



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF124]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the Washington State Parks and Recreation Commission's Marine Facilities Replacement Program in North Puget Sound, Washington

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 Washington State Parks and
Recreation Commission (State Parks) for authorization to take marine mammals
incidental to the Marine Facilities Replacement Program (MFRP) in North Puget Sound,
Washington, for a period of 5 years from the date of issuance. Pursuant to regulations
implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing
receipt of the State Parks' 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 State Parks' 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 application should be addressed to the Permits and
Conservation Division, Office of Protected Resources, National Marine Fisheries Service,
and should be submitted via email to *ITP.Graham@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, 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: Krista Graham, Office of Protected Resources, NMFS, (301) 427-8401. An electronic copy of the State Parks' 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 for 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 April 30, 2025, NMFS received an application from the State Parks requesting authorization to take marine mammals incidental to the MFRP, specifically the repair and improvement of six marine facilities in four State Parks within North Puget Sound in Western Washington (the San Juan Islands and Deception Pass). We provided comments on the application, and the State Parks submitted a revised version on July 25, 2025. The application subsequently underwent substantial updates due to project changes, and a final application was received on March 23, 2026. The application was deemed adequate and complete on March 24, 2026. The requested regulations would be valid for 5 years, from August 1, 2026, through July 31, 2031. The State Parks plans to conduct necessary work, including pile driving and removal (vibratory and impact) and rotary drilling (rock

socket drilling or down-the-hole (DTH) drilling). Only pile removal and installation associated with in-water construction and maintenance activities of the marine facilities are anticipated to result in takes of marine mammals due to elevated underwater noise. The underwater sound generated by these in-water activities may result in Level A harassment and/or Level B harassment of marine mammal species. Therefore, the State Parks requests authorization to incidentally take marine mammals.

Specified Activities

The purpose of the State Parks' activities is to conduct maintenance and improvement projects at Reid Harbor and Prevost Harbor in Stuart Island Marine State Park, at Fossil Bay in Sucia Island Marine State Park, at Olga Pier at Olga State Park, and at Bowman Bay and Rosario Pier at Deception Pass State Park. The proposed activities would include removing or replacing existing timber piles with aluminum and steel piles and structures to improve piers, ramps, floats, and moorage facilities. Construction activities will last up to 14 hours per day and will occur annually between August 1, 2026, and February 15, 2027, through 2031. The State Parks' application includes mitigation and monitoring measures designed to minimize impacts on marine mammals.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the State Parks' 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 State Parks, if appropriate.

Dated: March 25, 2026.

Kim Damon-Randall,

Director, Office of Protected Resources,

National Marine Fisheries Service.

[FR Doc. 2026-06050 Filed: 3/27/2026 8:45 am; Publication Date: 3/30/2026]