

## INCIDENTAL HARASSMENT AUTHORIZATION

The Port of Alaska is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1371(a)(5)(D)) to harass marine mammals incidental to construction of the Petroleum and Cement Terminal (PCT) at the Port of Alaska, Anchorage, Alaska, when adhering to the following terms and conditions.

1. This Incidental Harassment Authorization (IHA) is valid from April 1, 2021 to March 31, 2022.
2. This IHA is valid only for pile installation and removal associated with Phase 2 of the PCT Project, Anchorage, Alaska.
3. General Conditions
  - (a) A copy of this IHA must be in the possession of the POA, its designees, work crew personnel, and Protected Species Observers (PSOs) operating under the authority of this IHA.
  - (b) The taking, by Level A and B harassment, is limited to the species listed in Table 1. Table 1 provides the authorized number of takes per species and stock.
  - (c) The taking by serious injury or death of any of species listed in Table 1, as a result of project activities described in 2. above of this IHA, is prohibited.
  - (d) The taking, by Level A harassment, Level B harassment, serious injury, or death, of marine mammal species not identified in Table 1 is prohibited.
4. Mitigation Measures

The holder of this IHA is required to implement the following mitigation measures:

  - (a) For in-water construction, heavy machinery activities other than pile driving (e.g., use of barge-mounted excavators, or dredging), if a marine mammal comes within 10 m, POA must cease operations and reduce vessel speed to the minimum level required to maintain steerage and safe working conditions.

- (b) POA is required to conduct briefings for construction supervisors and crews, the monitoring team, and POA staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, the marine mammal monitoring protocol, and operational procedures.
- (c) POA is required to employ PSOs per the Marine Mammal Monitoring Plan and Monitoring Measures described in section 5 of this IHA.
- (d) Marine mammal monitoring must take place from 30 minutes prior to initiation of pile installation and removal activity through 30 minutes post-completion of pile driving. Pile driving may commence when observers have declared the shutdown zone clear of marine mammals or the beluga whale mitigation measures in 4(g) are satisfied. In the event of a delay or shutdown of activity resulting from marine mammals, animals must be allowed to leave on their own volition and their behavior must be monitored and documented.
- (e) On a given day, if PSO monitoring ceases but pile driving is scheduled to resume, PSOs must follow pre-pile driving monitoring protocol as described in condition 4(d) above.
- (f) If a marine mammal is entering or is observed within an established shutdown zone (Table 3), pile driving must be halted or delayed. Pile driving may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or 15 minutes have passed without subsequent detections. NMFS may adjust the shutdown zones pending review and approval of an acoustic monitoring report.
- (g) Cook Inlet Beluga Whales Pile Driving Delay/Shutdown Protocol
  - i. Prior to the onset of pile driving or removal, should a beluga whale(s) be observed swimming toward or into lower Knik Arm, pile installation or removal must be delayed until the whale moves into Knik Arm and past the POA (e.g., toward Eagle River). Pile driving may not commence until either the animal has voluntarily traveled north of the POA, leaves Knik Arm, or until the whale is not re-sighted within 15 minutes.
  - ii. If pile installation or removal has commenced, and a beluga whale(s) is observed within or likely to enter the Level B harassment zone, a PSO must call for a shutdown. Pile driving will shut down as soon as possible and will not re-commence until the whale is out of and on a path away from the Level B harassment zone or until no beluga whale has been observed in the Level B

harassment zone for 15 minutes immediately prior to resumption of pile driving.

- (h) If PSOs can no longer effectively monitor all waters within the Level B harassment zone for the presence of marine mammals due to environmental conditions (e.g., fog, rain, wind), pile driving may continue only until the current segment of pile is driven; no additional sections of pile or additional piles may be driven until conditions improve such that the Level B harassment zone can be effectively monitored.
- (i) POA must use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets. A soft start must be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer.
- (j) POA is required to employ a bubble curtain during all impact and vibratory driving of plumb piles and operate it in a manner consistent with the following performance standards:
  - i. The bubble curtain must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column.
  - ii. The lowest bubble ring must be in contact with the mudline for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline contact. No parts of the ring or other objects shall prevent full mudline contact.
  - iii. Air flow to the bubblers must be balanced around the circumference of the pile.
- (k) POA must not install 144-inch piles with a vibratory hammer in August unless a safety concern arises.
- (l) POA must not install unattenuated piles in water depths greater than 3 meters.
- (m) POA must not operate two vibratory hammers concurrently.
- (n) If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized takes are met, is observed approaching or within the monitoring zone (Table 2), pile driving and removal must shut down immediately using shut-down procedures. Pile driving must not resume until the animal

has been confirmed to have left the area or the observation time period, as indicated in condition 4(f) above, has elapsed.

## 5. Monitoring Measures

The holder of this IHA is required to abide by the following marine mammal and acoustic monitoring measures:

(a) Marine mammal monitoring must be conducted in accordance with the Marine Mammal Monitoring Plan and the following measures:

- i. PSOs will be positioned at three stations during all pile driving to maximize marine mammal detection: one station will be at the PCT site, one at Point Woronzof or nearby location, and one location north of the PCT site (e.g., northern end of POA, Port MacKenzie).
- ii. PSOs will work in three- to four-person teams at each outer (northern and southern) observation station. The station at the PCT site will have at least 2 PSOs. At least two PSOs will be on-watch at any given time at each station. A third PSO will be available to record data at the southern and northern stations.
- iii. Each outer (southern and northern) station must be equipped with large-aperture binoculars (25X), hand-held binoculars (7X), and range finders. A theodolite must be available at one station. The central station must be equipped with hand-held binoculars (7X) and range finders.

(b) Marine mammal monitoring during pile driving and removal must be conducted by NMFS-approved PSOs in a manner consistent with the Marine Mammal Monitoring Plan and the following:

- i. Independent PSOs (*i.e.*, not construction personnel) who have no other assigned tasks during monitoring periods must be used.
- ii. A lead observer or monitoring coordinator must be designated. The lead observer must have prior experience working as a marine mammal observer during construction.
- iii. POA must submit PSO CVs for approval by NMFS prior to the onset of pile driving.
- iv. PSOs must be in constant real-time communication with each other and with construction crews to convey information about marine mammal

sightings, locations, directions of movement, and communicate calls for pile driving shutdowns or delays.

- v. A PSO must observe for no more than 4 hours at a time and no more than 12 hours per day.

(c) PSOs must have the following additional qualifications:

- i. Ability to conduct field observations and collect data according to assigned protocols.
- ii. Experience or training in the field identification of marine mammals, including the identification of behaviors.
- iii. Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations.
- iv. Ability to observe and record environmental and marine mammal sighting data including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior.
- v. Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

(d) Acoustic monitoring must be conducted in accordance with the Acoustic Monitoring Plan. The following data, at minimum, shall be collected during acoustic monitoring and reported:

- i. Hydrophone equipment and methods: recording device, sampling rate, distance from the pile where recordings were made; depth of recording device(s).
- ii. Type of pile being driven and method of driving during recordings.
- iii. Mean, median, and peak sound source levels (dB re: 1 $\mu$ Pa): cumulative sound exposure level (SEL<sub>cum</sub>), peak sound pressure level (SPL<sub>peak</sub>), root mean square sound pressure level (SPL<sub>rms</sub>), and single-strike sound exposure level (SEL<sub>s</sub>).

## 6. Reporting

The holder of this IHA is required to:

- (a) Submit interim weekly and monthly monitoring reports during the PCT construction season. These reports must include a summary of marine mammal species and behavioral observations, pile driving shutdowns or delays, and pile work completed.
- (b) Alert NMFS when the number of takes documented reaches 80 percent of those authorized per year. Weekly reports will assist with the tracking of take numbers.
- (c) Submit an interim sound source verification report within 10 days of each acoustic monitoring session (acoustic monitoring will occur intermittently throughout the season) followed by a draft final report within 60 days of the completion of acoustic monitoring for the season. A final report shall be prepared and submitted within thirty days following resolution of comments on the draft report from NMFS.
- (d) Submit a draft final report on all marine mammal monitoring conducted under the IHA within ninety calendar days of the completion of monitoring. A final report shall be prepared and submitted within thirty days following resolution of comments on the draft report from NMFS. This report must contain the informational elements described in the Marine Mammal Monitoring Plan, including, but not limited to:
  - i. Dates and times (begin and end) of all marine mammal monitoring.
  - ii. Construction activities occurring during each daily observation period, including how many and what type of piles were driven or removed and by what method (*i.e.*, impact or vibratory).
  - iii. Weather parameters and water conditions during each monitoring period (*e.g.*, wind speed, percent cover, visibility, sea state).
  - iv. The number of marine mammals observed, by species, relative to the pile location and if pile driving or removal was occurring at time of sighting.
  - v. Age and sex class, if possible, of all marine mammals observed.
  - vi. PSO locations during marine mammal monitoring.
  - vii. Distances and bearings of each marine mammal observed to the pile being driven or removed for each sighting (if pile driving or removal was occurring at time of sighting).
  - viii. Description of any marine mammal behavior patterns during observation, including direction of travel.
  - ix. Number of individuals of each species (differentiated by month as appropriate) detected within the monitoring zone, and estimates of number

of marine mammals taken, by species (a correction factor may be applied to total take numbers, as appropriate).

- x. Detailed information about any implementation of any mitigation triggered (e.g., shutdowns and delays), a description of specific actions that ensued, and resulting behavior of the animal, if any.
  - xi. Description of attempts to distinguish between the number of individual animals taken and the number of incidences of take, such as ability to track groups or individuals.
- (e) Reporting injured or dead marine mammals:
- i. In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as serious injury, or mortality, POA must immediately cease the specified activities and report the incident to the NMFS Office of Protected Resources (301-427-8401) and Alaska Region Stranding Coordinator (1-877-925-7773). The report must include the following information:
    - 1. Time and date of the incident;
    - 2. Description of the incident;
    - 3. Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
    - 4. Description of all marine mammal observations and active sound source use in the 24 hours preceding the incident;
    - 5. Species identification or description of the animal(s) involved;
    - 6. Fate of the animal(s); and
    - 7. Photographs or video footage of the animal(s).

Activities must not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with POA to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. POA may not resume their activities until notified by NMFS.'
  - ii. In the event POA discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (e.g., in less than a moderate state of decomposition), POA must immediately report the incident to the Office

of Protected Resources, NMFS, and the Alaska Region Stranding Coordinator, NMFS. The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with POA to determine whether additional mitigation measures or modifications to the activities are appropriate.

- iii. In the event that POA discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the specified activities (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), POA must report the incident to the Office of Protected Resources, NMFS, and the Alaska Region Stranding Coordinator, NMFS, within 24 hours of the discovery.

7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

8. Renewals - On a case-by-case basis, NMFS may issue a one-year IHA renewal with an additional 15 days for public comments when (1) another year of identical or nearly identical activities as described in the Specified Activities section of this notice is planned or (2) the activities as described in the Specified Activities section of this notice would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section of this notice, provided all of the following conditions are met:

- (a) A request for renewal is received no later than 60 days prior to expiration of the current IHA.

- (b) The request for renewal must include:

- i. An explanation that the activities to be conducted under the requested Renewal are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take because only a subset of the initially analyzed activities remain to be completed under the Renewal).

- ii. A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

- (c) Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Donna S. Wieting,  
 Director, Office of Protected Resources  
 National Marine Fisheries Service

Date

**Table 1. Authorized Amount of Taking, by Level A harassment and Level B harassment, by species and stock.**

Species	Stock	Phase 2	
		Level A	Level B
Humpback whale	Western N. Pacific	2	4
Beluga whale	Cook Inlet	0	35
Killer whale	Transient/Alaska Resident	0	12
Harbor porpoise	Gulf of Alaska	13	25
Steller sea lion	Western	2	6
Harbor seal	Cook Inlet/Shelikof	180	420

**Table 2. Level B Harassment Monitoring Zones**

Pile Size	Hammer Type	Attenuation	Level B Harassment Zone (m)
36-in	Impact	Bubble Curtain	296
	Vibratory		1,699
24-in	Impact		261
	Vibratory		846
	Impact	Unattenuated	629
	Vibratory		2,247
144-in	Impact	Bubble Curtain	1,946
	Vibratory		9,069

**Table 3. Shutdown Zones.**

Pile Size	Hammer Type	Attenuation	Non-Beluga Whales Shutdown Zone (m)	Beluga Whale Shutdown Zone (m)
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36-in	Impact	Bubble Curtain	100	296	
	Vibratory			1,699	
24-in	Impact			Unattenuated	261
	Vibratory				846
	Impact	629			
	Vibratory	2,247			
144-in	Impact	Bubble Curtain		1,946	
	Vibratory			9,069	

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