



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE913]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Alaska Railroad Corporation Seward Freight Dock Construction in Seward, Alaska

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 Alaska Railroad Corporation
(ARRC) for authorization to take marine mammals incidental to the Seward Freight Dock
construction project in Seward, Alaska.

DATES: This authorization is effective 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/action/incidental-take-authorization-alaska-railroad-
corporations-seward-freight-dock-construction](https://www.fisheries.noaa.gov/action/incidental-take-authorization-alaska-railroad-corporations-seward-freight-dock-construction)*. In case of problems accessing these
documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Jenna Harlacher, 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 monitoring and reporting of such takings. The definition 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 April 4, 2025, a notice of NMFS' proposal to issue an IHA to ARRC for take of marine mammals incidental to the Seward Freight Dock construction project in Seward, Alaska was published in the **Federal Register** (90 FR 14792, April 4, 2025). In that notice, NMFS indicated the estimated numbers, type, and methods of incidental take proposed for each species or stock and 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 and other supporting documents.

No substantive comments were received during the public comment period. With the exception of the minor changes described below, there are no changes to the specified activity, the species taken, the proposed numbers, type, or methods of take, or the mitigation, monitoring, or reporting measures in the proposed IHA notice. No new information that would change any of the preliminary analyses, conclusions, or determinations in the proposed IHA notice has become available since that notice was published and, therefore, the preliminary analyses, conclusions, and determinations included in the proposed IHA are considered final.

Changes have been made to correct typographical errors to Tables 5 and 7 in the proposed Federal Register notice. In table 5, there were errors in the tables sound pressure level categories. See below for the revised table 5. In table 7, the Level A harassment zone for vibratory installation of H piles should have been 3.5 m for phocids instead of 30.5 m. Additionally, text regarding the number of permanent piles installed via vibratory pile driving should have been 253 rather than 256. None of these minor changes affect or change the analysis or the findings in the proposed IHA notice.

Table 5—Estimates of Mean Underwater Sound Levels* Generated During In-water Vibratory and Impact Pile Installation and Vibratory Pile Removal

Method	Pile size and type	dB RMS (dB re 1 uPa RMS)	dB peak (dB re 1 uPa peak)	dB SEL (dB re 1 uPa ² -sec)	Reference
Vibratory install and removal	24-inch (61 cm) steel pile	163	-	-	NMFS 2023 Calculation
Vibratory Install	Sheet pile pair	160.7	-	-	Caltrans 2015
Vibratory Install	H-pile	150	-	-	Caltrans 2015
Vibratory Install	30-inch (76 cm) steel pile	167	-	-	NMFS2023 Calculation
Impact install	30-inch (76 cm) steel pile	190	210	177	Caltrans 2015

Note: dB = decibels; dB peak = peak sound level; RMS = root mean square; uPa = micro-Pascals; SEL = sound exposure level; cm = centimeter. *All sound levels are referenced at 10 m.

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 the IHA qualifies to be categorically excluded 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 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.

NMFS is authorizing take of the following distinct population segments: Western U.S. Steller sea lion, Western North Pacific humpback whale, the Mexico humpback whale, and fin whale, which are listed under the ESA. The Permit and Conservation Division completed a section 7 consultation with the Alaska Regional Office for the issuance of this IHA. The Alaska Regional Office's biological opinion states that the action is not likely to jeopardize the continued existence of the listed species.

Authorization

Accordingly, consistent with the requirements of section 101(a)(5)(D) of the MMPA, NMFS has issued an IHA to ARRC for authorization to take marine mammals incidental to Seward Freight Dock construction project in Seward, Alaska.

Dated: May 15, 2025.

Kimberly Damon-Randall,

Director, Office of Protected Resources,

National Marine Fisheries Service.

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