

An authorization for incidental takings 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.

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

On February 24, 2020, we issued a final rule upon request from the Navy for authorization to take marine mammals incidental to construction activities (85 FR 10312). The Navy plans to construct a new ammunition pier at Naval Weapons Station Seal Beach. This construction will include use of impact and vibratory pile driving, including installation and removal of steel, concrete, and timber piles. The use of both vibratory and impact pile driving is expected to produce underwater sound at levels that have the potential to result in behavioral harassment of marine mammals.

#### Authorization

We have issued a LOA to Navy authorizing the take of marine mammals incidental to construction activities, as described above. Take of marine mammals will be minimized through the implementation of the following planned mitigation measures: (1) Required monitoring of the construction area to detect the presence of marine mammals before beginning construction activities; (2) shutdown of construction activities under certain circumstances to avoid injury of marine mammals; and (3) soft start for impact pile driving to allow marine mammals the opportunity to leave the area prior to beginning impact pile driving at full power.

Additionally, the rule includes an adaptive management component that allows for timely modification of mitigation or monitoring measures based on new information, when appropriate. The Navy will submit reports as required.

Based on these findings and the information discussed in the preamble to the final rule, the activities described under this LOA will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stock for subsistence uses.

Dated: March 30, 2020.

**Donna S. Wieting,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Chesapeake Bay Watershed Environmental Literacy Indicator Tool.

*OMB Control Number:* 0648-0753.

*Form Number(s):* None.

*Type of Request:* Regular (revision of an existing collection).

*Number of Respondents:* 685.

*Average Hours per Response:* 1 hour.

*Burden Hours:* 229 hours.

*Needs and Uses:* The Chesapeake Bay Watershed Agreement of 2014 required monitoring of progress toward the environmental literacy goal: “Enable students in the region to graduate with the knowledge and skills needed to act responsibly to protect and restore their local watersheds.” NOAA, on behalf of the Chesapeake Bay Program, will ask the state education agencies for Maryland, Pennsylvania, Delaware, Virginia, West Virginia, and the District of Columbia to survey their local education agencies (LEAs) to determine: (1) LEA capacity to implement a comprehensive and systemic approach to environmental literacy education, (2) student participation in Meaningful Watershed Educational Experience

during the school year, (3) sustainability practices at schools, and (4) LEA needs for improving environmental literacy education programming. LEAs (generally school districts, in some cases charter school administration) are asked to complete the survey on the status of their LEA on a set of key indicators for the four areas listed above. One individual from each LEA is asked to complete their survey once every two years. The results of the biennial ELIT survey will be analyzed and reported to the internal stakeholders of the Chesapeake Bay Watershed Agreement. Participating states will receive a summarized report of findings for the full watershed, a summary of findings for their state, and comparisons of results between states. These aggregated results will be used by the state agencies to understand progress of their school districts over time, and to inform decision-making about strategies and priorities for future work with school districts. The biennial reporting will also be used by the Chesapeake Bay Program to understand progress of school districts in the watershed, understand differences between jurisdictions, and guide strategy for providing targeted support in each state. The instrument has undergone minor changes since its last PRA approval process which include the removal of a number of questions. These changes result in a reduction in the time burden from 90 minutes to 60 minutes per response.

*Affected Public:* One representative from 685 local education agencies.

*Frequency:* Biennially.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* U.S. Code: 42 U.S.C. 4321 *et seq.* Name of Law: National Environmental Policy Act.

This information collection request may be viewed at [www.reginfo.gov](http://www.reginfo.gov). Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and

entering either the title of the collection or the OMB Control Number 0648–0573.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**[RTID 0648–XR083]**

**Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to City and Borough of Juneau Downtown Waterfront Improvement Project**

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

**ACTION:** Notice; modification of an incidental harassment authorization.

**SUMMARY:** On December 19, 2019, NMFS received a request from the City and Borough of Juneau (CBJ) to modify an incidental harassment authorization (IHA) that was issued to CBJ on May 16, 2019 to take small numbers of harbor seals, by harassment, incidental to the Juneau dock and harbor waterfront improvement project. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to modify the IHA. This modification includes changes to the prescribed mitigation and to the amount of authorized take by Level A harassment. The total amount of authorized taking remains the same. There are no changes to the activity, NMFS' findings, the effective dates of the issued IHA, or any other aspect of the IHA. NMFS will consider public comments prior to making any final decision on the requested modification of the authorization and agency responses will be summarized in the final notice of our decision.

**DATES:** This modified IHA is effective from the date of issuance through July 14, 2020.

**FOR FURTHER INFORMATION CONTACT:**

Shane Guan, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as the issued IHA, may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case

of problems accessing these documents, please call the contact listed above.

**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 such species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

**History of Request**

On October 25, 2018, CBJ submitted a request to NMFS requesting an IHA for the possible harassment of small numbers of harbor seals incidental to the City of Juneau Dock and Harbor waterfront improvement project in Juneau, Alaska. On March 5, 2019, NMFS published a **Federal Register** notice (84 FR 7880) for the proposed IHA. On May 16, 2019, NMFS issued an IHA to CBJ. On May 28, 2019, NMFS published a **Federal Register** notice (84 FR 24490) announcing the issuance of the IHA, which is valid from July 15, 2019, through July 14, 2020.

On December 19, 2019, NMFS received a request from CBJ to modify the 2019 IHA. CBJ subsequently submitted a revised IHA modification request on January 22, 2019, which

NMFS determined to be adequate and complete. In the original IHA issued to CBJ, NMFS authorized 72 takes by Level A harassment and 3,454 takes by Level B harassment for harbor seals, and prescribed a shutdown distance of 130 m for impact driving of steel pipe piles. Prior to the start of in-water impact pile driving, CBJ conducted marine mammal abundance survey effort in the vicinity of the project area and found that there were significantly greater numbers of harbor seals present within the immediate vicinity of the construction site than previously estimated. The close proximity of the seals to the pile driving locations would preclude impact pile driving, due to the requirement to clear the 130-m shutdown zone prior to starting up. In addition, CBJ has determined that the high occurrence of harbor seals within the immediate vicinity of the construction site is likely lead to excessive shutdowns during pile driving, which would compromise the timely completion of CBJ's dock and harbor waterfront improvement project on time. CBJ asserts that this renders the prescribed 130-m shutdown zone impracticable, and on the basis of the new information provided by CBJ, NMFS concurs with this determination.

Therefore, CBJ requested to reduce the shutdown distance for impact pile driving from 130 m (as prescribed in the original IHA) to 25 m. As a direct result of this requested change, CBJ determined it necessary to request an increase in the amount of authorized incidents of take by Level A harassment from 72 to 324, while the total amount of authorized taking by harassment remains the same. The original 130-m shutdown zone was designed to avoid most Level A harassment, and was therefore based on the size of Level A harassment radius for impact pile driving. During construction conducted to date, CBJ has not exceeded the authorized amounts of take.

The scope of the project and potential effects to marine mammals in the area remain the same as analyzed previously for the issuance of the IHA in 2019 (84 FR 24490; May 28, 2019).

**Comments and Responses**

A notice of NMFS' proposal to modify the IHA was published in the **Federal Register** on February 7, 2020 (85 FR 7289). During the 30-day public comment period, NMFS received a comment letter from the Marine Mammal Commission (Commission). Specific comments and responses are provided below.

*Comment 1:* The Commission states that it is concerned that CBJ did not