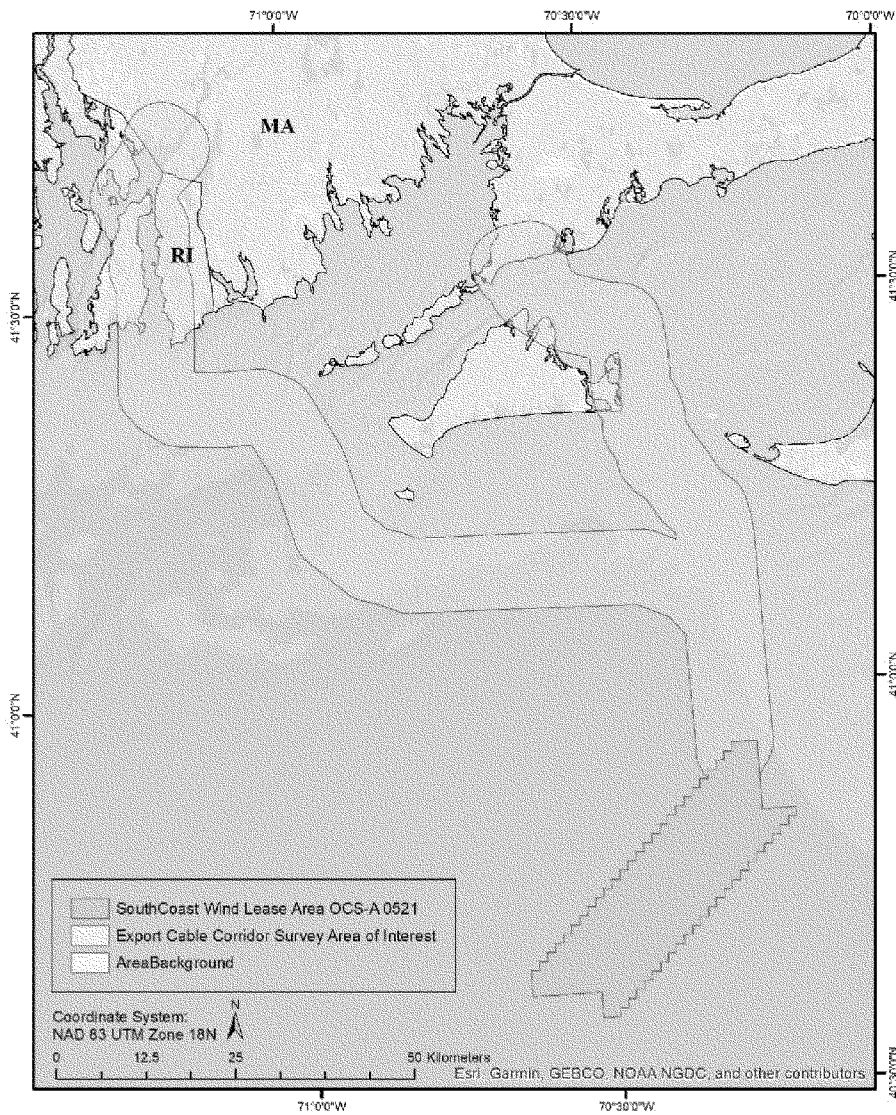
On July 1, 2024, NMFS received an application for the renewal of the 2023 IHA. As described in the application for renewal IHA, the activities for which incidental take is requested are a subset of the activities that are covered by the 2023 IHA but were not completed prior to its expiration. As required, the applicant 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 underlying IHA, on May 11, 2025, and having ensured that SouthCoast Wind understands that there is a lapse in MMPA authorization coverage between the expiration of the initial IHA and the issuance of any renewal.

Description of the Proposed Activities and Anticipated Impacts

SouthCoast Wind did not complete the planned survey scope of work associated with the 2023 IHA prior to its expiration and is planning to complete a subset of the activities during the remainder of 2024–2025. HRG surveys are planned between approximately September 2024 and May 2025, using the same survey equipment, methods and types of vessels as those previously analyzed. The 2024–2025 surveys will also be within the same survey area described in the application for the 2021 and 2023 IHAs (figure 1).

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Figure 1—Map of SouthCoast Wind Lease Area OCS–A 0521 Within the Massachusetts Wind Energy Area and the Proposed Export Cable Corridors to Falmouth, MA and to Brayton Point, Somerset, MA

The planned survey trackline, the number of active sound source days (the number of days the vessels will be actively emitting sound into the water column), and vessel days (number of days that the vessels will be present in the area) will be reduced in 2024–2025

compared to those planned under the 2023–2024 IHA. A total of up to 700 kilometers (km) of trackline (500 km in the Lease Area [Inter-Array Cable (IAC) surveys] and 200 km in the Export Cable Corridors (ECC) [potential HDD surveys]) will be surveyed (table 1). On average, approximately 50 km will be surveyed per day within the Lease Area and 15 km within the ECC, resulting in 10 active sound source days in the Lease Area and approximately 14 in the ECC (for a total of approximately 24 active sound source days in the entire project

area). The previous IHA application described up to 4 vessels being utilized to conduct the surveys. The 2024–2025 surveys may use up to 4 vessels as well. SouthCoast Wind survey contractors and protected species observer (PSO) contractors will conduct all surveys in accordance with the requirements stipulated in the 2023–2024 IHA. This renewal IHA is identical to the previous IHA, with the exception that fewer trackline kilometers will be surveyed, there will be fewer sound source days, and fewer vessel days.

TABLE 1—GEOPHYSICAL SURVEYS COMPLETED IN 2023–2024 AND TRACKLINES REMAINING (km)

Location	IHA trackline planned 2023–2024	Total trackline completed 2023–2024	Planned trackline 2024–2025
ECC—Potential HDD	750	0	200
Lease Area—Inter-array Cable (IAC)	1,950	718	500

To facilitate public review and comment on the proposed renewal IHA, refer to the documents related to the previously issued 2021 and 2023 IHAs and we discuss any new or changed information herein. The previous documents include: the notice of the proposed IHA published in the **Federal Register** on May 20, 2021 (86 FR 27393); the notice of issuance of the 2021 IHA (86 FR 38033, July 19, 2021); the notice of the proposed IHA published in the **Federal Register** on March 8, 2023 (88 FR 14335), the notice of issuance of the 2023 IHA (88 FR 31678, May 18, 2023), and all associated references and documents. We also refer the reader to previous and current applications and monitoring reports submitted by SouthCoast Wind and its predecessor Mayflower Wind, which may be found at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-southcoast-wind-energy-llcs-marine-site-characterization>.

Detailed Description of the Activity

A detailed description of the marine site characterization survey activities for which take is proposed here may be found in previous **Federal Register** notices and documents relevant to the previous IHAs (86 FR 27393, May 20, 2021; 88 FR 14335, March 8, 2023). The survey location and nature of the activities that could result in take of marine mammals (HRG surveys), including the types of equipment

planned for use, are identical to those described in these previous notices, with the exception that the scale of work is reduced. Only a subset of the planned HRG work was completed under the 2023 IHA. Between May 18 and July 10, 2023, a total of 55 survey days and 718 km of tracklines were completed. For the remainder of 2024, SouthCoast Wind proposes to conduct a subset (700 km) of the remaining tracklines (table 1).

The proposed renewal would be effective from the date of issuance through May 11, 2025 (*i.e.*, one year after the expiration of the 2023 IHA).

Description of Marine Mammals

A description of the marine mammals in the area of the activities for which authorization of take is proposed here, including information on abundance, status, distribution, and hearing, may be found in the **Federal Register** notices of the proposed IHAs for the initial authorizations (86 FR 27393, May 20, 2021; 88 FR 14335, March 8, 2023). Since the publication of the final **Federal Register** notice (88 FR 31678, May 18, 2023), NMFS has reviewed the monitoring data from the prior IHA, the draft 2023 Stock Assessment Report (SAR), which included updates to certain stock abundances since the 2023 IHA was issued, information on relevant Unusual Mortality Events (UMEs), and other scientific literature.

The draft 2023 SAR updated the population estimate (Nbest) of North

Atlantic right whales 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 North Atlantic right whale mortality during the 2017–2021 period 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 North Atlantic right whale population size based on sighting history through 2022 was 356 whales, with a 95 percent credible interval ranging from 346 to 363 (Linden, 2023).

The draft 2023 SARs include updates for additional marine mammal species and stocks (*i.e.*, North Atlantic right whale, fin whale, sei whale, minke whale, sperm whale, Atlantic spotted dolphin, Atlantic white-sided dolphin, bottlenose dolphin (Western North Atlantic—Offshore stock), common dolphin, long-finned pilot whales, Risso’s dolphin, harbor porpoise, and gray seal), which are specifically included in table 2 below. For species for which there has been no change between the finalization of the final 2022 SARs to the release of the draft 2023 SARs, NMFS has noted that below.

TABLE 2—MARINE MAMMAL SPECIES ^a LIKELY TO OCCUR NEAR THE PROJECT AREA THAT MAY BE TAKEN BY SOUTHCOAST WIND'S ACTIVITIES

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) ^b	Stock abundance (CV, N min, most recent abundance survey) ^c	PBR	Annual M/SI ^d
Order Artiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
<i>Family Balaenidae:</i>						
North Atlantic right whale ^e	<i>Eubalaena glacialis</i>	Western Atlantic	E, D, Y	340 (0, 337, 2021)	0.7	27.2
<i>Family Balaenopteridae (rorquals):</i>						
Fin whale	<i>Balaenoptera physalus</i>	Western North Atlantic	E, D, Y	6,802 (0.24, 5,573, 2021)	11	2.05
Sei whale	<i>Balaenoptera borealis</i>	Nova Scotia	E, D, Y	6,292 (1.02, 3,098, 2021)	6.2	0.6
Minke whale	<i>Balaenoptera acutorostrata</i>	Canadian Eastern Coastal	- , - , N	21,968 (0.31, 17,002, 2021) ..	170	9.4
Humpback whale	<i>Megaptera novaeangliae</i>	Gulf of Maine	- , - , N	1,396 (0, 1380, 2016)	22	12.15
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
<i>Family Physeteridae:</i>						
Sperm whale	<i>Physeter macrocephalus</i>	North Atlantic	E, D, Y	5,895 (0.29, 4,639, 2021)	9.28	0.2
<i>Family Delphinidae:</i>						
Atlantic white-sided dolphin	<i>Lagenorhynchus acutus</i>	Western North Atlantic	- , - , N	93,233 (0.71, 54,443, 2021) ..	544	28
Atlantic spotted dolphin	<i>Stenella frontalis</i>	Western North Atlantic	- , - , N	31,506 (0.28, 25,042, 2021) ..	250	0
Common bottlenose dolphin	<i>Tursiops truncatus</i>	Western North Atlantic Off-shore ^f	- , - , N	64,587 (0.24, 52,801, 2021) ..	507	28
.....	Northern Migratory Coastal	No changes
Long finned pilot whale ^g ..	<i>Globicephala melas</i>	Western North Atlantic	- , - , N	39,215 (0.30, 30,627, 2021) ..	306	5.7
Risso's dolphin	<i>Grampus griseus</i>	Western North Atlantic	- , - , N	44,067 (0.19, 30,662, 2021) ..	307	18
Common dolphin	<i>Delphinus delphis</i>	Western North Atlantic	- , - , N	93,100 (0.56, 59,897, 2021) ..	1,452	414
<i>Family Phocoenidae (porpoises):</i>						
Harbor porpoise	<i>Phocoena phocoena</i>	Gulf of Maine/Bay of Fundy ...	- , - , N	85,765 (0.53, 56,420, 2021) ..	649	145
Order Carnivora—Superfamily Pinnipedia						
<i>Family Phocidae (earless seals):</i>						
Gray seal ^h	<i>Halichoerus grypus</i>	Western North Atlantic	- , - , N	27,911 (0.20, 23,624, 2021) ..	1,512	4,570
Harbor seal	<i>Phoca vitulina</i>	Western North Atlantic	- , - , N	61,336 (0.08, 57,637, 2018) ..	1,729	339

^a 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>).

^b Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

^c NMFS' marine mammal SARs can be found online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>. CV is the coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable.

^d These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range.

^e The current SAR includes an estimated population (Nbest = 340) based on sighting history through December 2021 (<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports>). In October 2023, NMFS released a technical report identifying that the North Atlantic right whale population size based on sighting history through 2022 was 356 whales, with a 95 percent credible interval ranging from 346 to 363 (Linden, 2023).

^f Estimates may include sightings of the coastal form.

^g Key uncertainties exist in the population size estimate for this species, including uncertain separation between short-finned and long-finned pilot whales, small negative bias due to lack of abundance estimate in the region between US and the Newfoundland/Labrador survey area, and uncertainty due to unknown precision and accuracy of the availability bias correction factor that was applied.

^h NMFS' stock abundance estimate (and associated Potential Biological Removal value) applies to the U.S. population only. Total stock abundance (including animals in Canada) is approximately 394,311. The annual M/SI value given is for the total stock.

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 an authorization of incidental take is proposed here may be found in the Notice of the Proposed IHA for the 2021 authorization (86 FR 27393, May 20, 2021). This description was also incorporated by reference in the Notice of the Proposed IHA for the 2023 authorization (88 FR 14335, March 8,

2023), for which this Notice is a Proposed renewal. NMFS has reviewed the monitoring data from the 2023 IHA, recent draft SARs, 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

Notice of the Proposed IHA for the initial authorization (88 FR 14335, March 8, 2023). The source levels applicable to this authorization remain unchanged from the previously issued IHA. Similarly, the stocks taken, marine mammal density data, methods of take, and types of take remain unchanged from the previously issued 2023 IHA. The number of requested takes is reduced (table 3), due to the smaller number of tracklines being surveyed, as indicated above in table 1.

TABLE 3—NUMBER OF TAKES BY LEVEL B HARASSMENT PROPOSED FOR AUTHORIZATION AND PERCENTAGES OF EACH STOCK ABUNDANCE FOR 2024–2025 SURVEYS

Species	Combined density based calculated takes	NMFS proposed authorized take	NMFS stock abundance	Percentage of NMFS stock abundance
North Atlantic right whale	1.2	^a 2	340	0.59
Fin whale	0.5	^c 3	6,802	0.04
Sei whale	0.3	^a 2	6,292	0.03
Minke whale	2.7	3	21,968	0.02
Humpback whale	0.5	^b 11	1,396	0.86
Sperm whale	0.1	^a 2	5,895	0.03
Atlantic white-sided dolphin	5.8	^a 28	93,233	0.03
Atlantic spotted dolphin	1.0	^a 29	31,506	0.09
Common bottlenose dolphin	3.0	^b 31	64,587	0.05
Long finned pilot whale	0.4	^a 8	39,215	0.02
Risso's dolphin	0.5	^a 5	44,067	0.02
Common dolphin	49.3	^b 429	93,100	0.46
Harbor porpoise	19	19	85,765	0.02
Gray seal	32.4	32	27,911	0.12
Harbor seal	14.4	14	61,366	0.24

^a Take increased to the species mean group size (86 FR 38033, July 19, 2021; 88 FR 31678, May 18, 2023).

^b Take increased to equal the estimate of potential take based on previous PSO data (86 FR 38033, July 19, 2021; 88 FR 31678, May 18, 2023).

^c Average group size for fin whales is assumed here as 2. However, we increase the proposed authorized take number to 3 to equal the number of whales reported observed within the estimated harassment zone by SouthCoast during 2023–24 survey effort.

Description of Proposed Mitigation, Monitoring and Reporting Measures

The proposed 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 (88 FR 31678, May 18, 2023), and the discussion of the least practicable adverse impact included in that document and the Notice of the proposed IHA (88 FR 14335, March 8, 2023) remains accurate. The following identical measures are proposed for this renewal:

1. The Holder must use independent, dedicated, qualified protected species observers (PSOs), meaning that the PSOs must be employed by a third-party observer provided, must 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 protected species and mitigation requirements (including brief alerts regarding maritime hazards), and must be qualified pursuant to section 5(a) of the IHA.

2. 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.

3. During survey operations involving use of the sparker (e.g., any day on 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 PSO must be on duty and conducting visual observations at all times during daylight hours (i.e., from 30 minutes prior to sunrise through 30 minutes following sunset), and a minimum of two PSOs must be on duty and conducting visual observations at all times during nighttime hours.

4. Visual monitoring must begin no less than 30 minutes prior to ramp-up and must continue until one hour after use of the acoustic source ceases.

5. Visual PSOs shall conduct visual observations from the most appropriate observation posts using appropriate equipment and the naked eye while free from distractions and in a consistent, systematic, and diligent manner. When two PSOs are required, the PSOs must coordinate to ensure 360° visual coverage around the vessel.

6. Any observations of marine mammals by crew members aboard any vessel associated with the survey must be relayed to the PSO team.

7. PSOs may be on watch for a maximum of four consecutive hours followed by a break of at least one hour between watches and may conduct a maximum of 12 hours of observations per 24-hour period.

8. PSOs shall establish and monitor applicable shutdown zones during use of the sparker source (see below). These zones shall be based upon the radial distance from the acoustic source (rather than being based around the vessel itself).

9. Shutdown zones must be as follows:

- A 500-meter (m) shutdown zone for North Atlantic right whales (NARWs).

- A 100-m shutdown zone for all other marine mammals (excluding NARWs).

10. Pre-start clearance and ramp up—A ramp-up procedure, involving a gradual increase in source level output, is required at all times as part of the activation of the acoustic source when technically feasible. Operators should ramp up sources to half power for 5 minutes and then proceed to full power. A 30-minute pre-start clearance observation period of the shutdown zones must occur prior to the start of ramp-up. 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 minutes prior to the planned ramp-up in order to allow the PSOs time to monitor the shutdown zones for 30 minutes prior to the initiation of ramp-up (pre-start clearance). During this 30 minute 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.

○ Ramp-up may not be initiated if any marine mammal to which the prestart clearance requirement applies is within the shutdown zone. If a marine mammal is observed within the shutdown zone during the 30 minute 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 minutes for all baleen whale species and sperm whales and 15 minutes for all other species).

○ The pre-start clearance requirement is waived for small delphinids (individuals belonging to the following genera of the Family Delphinidae: *Steno*, *Delphinus*, *Lagenorhynchus*, *Stenella*, and *Tursiops*) and pinnipeds. Detection of a small delphinid 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 must use best professional judgment in making the decision to call for a shutdown.

○ PSOs must monitor the shutdown zones 30 minutes 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 minutes 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.*, less than 30 minutes) 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.

11. Shutdown requirements:

○ Any PSO on duty has the authority to call for a shutdown of the sparker

source if a marine mammal is detected within the applicable shutdown zone.

○ 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 source must be immediately deactivated and any dispute resolved only following deactivation.

○ The shutdown requirement is waived for small delphinids (individual belonging to the following genera of the Family Delphinidae: *Steno*, *Delphinus*, *Lagenorhynchus*, *Stenella*, and *Tursiops*) and pinnipeds. If a small delphinid 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 must use best professional judgment in making the decision to call for a shutdown.

a. 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 minutes for all baleen whale species and sperm whales and 15 minutes 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, shutdown must occur.

12. Vessel Strike—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, or alter course, as appropriate and regardless of vessel size, to avoid striking any marine mammal. 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 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 right whale, other whale (defined in this context as sperm whales or baleen whales other than right whales), or other marine mammals.

○ All vessels, regardless of size, must observe a 10-knot speed restriction in specific areas designated by NMFS for the protection of North Atlantic right whales from vessel strikes. These include all Seasonal Management Areas (SMA) (when in effect), any dynamic management areas (DMA) (when in effect), and Slow Zones. See <https://www.fisheries.noaa.gov/national/ endangered-speciesconservation/ reducing-ship-strikes-north-atlantic-right-whales> for specific detail regarding these areas. It is SouthCoast Wind's responsibility to maintain awareness of the establishment and location of any such areas and to abide by these requirements accordingly.

○ Vessel speeds must also be reduced to 10 knots 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 right whales. If a right whale is sighted within the relevant separation distance, the vessel must steer a course away at 10 knots 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 right whale, the vessel operator must assume that it is a right whale and take appropriate action.

○ All vessels must maintain a minimum separation distance of 100 m from sperm whales and all other baleen 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 shall 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.

Comments and Responses

As noted previously, NMFS published a notice of a proposed IHA (88 FR 31678, May 18, 2023) and solicited public comments on both our proposal to issue the initial IHA for marine site characterization surveys and on the potential for a renewal IHA, should certain requirements be met. All public comments were addressed in the notice announcing the issuance of the initial IHA (88 FR 31678, May 18, 2023). Below, we describe how we have addressed, with updated information where appropriate, any comments received that specifically pertain to the renewal of the 2023 IHA.

Comment: Oceana raised objections to NMFS' proposed renewal process for potential extension of the 1-year IHA with an abbreviated 15-day public comment period. Oceana recommended that an additional 30-day public comment period is necessary for any IHA renewal request.

Response: NMFS' IHA renewal process meets all statutory requirements. In prior responses to comments about IHA renewals (e.g., 84 FR 52464, October 2, 2019; 85 FR 53342, August 28, 2020), NMFS explained the IHA renewal process is consistent with the statutory requirements contained in section 101(a)(5)(D) of the MMPA, and further promotes NMFS' goals of improving conservation of marine mammals and increasing efficiency in the MMPA compliance process.

Therefore, we intend to continue to implement the existing renewal process.

All IHAs issued, whether an initial IHA or a renewal, are valid for a period of not more than 1 year. The public has 30 days to comment on proposed IHAs, with a cumulative total of 45 days for IHA renewals. The notice of the proposed IHA published in the **Federal Register** on March 8, 2023, (88 FR 14335) provided a 30-day public comment period and made clear that NMFS was seeking comment on the proposed IHA and the potential issuance of a renewal for this survey. As detailed in the **Federal Register** notice for the proposed IHA and on the agency's website, eligibility for renewal is determined on a case-by-case basis, renewals are subject to an additional 15-day public comment period, and the renewal is limited to up to another year of identical or nearly identical activities

as described in the Description of Proposed Activities section of the proposed IHA notice or the activities described in the Description of Proposed Activities section of the proposed IHA notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the Dates and Duration section of the proposed notice. NMFS' analysis of the anticipated impacts on marine mammals caused by the applicant's activities covers both the initial IHA period and the possibility of a 1-year renewal. Therefore, a member of the public considering commenting on a proposed initial IHA also knows exactly what activities (or subset of activities) would be included in a proposed renewal IHA, the potential impacts of those activities, the maximum amount and type of take that could be caused by those activities, the mitigation and monitoring measures that would be required, and the basis for the agency's negligible impact determinations, least practicable adverse impact findings, small numbers findings, and (if applicable) the no unmitigable adverse impact on subsistence use finding—all the information needed to provide complete and meaningful comments on a possible renewal at the time of considering the proposed initial IHA. Members of the public have the information needed to meaningfully comment on both the immediate proposed IHA and a possible 1-year renewal, should the IHA holder choose to request one.

While there would be additional documents submitted with a renewal request, for a qualifying renewal these would be limited to documentation that NMFS would make available and use to verify that the activities are identical or nearly identical to those in the initial IHA such that the changes would have either no effect on impacts to marine mammals or decrease those impacts, or are a subset of activities already analyzed and authorized but not completed under the initial IHA. NMFS would also need to confirm, among other things, that the activities would occur in the same location; involve the same species and stocks; provide for continuation of the same mitigation, monitoring, and reporting requirements; and that no new information has been received that would alter the prior analysis. The renewal request would also contain a preliminary monitoring report, in order to verify that effects from the activities do not indicate impacts of a scale or nature not previously analyzed. The additional 15-

day public comment period, which includes NMFS' direct notice to anyone who commented on the proposed initial IHA, provides the public an opportunity to review these few documents, provide any additional pertinent information, and comment on whether they think the criteria for a renewal have been met. Combined together, the 30-day public comment period on the initial IHA and the additional 15-day public comment period on the renewal of the same or nearly identical activities, provides the public with a total of 45 days to comment on the potential for renewal of the IHA.

In addition to the IHA renewal process being consistent with all requirements under section 101(a)(5)(D), it is also consistent with Congress' intent for issuance of IHAs to the extent reflected in statements in the legislative history of the MMPA. Through the description of the process and express invitation to comment on specific potential renewals in the Request for Public Comments section of each proposed IHA, the description of the process on NMFS' website, further elaboration on the process through responses to comments such as these, posting of substantive documents on the agency's website, and provision of 30 or 45 days for public review and comment on all proposed initial IHAs and renewals respectively, NMFS has ensured that the public is "invited and encouraged to participate fully in the agency's decision-making process," as Congress intended.

For more information, NMFS has published a description of the renewal process on our website (available at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals>).

Preliminary Determinations

NMFS has preliminarily concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. Based on the information and analysis contained here and in the referenced documents, NMFS has preliminarily 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) SouthCoast Wind'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.

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, in this case with the NMFS Greater Atlantic Regional Fisheries Office (GARFO), whenever we propose to authorize take for endangered or threatened species.

NMFS Office of Protected Resources has proposed to authorize the incidental take of four species of marine mammals which are listed under the ESA (the North Atlantic right, fin, sei, and sperm whale) and has determined that these 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). The proposed renewal IHA provides no new information about the effects of the action, nor does it change the extent of effects of the action, or present any other basis to require re-initiation of consultation with NMFS GARFO; therefore, the ESA consultation has been satisfied for the initial IHA and remains valid for the renewal IHA.

Proposed Renewal IHA and Request for Public Comment

As a result of these preliminary determinations, NMFS proposes to issue a renewal IHA to SouthCoast Wind for conducting HRG surveys off the coast of Massachusetts and Rhode Island until May 11, 2025, provided the previously described mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed and final initial IHA can be found at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. We request comment on our analyses, the proposed renewal IHA, and any other aspect of this notice. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: September 16, 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-XE272]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Washington State Department of Transportation's Seattle Slip 3 Vehicle Transfer Span Project in Washington State

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

ACTION: Notice; issuance of an 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 an incidental harassment authorization (IHA) to Washington State Department of Transportation (WSDOT) to incidentally harass marine mammals during construction activities associated with the Seattle Slip 3 Vehicle Transfer Span (VTS) Replacement Project in Seattle, Washington.

DATES: This authorization is effective from September 12, 2024 through September 11, 2025.

ADDRESSES: Electronic copies of the application and supporting documents, 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-construction-activities>. In case of problems accessing these documents, please call the contact listed below.

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

SUPPLEMENTARY INFORMATION:

Background

The 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 similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand 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 NMFS's implementing regulations (see 16 U.S.C. 1362; 50 CFR 216.103). The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On December 19, 2023, NMFS received a request from WSDOT for an IHA to take marine mammals incidental to Seattle Slip 3 VTS Replacement Project in Elliott Bay of the Puget Sound, Seattle, WA. Following NMFS' review of the application, WSDOT submitted revised versions on March 4, April 8, April 18, and April 29, 2024. A final revised monitoring plan was submitted on May 14, 2024 and a final revised application was submitted on May 16, 2024. The application was deemed adequate and complete on May 20, 2024. WSDOT's request is for take of 12 species of marine mammals, by Level B harassment only. The proposed IHA was published for public comment on July 30, 2024 (89 FR 61064). Neither WSDOT nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.