E 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF106]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Seward Cruise Ship Passenger Dock and Terminal Facility Project 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 Turnagain Marine Construction (TMC) for authorization to take marine mammals incidental to Seward Cruise Ship Passenger Dock and Terminal Facility project in Seward, Alaska.

DATES: This authorization is effective for 1 year from the date of notification by the IHA-holder, not to exceed 1 year from the date of issuance (September 5, 2025).

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-turnagain-marine-constructions-seward-cruise-ship-passenger*. 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 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 (see 16 U.S.C. 1362; 50 CFR 216.103).

On July 22, 2025, a notice of NMFS' proposal to issue an IHA to TMC for take of marine mammals incidental to Seward Cruise Ship Passenger Dock and Terminal Facility project in Seward, Alaska was published in the **Federal Register** (90 FR 34463). In that notice, NMFS indicated the estimated numbers, type, and methods of incidental take proposed for each species or stock, as well as 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, as well as 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, 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 from the Proposed IHA to the Final IHA

Changes have been made to correct typographical errors to table 5, and due to those changes in table 5, updates have been made to tables 6, 8, and 9 of the proposed Federal Register notice. These tables are reprinted below. In table 5, there were typographical errors in the peak source levels for all Down-the-hole drilling (DTH) piles. Additionally, we revised the RMS source level for DTH driving of the 60- and 72-inch (in) (152.4 centimeters (cm)- and 182.9 cm) piles to be equal to the 48-in (121.9 cm) source level based on the lack of data and uncertainty in extrapolation for very large piles. The previous proxy levels (from 88 FR 19502, March 31, 2023) were estimated before any acoustic data had been gathered on DTH driving of large piles and did not represent the most current understanding of DTH sound production. See below for the revised table 5. As a result of this change, the Level B harassment zone for DTH driving of 60- and 72-in piles increased to 34,145 m in table 6 and the maximum harassment zone has been revised in table 9. In table 8, take by Level B harassment changed for gray whales (changed from two Level B takes to three Level B takes) and take by Level A and Level B harassment changed for fin whales (changed from two Level A and six Level B

takes to three Level A and eight Level B takes) based on the increased Level B isopleth for 60- and 72-in DTH activities. 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	Proxy sound source levels at 10m			Reference
		Peak (dB re 1 µPa)	SEL (dB re 1 µPa^{2}s)	RMS SPL (dB re 1 µPa)	
No Bubble Curtain in use (Unattenuated)					
Vibratory removal	H-pile	-	-	160	NMFS, 2023
Vibratory removal	20-in steel pile	-	-	163	U.S. Navy, 2013
Vibratory Installation and removal	36-in steel pile (temporary)	-	-	166	NMFS, 2023
Vibratory Installation	48-in steel pile	-	-	171	U.S. Navy, 2013
Impact Installation	48-in steel pile	213	179	195	Caltrans, 2020
DTH	36-in steel pile (temporary)	194	164	174	Denes *et al.,* 2019; NMFS, 2022a; Reyff and Heyvaert, 2019; Reyff, 2020
DTH	48-in steel pile	198	168	178	NMFS Communication
Bubble Curtain in use (Attenuated)[1]					
Vibratory Installation	48,60,72-in steel pile	-	-	166	U.S. Navy, 2013
Impact Installation	48-in steel pile	208	174	190	Caltrans, 2020
Impact Installation	60,72-in steel pile	205	180	190	Caltrans, 2020
DTH	48-in steel pile	193	163	173	NMFS Communication
DTH	60,72-in steel pile	193	176	173	NMFS Communication

Note: peak = peak sound level; rms = root mean square; SEL = sound exposure level.
1 -- Attenuated source levels with 5dB reduction due to use of a bubble curtain during these activities (Caltrans, 2015; Austin *et al.,* 2016).

Table 6 -- Level A and Level B Harassment Isopleths

Method	Pile size and type	Level A harassment zone (m)					Level B harassment zone (m)
		LF	HF	VHF	PW	OW	
No Bubble Curtain in use (Unattenuated)							

Vibratory removal	H-pile	17.7	6.8	14.4	22.7	7.6	4,641.6
Vibratory removal	20-in steel pile	9.6	3.7	7.8	12.3	4.1	7,356.4
Vibratory Installation and removal	36-in steel pile (temporary)	19.9	7.6	16.2	25.6	8.6	11,659.1
Vibratory Installation	48-in steel pile	42.8	16.4	35	55.1	18.5	25,118.9[1]
Impact Installation	48-in steel pile	2,822.4	360.1	4,367.6	2,507.3	934.6	1,359.4
DTH	36-in steel pile (temporary)	3,145.1	401.3	4867	2794	1,041.5	39,811[1]
DTH	48-in steel pile	6151	784.7	9518	5,463.9	2,036.7	73,564[1]
Bubble Curtain in use (Attenuated)							
Vibratory Installation	48-in steel pile	17	6.5	13.9	21.9	7.4	11,659.1
Vibratory Installation	60-in steel pile	19.9	7.6	16.2	25.6	8.6	11,659.1
Vibratory Installation	72-in steel pile	24.1	9.2	19.7	31	10.4	11,659.1
Impact Installation	48-in steel pile	1,310	167	2,027.3	1,163.8	433.8	631.0
Impact Installation	60,72-in steel pile	2,716	346.6	4,203.6	2,413.1	899.5	1,000
DTH	48-in steel pile	2,854.8	3,64.2	4,417.9	2,536.1	954.4	34,145[1]
DTH	60-in steel pile	14,816.7	1,890.4	22,928.9	13,162.6	4,906.5	34,145[1]
DTH	72-in steel pile	19,415.4	2,477.2	30,045.4	1,7247.9	6,429.3	34,145[1]

1 -- These harassment zones extend past than the shoreline of Resurrection Bay, so land masses would block sound transmission and distances would be truncated.

Table 8 -- Proposed Take by Stock, Harassment Type, and as a Percentage of Stock Abundance

Species	Stock	Proposed Authorized Take		Proposed take as percentage of stock
		Level A harassment	Level B harassment	
Gray whale	Eastern North Pacific	1	3	<1
Fin whale	Northeast Pacific	3	8	<1[1]
Humpback whale[2]	Hawaii	16	54	<1
	Mexico	3	6	<1[3]
	Western North Pacific	0	1	<1
Killer whale[4]	AT1 Transient	0	7[5]	NA

	Gulf, Aleutian, Bering Transient	2	37	6.6
	ENP Alaska Resident	6	148	8.0
Dall's porpoise	Alaska	146	374	UND[6]
Harbor porpoise	Gulf of Alaska	57	146	<1
Harbor seal	Prince William Sound	517	1,919	5.4
Steller sea lion	Western United States	111	904	2

1 – Based on 2,554 animals discussed in SARs, although it's noted that this is likely an underestimate.
2 – Based on proportion of each distinct population segment (DPS) being in resurrection bay: 89 percent Hawaii, 10 percent Mexico, and 1 percent Western North Pacific (NMFS, 2021).
3 – Based on 918 animals discussed in SARs, derived from Wade, 2021.
4 – Based on a proportion from acoustic monitoring of stocks in Resurrection Bay: 95.7 percent ENP residents, 2.7 percent Gulf/Aleutian/Bering transients, and 1.6 percent AT1 transients (Yurk *et al.*, 2010).
5 – NMFS considers any exposure of AT1 whales would likely be of a group, here assumed to consist of 7 individuals, due to the small stock size and low likelihood of individual encounters. See the **Small Numbers** section of the proposed notice for additional discussion (90 FR 34463, July 22, 2025).
6 – NMFS does not have an official abundance estimate for this stock, and the minimum population estimate is considered to be unknown (Young *et al.,* 2023). See **Small Numbers** of the proposed notice for additional discussion (90 FR 34463, July 22, 2025).

Table 9 -- Shutdown Zones and Level B Harassment Zones

Method	Pile size and type	Level A shutdown zone (m)					Level B monitoring zone (m)
		LF	HF	VHF	PW	OW	
No Bubble Curtain in use							
Vibratory removal	H-pile	20	10	15	25	10	4,645
Vibratory removal	20-in steel pile	10	10	10	15	10	7,360
Vibratory Installation and removal	36-in steel pile (temporary)	20	10	20	30	10	11,660
Vibratory Installation	48-in steel pile	45	20	35	60	20	24,100*
Impact Installation	48-in steel pile	2,000	365	300	300	300	1,360
DTH	36-in steel pile (temporary)	2,000	405	300	300	300	24,100*
DTH	48-in steel pile	2,000	785	300	300	300	24,100*
Bubble Curtain in use							
Vibratory Installation	48-in steel pile	20	10	15	25	10	11,660
Vibratory Installation	60-in steel pile	20	10	20	30	10	11,660
Vibratory Installation	72-in steel pile	25	10	20	35	15	11,660

Impact Installation	48-in steel pile	1,310	175	300	300	300	635
Impact Installation	60,72-in steel pile	2,000	350	300	300	300	1,000
DTH	48-in steel pile	2,000	365	300	300	300	24,100*
DTH	60-in steel pile	2,000	1,000	300	300	300	24,100*
DTH	72-in steel pile	2,000	2,000	300	300	300	24,100*

*Differs from table 6 Level B harassment zone because the harassment zone extends past the shoreline of Resurrection Bay, so land masses would block sound transmission and distances would be truncated.

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 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.

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 TMC for authorization to take marine mammals incidental to the Seward Cruise Ship Passenger Dock and Terminal Facility Project in Seward Alaska.

Dated: September 8, 2025.

Kimberly Damon-Randall,

Director, Office of Protected Resources,

National Marine Fisheries Service.

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