



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF030]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Washington Department of Transportation Mukilteo Wingwalls Repair Project in Puget Sound, Washington

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 Washington Department of
Transportation (WSDOT) for authorization to take marine mammals incidental to the
Mukilteo Wingwalls Repair Project in Puget Sound, Washington.

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 (November 21, 2025).

ADDRESSES: Electronic copies of the application and supporting documents, as well as
a list of the references cited in this document, can 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)*. If you encounter any issues accessing these
documents, please contact the person listed below.

FOR FURTHER INFORMATION CONTACT: Kate Fleming, 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 determines 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 subsistence uses (where applicable). 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 16, 2025, a notice of NMFS' proposal to issue an IHA to WSDOT for take of marine mammals incidental to Mukilteo Wingwalls Repair Project in Puget Sound, WA was published in the **Federal Register** (90 FR 31965). 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. 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 has become available that would substantively change any of the preliminary analyses, conclusions, or determinations in the proposed IHA notice. Therefore, the preliminary analyses, conclusions, and determinations included in the proposed IHA are considered final.

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 extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHAs 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.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Authorization

Accordingly, consistent with the requirements of section 101(a)(5)(D) of the MMPA, NMFS has issued an IHA to WSDOT for authorization to take marine mammals incidental to Mukilteo Wingwalls Repair Project in Puget Sound, WA.

Dated: December 1, 2025.

Kimberly Damon-Randall,

Director, Office of Protected Resources,

National Marine Fisheries Service.

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