

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XG111]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region (GARFO), NMFS, has made a preliminary determination that an Exempted Fishing

Permit (EFP) application contains all of the required information and warrants further consideration. The EFP would allow federally permitted fishing vessels to fish outside fishery regulations in support of exempted fishing activities. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before October 28, 2026.

ADDRESSES: You may submit written comments by email: nmfs.gar.efp@noaa.gov. Include in the subject line “surfclam EFP economic assessment.” All comments received are a part of the public record and may be posted for public viewing without change. All

personal identifying information (*e.g.*, name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “anonymous” as the signature if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Ryan Silva, Supervisory Fishery Policy Analyst, ryan.silva@noaa.gov, 978–281–9326.

SUPPLEMENTARY INFORMATION: The applicant submitted a complete application for an EFP to conduct commercial fishing activities that the regulations would otherwise restrict. This EFP would exempt the participating vessels from the following Federal regulations:

TABLE 1—REQUESTED EXEMPTIONS

CFR citation	Regulation	Need for exemption
50 CFR 648.370(h)	Habitat Management Areas (HMA)—prohibition on using bottom-tending mobile gear.	To fish with hydraulic clam dredges in the project area.
50 CFR 648.14(j)(2)(iii)	Prohibition against offloading unshucked surfclams or ocean quahogs from vessels not capable of carrying cages.	Participating vessels are not capable of carrying cages and ports do not have the infrastructure to safely offload into cages.
50 CFR 648.14(j)(3)(vi)	Prohibition against landing or possessing, after offloading, any cage holding surfclams or ocean quahogs without a cage tag required by § 648.77.	Participating vessels will use alternate/smaller sized containers and alternate tags and will not be tagging as required in § 648.77.
50 CFR 648.77(a)	Cage tag requirements	The tags will not be in increments of 60 ft ³ (32 bushels); the landing containers will be tagged in 16-bushel increments.

TABLE 2—PROJECT SUMMARY

Applicant	Red’s Best, LLC.
Project title	Economic Impact Assessment of the Great South Channel Habitat Management Area Closure on Small-Vessel Massachusetts Surfclam Fishermen: A Comparative Yield and Revenue Study.
Project start	Requested as soon as possible.
Project end	3/31/2029, with annual EFP renewal.
Project objectives	1. Generate an economic dataset comparing small-vessel surfclam fishing productivity inside and outside of the Great South Channel (GSC) HMA. 2. Assess the spatial distribution and density of surfclams in the GSC HMA research exemption areas. 3. Assess the benefits of smaller surfclam catch volume units.
Project location	Statistical areas 521, 526.
Number of vessels	1–4.
Number of trips	200.
Trip duration (days)	1.
Total number of days	200.
Gear type(s)	Hydraulic clam dredge.
Number of tows or sets	30.
Duration of tows or sets	15–30 minutes.

Project Narrative

The subject EFP application is proposed in the broader context of ongoing discussions regarding access by the surfclam fishery to historical fishing grounds in the GSC HMA, which was curtailed through the Council’s Omnibus Habitat Amendment 2. The surfclam industry has since sought to regain access to this area, which was

partially accommodated in 2020 through the Clam Dredge Framework that established three exemption areas within the GSC HMA where surfclam fishing is allowed. In addition, the Rose and Crown and Davis Bank East were informally designated as research exemption areas, and considered candidate areas where bottom tending mobile gear could be used in support of

GSC HMA research priorities. The Council is currently assessing the effectiveness of the exemption area program, and may consider further changes to the GSC HMA in 2027.

The EFP applicant is proposing to assess the economic viability of the surfclam resource in the GSC HMA research exemption areas Rose and Crown and Davis Bank East, and contrast this with the surfclam resource

in surrounding waters outside of the HMA that are currently open to the surfclam fishery. A secondary objective is to generate a standardized spatial dataset on surfclam distribution patterns, size structure, and catch per unit effort (CPUE) within the Rose and Crown and Davis Bank East research exemption areas. The applicant states that data generated by this EFP would provide the empirical baseline needed to assess the socioeconomic impacts of the GSC HMA. Specifically, this information could contribute directly to the Council's exemption area review by filling data gaps concerning small-vessel operational viability and surfclam distribution, in support of future consideration for exemption area changes.

The applicant is requesting that 1–4 vessels be authorized to take up to 200 trips inside the Rose and Crown and Davis Bank East (test areas), to be compared with approximately 200 trips outside the HMA (control area) over the course of the 2.5-year study. If approved, the EFP would be re-issued on an annual basis, pending progress on project objectives. The same vessels, operators, and gear would fish approximately equal effort in each area. The applicant states that 400 total trips would provide a sufficient number of data points to establish commercial viability thresholds across seasonal, depth, and vessel-capacity strata. Participating vessels would land up to the equivalent of 16 cages of surfclams per trip. Control fishing would occur within Massachusetts state waters east and southeast of Cape Cod, and proximal Federal waters outside of the HMA, and test area fishing would occur within the GSC HMA Rose and Crown and Davis Bank East exemption areas. Vessels would not fish in control and test areas on the same trip.

Bushels per hour of active towing and swept area (the productivity rate metric), and pounds of shucked meat per bushel of live surfclams landed (the yield-quality metric), are the two primary metrics collected under this EFP that would be used to compare economic productivity of the control and test areas. For each tow, vessel operators and/or sea technicians would record:

- Tow fishing start and end time (to the minute);
- Tow speed over ground;
- Start and end coordinates;
- Bushels of surfclams estimated at time of sorting;
- Number of cages filled and cage tag numbers (or alternate volume unit and tag numbers);

- Sediment type as observed in dredge bag contents (sand, gravel, shell hash, mud, cobble);

- Any notable changes in bottom composition or structure across tows; and

- Species identity and estimated weight of all non-target species (bycatch).

For each trip landing under the EFP, the following will be recorded:

- Total bushels of live surfclams landed;
- Percentage of clams live vs. broken or damaged at time of offloading;
- Ex-vessel price per bushel (market price on date of landing);
- Gross ex-vessel revenue;
- Pounds of shucked meat produced per bushel of live weight;
- Dredge specifications (blade width, bar spacing); and
- Total hours of active towing.

To assess the spatial distribution and density of surfclams in the GSC HMA Rose and Crown and Davis Bank East research exemption areas, the applicant is proposing to conduct approximately 35, 15-minute standardized tows during test area fishing trips at pre-determined station locations that follow a fixed grid design. At least one standardized tow would be occupied per exempted trip until all stations are sampled. Vessel operators would have discretion to perform the tow within 1 nautical mile of the station location to accommodate obstacles or un-towable bottom. The operator would note when the tow locations deviate from the sampling plan, and why.

Tow location, duration, total catch in bushels, and a one-bushel surfclam subsample would be recorded for each tow to characterize surfclam distribution patterns across the test areas. Vessels would use their commercial dredge to conduct standardized tows. Each surfclam in the sub-sample would be measured to the nearest 5 millimeters. The sub-sample would either be measured at sea, or separated and measured shoreside. The applicant notes that this dataset would not replace a formal fishery-independent survey, but would provide valuable information on the distribution of the surfclam resource in the test areas.

At the conclusion of each season and upon EFP expiration, the following analysis would be performed:

- *Productivity comparison*: Mean bushels per hour of active towing and swept area in control area trips vs. test area trips, with confidence intervals;
- *Meat yield comparison*: Mean pounds of shucked meat per bushel for control vs. test area landings;

- *Revenue-per-trip comparison*: Mean gross ex-vessel revenue per trip in control vs. test areas, controlling for trip duration and market price variation;

- Summary of CPUE and catch composition from commercial tows by sub-area and depth stratum within the GSC HMA test areas;

- Spatial distribution and density of surfclams by size class caught during standardized tows;

- *Annualized fleet-level economic impact*: Using the observed productivity differential and publicly available data on the number of small-vessel Massachusetts surfclam permit holders, estimate the aggregate annual economic loss to the fleet attributable to the GSC HMA restrictions; and

- *Cost-benefit framing*: Present the annualized economic cost of the closure against the available scientific literature on habitat recovery rates and the habitat protection benefit provided by excluding the small-vessel fleet.

The applicant and partner vessels would adhere to the following reporting schedule:

- Trip-level data sheets and Vessel Trip Reports;
- Vessel Monitoring System trip declaration using the GSC HMA EFP project code for every EFP trip;
- Weekly dealer reports;
- Interim progress report with preliminary economic analysis submitted to GARFO every 90 days after commencement of EFP fishing; and
- Final economic impact report submitted to GARFO within 30 days of EFP expiration, summarizing productivity data, meat yield data, revenue comparisons, fleet-level economic impact estimates, spatial CPUE characterization, and recommendations regarding small-vessel access in the GSC HMA.

The final report will be made available to New England and Mid-Atlantic Fishery Management Councils, and GARFO, for review and use in future Council deliberations regarding the GSC HMA.

The applicant has also requested authorization to use alternatives to the industry-standard 32-bushel cages and cage tags. The exemption would follow the EFP issued to the Cape Cod Commercial Fisherman's Alliance (EFP #25056), which is developing alternative volume landing units more suitable to smaller surfclam vessels. Participating vessels could use two alternative landing containers: a standard-size fish vat (internal measurements: 44 inch x 39 inch x 27 inch; 1.12 meter (m) x 0.99 m x 0.69 m) capable of holding 16 bushels (0.85 m³); and a standard-size stackable fish tote

(internal measurements: 25 inch x 15.8 inch x 10.2 inch; 0.64 m x 0.40 m x 0.26 m) capable of holding 1.5 bushels (0.08 m³). One alternative denomination of a 16-bushel tag would be used, either on a fish vat or on a pallet of ten 1.5-bushel totes. The applicant would work with GARFO and the National Band and Tag Company to convert standard cage tags into the alternative tag denomination.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: October 8, 2026.

Shannon Bettridge,

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

[FR Doc. 2026-20874 Filed 10-9-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF625]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Oregon Department of Transportation's Yaquina Bay Dolphin Replacement Project in Newport, Oregon

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

ACTION: Notice; issuance of a renewal 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 a renewal incidental harassment authorization (IHA) to the Oregon Department of Transportation (ODOT) for authorization to take marine mammals incidental to construction activities for the Yaquina Bay Dolphin Replacement Project in Newport, Oregon.

DATES: This renewal IHA is valid from November 1, 2026, through October 31, 2027.

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: Cara Hotchkin, 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 (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 1 year for each reauthorization. In the notice of proposed IHA for the initial IHA (90 FR 34441, July 22, 2025), 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).

- 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/>