



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XD388]

**Takes of Marine Mammals Incidental to Specified Activities; Taking Marine
Mammals Incidental to the Office of Naval Research's Arctic Research Activities in
the Beaufort and Chukchi Seas (Year 6)**

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

ACTION: Notice; issuance of renewal incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal
Protection Act (MMPA), as amended, notification is hereby given that NMFS has issued
a renewal incidental harassment authorization (IHA) to the Office of Naval Research
(ONR) for the renewal of their IHA to take marine mammals incidental to Arctic
Research Activities (ARA) in the Beaufort Sea and eastern Chukchi Sea.

DATES: This renewal IHA is effective September 18, 2023 through September 13, 2024.

FOR FURTHER INFORMATION CONTACT: Robert Pauline, 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 issued 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”). Monitoring and reporting of such takings are also required. The meaning of key terms such as “take,” “harassment,” and “negligible impact” can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency’s regulations at 50 CFR 216.103.

NMFS’ regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed 1 year for each reauthorization. In the notice of proposed IHA for the initial authorization, 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 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; and

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>.

The NDAA (Pub. L. 108–136) removed the “small numbers” and “specified geographical region” limitations indicated above and amended the definition of “harassment” as it applies to a “military readiness activity.” The activity for which

incidental take of marine mammals is being authorized here qualifies as a military readiness activity.

History of Request

On September 14, 2022, NMFS issued an IHA to ONR to take marine mammals incidental to Arctic Research Activities in the Beaufort and Chukchi Seas (87 FR 57458; September 20, 2022), effective from September 14, 2022 through September 13, 2023. On July 17, 2023, NMFS received an application for the renewal of that initial IHA. As described in the application for Renewal IHA, the activities for which incidental take has been authorized are identical to those covered in the initial 2022 authorization. As required, the applicant also provided a preliminary monitoring report (available at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-office-naval-research-arctic-research-activities-beaufort-2>) 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.

This Renewal IHA would cover the sixth year of a larger project for which ONR obtained prior IHAs (83 FR 48799, September 27, 2018; 84 FR 50007, September 24, 2019; 85 FR 53333, August 28, 2020; 86 FR 54931, October 5, 2021; 87 FR 57458, September 20, 2022). The larger project supports the development of an under-ice navigation system under the ONR Arctic Mobile Observing System (AMOS) project.

Description of the Specified Activities and Anticipated Impacts

ONR's ARA includes the AMOS experiments in the Beaufort and Chukchi Seas. Project activities involve acoustic testing and a multi-frequency navigation system concept test using left-behind active acoustic sources. More specifically, these experiments involve the deployment of moored, drifting, and ice-tethered active acoustic sources from the Research Vessel Sikuliaq. Another vessel will be used to retrieve the

acoustic sources. The activities planned under the Renewal IHA are identical to those in the initial 2022 IHA.

Anticipated impacts, which would consist of Level B harassment of marine mammals, would also be identical to those analyzed and authorized in the initial 2022 IHA (87 FR 57458, September 20, 2022). ONR's planned action is for take of a small number of ringed seals (*Pusa hispida hispida*), and two stocks of beluga whales (*Delphinapterus leucas*) by Level B harassment only. The authorized take numbers are identical to those in the initial 2022 IHA. Neither ONR nor NMFS expects serious injury or mortality to result from ONR's Arctic Research Activities. Additional information on the planned activities may be found in the notice of proposed IHA (87 FR 44339, July 26, 2022) for the initial 2022 authorization and notice of Final IHA (87 FR 57458, September 20, 2022).

Detailed Description of the Activity

A detailed description of ARA activities for which take is authorized here may be found in the notices of the proposed and final IHA for the initial 2022 authorization (87 FR 44339, July 26, 2022; 87 FR 57458, September 20, 2022). The location, timing, and nature of the activities, including the types of equipment planned for use, are identical to those described in the previous notices. The renewal IHA is effective from through September 13, 2024.

Description of Marine Mammals

A description of the marine mammals in the area of the activities for which take is authorized, including information on abundance, status, distribution, and hearing, may be found in the notices of the proposed IHA (87 FR 44339, July 26, 2022) for the initial 2022 authorization. NMFS has reviewed the monitoring data from the initial IHA, Stock Assessment Reports, information on relevant Unusual Mortality Events (UMEs), unusual and other scientific literature, and determined that neither this nor any other new

information affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the initial 2022 IHA.

Potential Effects on Marine Mammals and their Habitat

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which take is authorized here may be found in the notices of the proposed and final IHAs for the initial 2022 authorization (87 FR 44339, July 26, 2022; 87 FR 57458, September 20, 2022). NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant UMEs, and other scientific literature, and determined that neither this nor any other new information 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 notices of the proposed and final IHAs for the initial 2022 authorization (87 FR 44339, July 26, 2022; 87 FR 57458, September 20, 2022). The activities applicable to this authorization remain unchanged from the previously issued IHA. Similarly, the stocks taken, methods of take, and types of take remain unchanged from the previously issued IHA, as do the number of takes, which are indicated below in Table 1.

Table 1 – Authorized Take by Level B harassment

Species	Non-Impulsive Active Acoustics (Behavioral)	Icebreaking (Behavioral)	Icebreaking (TTS)	Total Authorized Take	Percentage of Stock authorized for Take ¹
				Behavioral/TTS	
Beluga whale – Beaufort Sea Stock	134	11	0	145/0	0.369
Beluga whale – Eastern Chukchi Sea Stock	134	11	0	145/0	1.09
Ringed seal	2,839	538	1	3,377/1	1.97

¹ Percentage of stock taken calculated based on proportion of number of Level B takes per the stock population estimate provided in Table 3-1 in the application.

Description of Mitigation, Monitoring and Reporting Measures

The planned 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 (87 FR 57458, September 20, 2022) and the discussion of the least practicable adverse impact included in that document and the notice of the proposed IHA (87 FR 44339, July 26, 2022) remain accurate. The following measures are required for this renewal:

- All ships operated by or for the Navy must have personnel assigned to stand watch at all times while underway;
- During moored and drifting acoustic source deployment, ONR must implement a mitigation zone of 180 feet (55 meters) around the deployed source. Deployment must cease if a marine mammal is visually detected within the mitigation zone;
- Ships must avoid approaching marine mammals head-on and must maneuver to maintain a mitigation zone of 500 yards (457 meters) around all observed cetaceans and 200 yards (183 meters) around all other observed marine mammals, provided it is safe to do so;
- Ship captains and subsistence whalers will maintain at-sea communication to avoid conflict of ship transit with hunting activity;

- Activities must cease if a marine mammal species for which take was not authorized, or a species for which authorization was granted but the authorized number of takes have been met, is observed approaching or within the Level A or Level B harassment zones. Activities must not resume until the animal is confirmed to have left the area;
- While underway, all ships must have at least one person trained through the U.S. Navy Marine Species Awareness Training Program on watch during all activities;
- Watch personnel must use standardized data collection forms, whether hard copy or electronic. Watch personnel must distinguish between sightings that occur on transit or during deployment of acoustic sources. Data will be recorded on all days of activities even if marine mammals are not sighted;
- During deployment of acoustic sources or unmanned underwater vehicles (UUVs), visual observation must begin 30 minutes prior to deployment and continue through 30 minutes following the source deployment;
- The ONR will submit a draft report to NMFS Office of Protected Resources (OPR) and Alaska Regional (AKR) on all monitoring conducted under the IHA within 90 calendar days of the completion of each research cruise, or 60 days prior to the issuance of any subsequent IHA for this project, whichever comes first. The report must include data regarding acoustic source use, the number of shutdowns during monitoring, any marine mammal sightings (including the marine mammal's location (latitude and longitude)), and the number of individuals of each species observed during source deployment and operation, and their behavior and distance from the project activities. A final report must be prepared and submitted to NMFS OPR and AKR within 30 days following resolution of comments on the draft report from NMFS;
- If no comments are received from NMFS within 30 days of submission of

the draft final report, the draft final report will constitute the final report. If comments are received, a final report must be submitted within 30 days after receipt of comments;

- In the event that personnel involved in the survey activities discover an injured or dead marine mammal, the ONR must report the incident to the OPR NMFS and to the AKR Stranding Coordinator as soon as feasible. The report must include time, date, and location of discover, species identification, animal condition, observed behaviors, photographs and/or video footage, if available, and circumstances under which the animal was discovered; and

- In the event of a ship strike of a marine mammal by any vessel involved in the activities covered by the authorization, the ONR must report the incident to OPR, NMFS and to the AKR Stranding Coordinator as soon as feasible. The report must include time, date, and location of the incident, species identification, vessel speed, vessel course/heading and operations, sound source status, avoidance measures taken, environmental conditions, animal's estimated size, length, and behavior, presence and behavior of other marine mammals in the area, estimated fate of the animal, and photos/video footage of the animal, if available.

Comments and Responses

NMFS received no public comments.

Determinations

NMFS has 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 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) ONR's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and; (5) appropriate monitoring and reporting requirements are included.

National Environmental Policy Act (NEPA)

In August 2022, the U.S. Navy prepared an Overseas Environmental Assessment (OEA) analyzing the project. Prior to issuing the IHA for the project, we reviewed the 2022 OEA and the public comments received, determined that a separate NEPA analysis was not necessary, and subsequently adopted the document and issued our own Finding of No Significant Impact in support of the issuance of an IHA (87 FR 57458; September 20, 2022).

We have reviewed ONR's application for a renewed IHA for ongoing ARA from September 2023 to September 2024 and the 2022 IHA monitoring report. Based on that review, we have determined that the planned action is identical to that considered in the previous IHA. In addition, no significant new circumstances or information relevant to environmental concerns have been identified. Thus, we have determined that the preparation of a new or supplemental NEPA document is not necessary.

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, in this case with the Alaska Regional Office.

There is one marine mammal species (Arctic ringed seal) with confirmed occurrence in the study area that is listed as threatened under the ESA. The NMFS Alaska Regional OPR Division issued a Biological Opinion on September 13, 2022 under section 7 of the ESA, on the issuance of an IHA to ONR under section 101(a)(5)(D) of the MMPA by the NMFS Permits and Conservation Division. The Biological Opinion concluded that the action is not likely to jeopardize the continued existence of Arctic ringed seals, and is not likely to destroy or adversely modify Arctic ringed seal critical habitat.

Renewal

NMFS has issued a Renewal IHA to ONR for the take of marine mammals incidental to conducting Arctic Research Activities in the Beaufort and Chukchi Seas through September 13, 2024

Dated: September 20, 2023.

Catherine Marzin,

Deputy Director, Office of Protected Resources,

National Marine Fisheries Service.

[FR Doc. 2023-20741 Filed: 9/22/2023 8:45 am; Publication Date: 9/25/2023]