



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XE597]

#### **Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the U.S. Army Corps of Engineers Unalaska (Dutch Harbor) Channel Deepening Project**

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

**ACTION:** Notice; issuance of incidental harassment authorization.

**SUMMARY:** NMFS has received a request from the United States Army Corps of Engineers (USACE) for the re-issuance of a previously issued incidental harassment authorization (IHA) with the only change being effective dates. The initial IHA authorized take of four species of marine mammals, by Level A and Level B harassment, incidental to construction associated with the Unalaska Channels Deepening Project in Iliuliuk Bay, Alaska. The project has been delayed and none of the work covered in the initial IHA has been conducted. The scope of the activities and anticipated effects remain the same, authorized take numbers are not changed, and the required mitigation, monitoring, and reporting remains the same as included in the initial IHA. NMFS is, therefore, issuing a second identical IHA to cover the incidental take analyzed and authorized in the initial IHA.

**DATES:** This IHA is effective from March 15, 2025 through March 14, 2026.

**ADDRESSES:** An electronic copy of the final 2024 IHA previously issued to USACE, USACE's application, and the **Federal Register** notices proposing and issuing the initial IHA may be obtained by visiting <https://www.fisheries.noaa.gov/action/incidental-take-authorization-us-army-corps-engineers-unalaska-dutch-harbor-channel>. In case of

problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

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

**SUPPLEMENTARY INFORMATION:**

**Background**

Sections 101(a)(5)(A) and (D) of the Marine Mammal Protection Act (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, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term “take” means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as any act of pursuit, torment, or annoyance which (i) has the potential to

injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

### **Summary of Request**

On November 24, 2023, NMFS published final notification of our issuance of an IHA authorizing take of marine mammals incidental to the USACE Unalaska (Dutch Harbor) Channel Deepening Project (88 FR 82326). The effective dates of that IHA were January 1, 2024 through December 31, 2024. On December 20, 2024, USACE submitted a request that we reissue an identical IHA that would be effective from January 1, 2025 through December 31, 2025, in order to conduct the construction work that was analyzed and authorized through the previously issued IHA. In the request they described that the project had been delayed. None of the work identified in the initial IHA (*e.g.*, dredging and confined underwater blasting) has occurred. Therefore, re-issuance of the IHA is appropriate.

### **Summary of Specified Activity and Anticipated Impacts**

The planned activities (including mitigation, monitoring, and reporting), authorized incidental take, and anticipated impacts on the affected stocks are the same as those analyzed and authorized through the previously issued IHA.

The USACE plans to deepen the entrance channel of Iliuliuk Bay by means of dredging and (if necessary) confined blasting of a 42-foot (ft) (12.8 meter (m)) deep “bar” which currently restricts access to the port of Dutch Harbor, Alaska. Dutch Harbor is the only deep draft, year-round ice-free port along the 1,200-mile (1,931 km) Aleutian Island chain, providing vital services to vessels operating in both the North Pacific and the Bering Sea, and the depth of the bar currently restricts access for large vessels that may need to enter the port, particularly during extreme weather. The purpose of the project is to increase

navigational safety and improve economic efficiencies into and out of Dutch Harbor via Iliuliuk Bay. The location, timing, and nature of the activities, including the types of equipment planned for use, are within scope of those described in the initial IHA. The mitigation and monitoring are also as prescribed in the initial IHA.

Species that are expected to be taken by the planned activity include humpback whale (*Megaptera novaeangliae*), harbor porpoise (*Phocoena phocoena*), Steller sea lion (*Eumetopias jubatus*), and harbor seal (*Phoca vitulina*). A description of the methods and inputs used to estimate take anticipated to occur and, ultimately, the take that was authorized is found in the previous documents referenced above. The data inputs and methods of estimating take are identical to those used in the initial IHA. NMFS has reviewed recent stock assessment reports, information on relevant unusual mortality events, and recent scientific literature, and determined that our original analysis of impacts and take estimate under the initial IHA remain valid.

We refer to the documents related to the previously issued IHA, which include the **Federal Register** notice of the issuance of the initial 2024 IHA for USACE's construction work (88 FR 82326), USACE's application, the **Federal Register** notice of the proposed IHA (88 FR 21630), and all associated references and documents.

### **Determinations**

USACE will conduct activities as analyzed in the initial 2024 IHA. As described above, the number of authorized takes of the same species and stocks of marine mammals are identical to the numbers that were found to meet the negligible impact and small numbers standards and authorized under the initial IHA and no new information has emerged that would change those findings. The re-issued 2025 IHA includes identical required mitigation, monitoring, and reporting measures as the initial IHA, and there is no new information suggesting that our analysis or findings should change.

Based on the information 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; and (4) USACE'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.

### **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 National Environmental Policy Act review. NMFS has determined that the application of this categorical exclusion remains appropriate for this reissued IHA.

### **Endangered Species Act (ESA)**

Section 7(a)(2) of the ESA of 1973 (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 NMFS' Alaska Regional Office (AKRO).

NMFS is authorizing take of the Mexico-North Pacific stock of humpback whale, and Western DPS of Steller sea lion, which are listed as threatened or endangered under the ESA. The NMFS AKRO issued a Biological Opinion under section 7 of the ESA on the issuance of an IHA to USACE under section 101(a)(5)(D) of the MMPA by NMFS OPR. The biological opinion concluded that the action is not likely to jeopardize the continued existence of the listed species.

**Authorization**

NMFS has issued an IHA to USACE for in-water construction activities associated with the specified activity from March 15, 2025 through March 14, 2026. All previously described mitigation, monitoring, and reporting requirements from the initial 2024 IHA are incorporated.

**Dated:** March 7, 2025.

**Kimberly Damon-Randall,**

*Director, Office of Protected Resources,*

*National Marine Fisheries Service.*