



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE624

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the Interstate Bridge Replacement Project on Interstate 5 between Portland, Oregon and Vancouver, WA.

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

ACTION: Notice; receipt of application for Letter of Authorization; request for comments and information.

SUMMARY: NMFS has received a request from the Interstate Bridge Replacement Program (IBRP) for authorization to take small numbers of marine mammals incidental to the Interstate Bridge Replacement Project (IBR) on Interstate 5 (I-5) between Portland, Oregon, and Vancouver, Washington over the course of five years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the IBRP's request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on the IBRP's application and request.

DATES: Comments and information must be received no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Comments on the applications should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West

Highway, Silver Spring, MD 20910 and electronic comments should be sent to

ITP.hotchkin@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 received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or 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/national/marine-mammal-protection/incidental-take-authorizations-construction-activities> 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.

FOR FURTHER INFORMATION CONTACT: Cara Hotchkin, Office of Protected Resources, NMFS, (301) 427-8401. An electronic copy of the IBRP's application 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 above.

SUPPLEMENTARY INFORMATION:

Background

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, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization 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 July 18, 2024, NMFS received application from the IBRP requesting authorization for take of marine mammals incidental to construction activities related to the Interstate Bridge Replacement Project on I-5 between Portland, OR and Vancouver, WA. After the IBRP responded to our questions on October 12, 2024 and January 14, 2025, we determined the application was adequate and complete on January 16, 2025. The requested regulations would be valid for five years, from September 15, 2027

through September 14, 2032. The IBRP plans to conduct necessary work, including pile driving (impact and vibratory) and rotary drilling, to construct replacement bridges for the I-5 roadway over the Columbia River and North Portland Harbor. The proposed action may incidentally expose marine mammals occurring in the vicinity to elevated levels of underwater sound, thereby resulting in incidental take, by Level A and Level B harassment. Therefore, the IBRP requests authorization to incidentally take marine mammals.

Specified Activities

The purpose of the proposed IBR project is to improve I-5 corridor mobility by addressing present and future travel demand and mobility needs in the program area. Relative to the replacement bridges portion of the larger transportation project, the proposed action is intended to achieve the following objectives: improve travel safety and traffic operations on the I-5 river crossing and associated interchanges; and improve the I 5 river crossing's structural integrity (seismic stability). The entire IBR project, including demolition and removal of the existing bridges, is anticipated to take approximately nine years to construct. The IBRP's ITR request is for the first five years. Within the first five years, construction work is expected to take approximately 1,725 non-consecutive days over the course of five years, and involve the installation and or removal of 1,560 steel pipe piles (24-inch [in] or 48-in diameter) and 1,500 linear feet (ft) of steel sheet piles.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the IBRP's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by the IBRP, if appropriate.

Dated: March 7, 2025.

Kimberly Damon-Randall,

Director, Office of Protected Resources,

National Marine Fisheries Service.

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