



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF072]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the U.S. Fish and Wildlife Service, Farallon Islands National Wildlife Refuge's Research, Monitoring, and Management Activities in the South Farallon Islands, Farallon Islands National Wildlife Refuge Off San Francisco, California

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: In accordance with regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the U.S. Fish and Wildlife Service, Farallon Islands National Wildlife Refuge (USFWS Refuge) for authorization to take marine mammals incidental to research, monitoring, and management activities in the South Farallon Islands, Farallon Islands National Wildlife Refuge off San Francisco, California.

DATES: This authorization is effective for 1 year from the date of notification by the IHA-holder, not to exceed 1 year from the date of issuance (August 28, 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: Kelsey Potlock, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

MMPA Background and Determinations

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Among the exceptions is section 101(a)(5)(D) of the MMPA (16 U.S.C. 1361 *et seq.*) which directs the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking by harassment 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 the public has an opportunity to comment on the proposed IHA.

Specifically, NMFS will issue an IHA if it 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”). NMFS must also prescribe requirements pertaining to the monitoring and reporting of such takings. The definitions of key terms, such as “take,” “harassment,” and “negligible impact,” can be found in the MMPA and the NMFS' implementing regulations (see 16 U.S.C. 1362; 50 CFR 216.103).

On July 15, 2025, a notice of NMFS’ proposal to issue an IHA to USFWS Refuge for take of marine mammals incidental to research, monitoring, and management activities in the South Farallon Islands, Farallon Islands National Wildlife Refuge off San Francisco, California was published in the **Federal Register** (90 FR 31609, July 15,

2025). In that notice, NMFS indicated the estimated numbers, type, and methods of incidental take proposed for each species or stock, as well as the mitigation, monitoring, and reporting measures that would be required should the IHA be issued. The **Federal Register** notice also included analysis to support NMFS’ preliminary conclusions and determinations that the IHA, if issued, would satisfy the requirements of section 101(a)(5)(D) of the MMPA for issuance of the IHA. The **Federal Register** notice included web links to a draft IHA for review, as well as other supporting documents.

NMFS received no public comments on the proposed IHA. We made a single correction to Level 2’s text in table 3 of the proposed **Federal Register** notice (90 FR 31609, July 15, 2025). Originally, NMFS had included “Movements *away from* the source of disturbance, ranging from short withdrawals at least twice the animal’s body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.” We correct this to read “Movements *in response to* the source of disturbance, ranging from short withdrawals at least twice the animal’s body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.” To ensure this information is appropriately corrected and incorporated, we include the revised table 3 here. We have also made a single adjustment to the operating season of the helicopter, given a correction by USFWS (from March 15 to March 30).

Revised Table 3 – Levels of Pinniped Behavioral Disturbance

Level	Type of response	Definition
0	Observation	Observation by field personnel from a distance; no disturbance to pinniped.
1	Alert	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length.
2	Movement	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.
3	Flush	All retreats (flushes) to the water.

Note: Only Levels 2 and 3 would be recorded as takes by Level B harassment.

With the exception of the minor corrections described below, there are no changes to the specified activities, the species taken, the proposed numbers, type, or methods of

take, or the mitigation, monitoring, or reporting measures in the proposed IHA notice. Furthermore, no new information that would change any of the analyses, conclusions, or determinations in the proposed IHA notice has become available since that notice was published; therefore, these are considered final.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NAO 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 has determined that the issuance of this IHA qualifies for categorical exclusion from further NEPA review.

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 ensures 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 has been authorized or is expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Authorization

Accordingly, consistent with the requirements of section 101(a)(5)(D) of the MMPA, NMFS has issued an IHA to USFWS Refuge for authorization to take marine mammals incidental to research, monitoring, and management activities in the South Farallon Islands, Farallon Islands National Wildlife Refuge off San Francisco, California.

Dated: August 28, 2025.

Shannon Bettridge,

Acting Director, Office of Protected Resources,

National Marine Fisheries Service.

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