



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XF676]

#### **Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the City of Kodiak St. Herman Harbor Infrastructure Rebuild Project**

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

**ACTION:** Notice; issuance of two incidental harassment authorizations.

**SUMMARY:** In accordance with regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued two incidental harassment authorizations (IHAs) to the City of Kodiak for authorization to take marine mammals incidental to Phase I and Phase II of the St. Herman Harbor Infrastructure Rebuild Project in Kodiak, Alaska.

**DATES:** The Phase I IHA is effective for 1 year from the date of notification by the IHA-holder, not to exceed 1 year from the date of issuance (June 10, 2026). The Phase II IHA is effective for 1 year from the date of notification by the IHA-holder, not to exceed 1 year from the date of expiration of the Phase I IHA.

**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-city-kodiaks-st-herman-harbor-infrastructure-rebuild-project>*. In case of problems accessing these documents, please call the contact listed below.

**FOR FURTHER INFORMATION CONTACT:** Austin Demarest, 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 shall 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 March 13, 2026, a notice of NMFS' proposal to issue two separate IHAs (and potential renewal IHAs) to the City of Kodiak for take of marine mammals incidental to the St. Herman Harbor Infrastructure Rebuild Project in Kodiak, Alaska was published in the **Federal Register** (91 FR 12363). 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 each 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 draft IHAs for review, as well as other supporting documents.

No 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 notice of proposed IHAs. No new information that would change any of the preliminary analyses, conclusions, or determinations in the notice of proposed IHAs has become available since that notice was published, and therefore, the preliminary analyses, conclusions, and determinations included in the notice of proposed IHAs are considered final.

### **Changes from the Proposed IHAs to the Final IHAs**

Following publication of the notice of proposed IHAs, the City of Kodiak requested additional flexibility regarding the effective period of the Phase II IHA due to uncertainty in funding and construction scheduling. As such, NMFS modified the Phase II IHA effective dates accordingly. The Phase II draft IHA indicated that it would become effective for 1 year upon the expiration of the Phase I IHA. The issued Phase II IHA will instead become effective upon written notification from the applicant to NMFS, but not beginning later than 1 year from the date of expiration of the Phase I IHA.

### **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 two separate IHAs) 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 these two separate IHAs qualifies for categorical exclusion 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 proposing to authorize take of humpback whales (Mexico-North Pacific and Western North Pacific DPS), fin whales (Northeast Pacific stock), and Steller sea lions (Western DPS), which are listed under the ESA.

The NMFS Alaska Regional Office issued a Biological Opinion under section 7 of the ESA (16 U.S.C. 1531 *et seq.*) on the issuance of two separate IHAs and the potential renewal IHAs to the City of Kodiak under section 101(a)(5)(D) of the MMPA by the NMFS Office of Protected Resources. The Biological Opinion concluded that the action is not likely to jeopardize the continued existence of ESA-listed humpback whales (Mexico-North Pacific and Western North Pacific DPS), fin whales (Northeast Pacific stock), and Steller sea lions (Western DPS).

### **Authorization**

Accordingly, consistent with the requirements of section 101(a)(5)(D) of the MMPA, NMFS has issued two separate IHAs to the City of Kodiak for authorization to take marine mammals incidental to the St. Herman Harbor Infrastructure Rebuild Project in Kodiak, Alaska.

Dated: June 11, 2026.

**Kimberly Damon-Randall,**

*Director, Office of Protected Resources,*

*National Marine Fisheries Service.*

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