



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF688]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the Port of Alaska Modernization Program Phase 2B: Cargo Terminals Replacement Project in Anchorage, Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of issuance of a modified letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that a modified letter of authorization (LOA) has been issued to the Don Young Port of Alaska (POA), for the unintentional taking of marine mammals incidental to the Cargo Terminals Replacement (CTR) project at the existing port facility in Anchorage, Alaska over the course of 5 years (2026 – 2031). Specifically, NMFS has updated table 2 Shutdown and Harassment Zones for vibratory extraction of 42-inch (in), 48-in, and 72-in steel pipe piles. In doing so, NMFS determined that the anticipated impacts are the same as those described in the final rule, the modification does not change the findings made for the regulations, the modification does not result in any change in the authorized number of takes of marine mammals, and the requirements of the previous LOA were implemented. As required under the relevant Incidental Take Regulations, NMFS is publishing a notice of issuance of the modified LOA.

DATES: This LOA is effective from the date of issuance through February 28, 2031.

ADDRESSES: The modified LOA and supporting documentation are available online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-port-alaskas->

construction-activities-port-alaska-modernization. In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Cara Hotchkin, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. 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 incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS 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 the species or stocks for taking for certain subsistence uses (referred to as “mitigation”); and requirements pertaining to the mitigation, monitoring, and reporting of the 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.

Except with respect to 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 and Analysis

On July 15, 2025, we promulgated a final rule upon request from the POA for authorization to take marine mammals incidental to their in-water construction and demolition activities associated with the CTR Project at the existing port facility in Anchorage, Alaska (90 FR 31756) and subsequently issued a LOA thereunder (50 CFR 217.17; 90 FR 40566, Aug. 20, 2025). Specifically, NMFS authorized the take of 7 species, comprising 10 stocks, by Level A and Level B harassment incidental to acoustic disturbance from impact pile driving; we refer to the final rule and notice of issuance for the complete discussion (90 FR 31756, 90 FR 40566).

On January 21, 2026, POA notified NMFS of updates to its construction plan: use of one 72-in temporary pile rather than four 36-in temporary piles per pile location; vibratory extraction of 42-in and 48-in steel pipe piles that are part of the existing structure; and extending the construction schedule of Terminal 1 (T1) into the fourth year of the 5 year authorization. NMFS determined the extended construction schedule of T1 is consistent with the existing authorization. NMFS also determined that the other construction plan updates will have the same impacts analyzed in the rule and do not change the findings made for the regulations but the addition of shutdown and monitoring zones to table 2 of the LOA are necessary.

The final rule analyzed unattenuated vibratory installation of 72-in diameter pipe piles, resulting in a Level B harassment isopleth of 9,039 m (bin 5; > 6,639 m) (90 FR at 31773 July 15, 2025, table 10). There are no existing data on sound levels produced by vibratory extraction of 72-in piles. NMFS has therefore used sound levels produced by vibratory installation of 72-in piles as a reasonable proxy for sound levels produced during vibratory extraction. Thus, the analysis for vibratory extraction of 72-in piles is identical to the analysis for vibratory installation of the same pile size and the activity is expected to have the same Level B harassment isopleth.

The POA originally anticipated that existing piles would be left in place, cut at the mudline, or extracted via dead-pull methods (89 FR at 85687, October 28, 2024). Vibratory driving of both smaller (24-in and 36-in) and larger (72-in) steel pipe piles was analyzed in the rule, and vibratory extraction of intermediate sized piles is anticipated to have the same general effects on marine mammals. Previous phases of the Port of Alaska Modernization Program included hydroacoustic monitoring of vibratory installation of 48-in piles (Austin *et al.*, 2016, Illingworth and Rodkin 2021). NMFS used these data to evaluate the expected isopleth from vibratory extraction of 48-in piles at the POA. There are no existing data for vibratory pile installation or extraction of 42-in piles at the POA; thus, 48-in pile data was used as a proxy for both 42-in and 48-in piles. Using the median measured source values and the transmission loss coefficients measured during these projects, NMFS calculated the median source value estimated at 10 m from the piles (table 1) and used that value to calculate the estimated sound propagation under the conditions used in the final rule (Transmission Loss Coefficient (TL) = 16.5 for unattenuated vibratory driving; 90 FR at 31770 – 31771, July 15, 2025). The estimated Level B harassment isopleth for unattenuated vibratory driving (installation and extraction) of 48-in piles is 6,222 m.

Table 1 -- Measured and calculated source values for unattenuated vibratory driving of 48-in piles at the POA during the PCT project (one pile) and the 2016 Test Pile Program (3 piles)

Report	Pile	Measured Values			Converted values		Median SL @ 10m (dB re 1 µPa RMS)
		Range (m)	TL Coefficient	Median RMS Source Level (dB re 1 µPa)	Converted range (m)	Median RMS Source Level (dB re 1 µPa) @ 10 m	
Illingworth and Rodkin (2021)	B-1	16	18.2	167	10	170.7	168.3
Austin <i>et al.</i> (2016)	IP1	14	18.35	166.3	10	169	
	IP5	11	18.35	166.8	10	167.6	
	IP6a	12	18.35	162.9	10	164.4	

The estimated distance to the Level B harassment isopleth for unattenuated 48-in pile extraction (6,222 m) falls within the same spatial bin as unattenuated installation of 36-in piles shown in the final rule (bin 4; 3,150 m to 6,639 m) (90 FR at 31778, July 15, 2025). The source values and estimated Level B harassment isopleths for extraction of 42-in piles are also expected to fall within the same bin, making 48-in and 42-in piles analytically indistinguishable from 36-in piles in the estimated take analysis. Therefore, NMFS has determined that the adjustment to the project design does not require any modification beyond the necessary changes to distances associated with required shutdown measures and that this modification does not change the findings made for the regulations and does not result in changes in the total authorized take numbers.

The shutdown zones for all species (see table 20, 90 FR at 31783, July 15, 2025) were calculated based on the minimum 100-m shutdown zone proposed by the POA for all pile installation and vibratory extraction activities, as well as the calculated Level A (non-Cook Inlet beluga whale (CIBW) species) and Level B (CIBWs) harassment

isopleths. For CIBWs, the shutdown zones exceed the calculated Level B harassment isopleths in all scenarios.

Table 2 of the LOA has been modified to include shutdown and harassment zones for vibratory extraction of 42-in, 48-in, and 72-in diameter steel pipe piles. There are no other changes to the LOA.

Authorization

NMFS has issued a modified LOA to POA authorizing the take, by harassment, of small numbers of marine mammals incidental to in-water construction and demolition activities associated with the CTR project, which includes the modification discussed herein.

Dated: May 29, 2026.

Kimberly Damon-Randall,

Director, Office of Protected Resources,

National Marine Fisheries Service.