



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE937]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the City of Whittier's Whittier Harbor Rebuild Phase III Project in Whittier, 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 City of Whittier for authorization to
take marine mammals incidental to the Whittier Harbor Rebuild Phase III Project in
Whittier, Alaska.

DATES: This authorization is effective for 1 year from the date of effectiveness.

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](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 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 June 5, 2025, a notice of NMFS’ proposal to issue an IHA to the City of Whittier (CoW) for take of marine mammals incidental to the Whittier Harbor Rebuild Phase III Project in Whittier, Alaska was published in the *Federal Register* (90 FR 23891). 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.

NMFS’ consideration of public comments, which we respond to below, did not result in changes to the analysis or findings in the *Federal Register* notice of proposed IHA or the required mitigation, monitoring, or reporting measures set forth in the proposed IHA. With the exception of the minor changes 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 preliminary analyses, conclusions, or determinations in the proposed IHA notice has become available since that notice was published; therefore, the preliminary analyses, conclusions, and determinations included in the proposed IHA are considered final.

NMFS received no public comments on the proposed IHA. NMFS made a single correction to a citation for the proxy sources and source levels found in table 5 of the *Federal Register* notice (90 FR 23891, June 5, 2025) (*i.e.*, use of CALTRANS (2020) for the timber pile removal, not Denes *et al.*, (2016)), at suggestion of the Marine Mammal Commission. To ensure this information is appropriately corrected and incorporated, we include the revised table 5 here for clarity. Given the information used in the analysis did not change, this correction does not change NMFS’ analysis, findings, or determinations.

Revised Table 5 – Sound Proxy Sources for the Whittier Harbor Rebuild Phase III Project

Method and Pile Type (Vibratory Hammer)	Sound Source Level at 10 meters (dB RMS)	Proxy Source
16-inch (40.64-centimeter (cm)) steel pile installation	155	Denes <i>et al.</i> (2016)
12- to 16-inch (30.48- to 40.64-cm) timber pile removal	162	CALTRANS (2020)

Lastly, CoW requested we slightly adjust the language in the *Federal Register* notice and draft IHA related to the locations of the PSOs. Originally, NMFS had stated “These PSOs would be stationed at the Whittier Harbor breakwater near the picnic shelter (“Station 1”), at the Whittier fuel dock (“Station 2”), and at the City of Whittier campground (“Station 3”).”; CoW requested that we change this to “These PSOs would be stationed at the Whittier Harbor breakwater near the picnic shelter (“Station 1”), at the Whittier fuel dock (“Station 2”), or at the City of Whittier campground (“Station 3”).” NMFS has made the adjustment in the final IHA. This change does not affect our analysis, findings, or determinations.

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 proposed 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 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, in this case, with the Alaska Regional Office.

There is one ESA-listed marine mammal species (Steller sea lion (Western Distinct Population Segment (DPS))) with confirmed occurrence in the project area. The NMFS Alaska Regional Office issued a biological opinion under section 7 of the ESA, on the issuance of an IHA to CoW under section 101(a)(5)(D) of the MMPA by the NMFS Office of Protected Resources. The biological opinion concluded that the proposed action is not likely to jeopardize the continued existence of the Western DPS of Steller sea lions, and is not likely to destroy or adversely modify critical habitat for this species.

Authorization

Accordingly, consistent with the requirements of section 101(a)(5)(D) of the MMPA, NMFS has issued an IHA to CoW for authorization to take marine mammals incidental to the Whittier Harbor Rebuild Phase III Project in Whittier, Alaska.

Dated: July 18, 2025.

Shannon Bettridge,

Acting Director, Office of Protected Resources,

National Marine Fisheries Service.

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