

accommodations should be directed to Kathy Pereira, (813) 348–1630, at least 15 days prior to the meeting date.

*Authority:* 16 U.S.C. 1801 *et seq.*

Dated: August 11, 2025.

**Key Israel Marquez,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648–XF095]

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Ferndale Refinery Dock Maintenance and Pile Replacement Project Activities in Ferndale, Washington

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

**ACTION:** Notice; issuance of renewal of incidental harassment authorization.

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA), as amended, notification is hereby given that NMFS has issued a renewal incidental harassment authorization (IHA) to Phillips 66 to incidentally harass marine mammals incidental to Ferndale Refinery Dock Maintenance and Pile Replacement Project Activities in Ferndale, Washington.

**DATES:** This renewal IHA is valid from August 9, 2025 until August 8, 2026.

**ADDRESSES:** Electronic copies of the original application, renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, 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 below.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Gatzke, Office of Protected Resources, NMFS, (301) 427–8401.

#### SUPPLEMENTARY INFORMATION:

##### Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Section 101(a)(5)(A) and (D)

of the MMPA (16 U.S.C. 1361 *et seq.*) directs 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 promulgated or, if the taking is limited to harassment, an incidental harassment authorization is issued.

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 here as “mitigation measures”). NMFS must also prescribe requirements pertaining to monitoring and reporting of such takings. The definition of key terms such as “take,” “harassment,” and “negligible impact” can be found in the MMPA and NMFS’s implementing regulations (see 16 U.S.C. 1362; 50 CFR 216.103).

NMFS’ regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed 1 year for each reauthorization. In the notice of proposed IHA for the initial IHA, NMFS described the circumstances under which we would consider issuing a renewal for this activity, and requested public comment on a potential renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-time 1-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical, or nearly identical, activities as described in the Detailed Description of Specified Activities section of the initial IHA issuance notice is planned, or (2) the activities as described in the Description of the Specified Activities and Anticipated Impacts section of the initial IHA issuance notice would not be completed by the time the initial IHA expires and a renewal would allow for completion of the activities beyond that described in the **DATES** section of the notice of issuance of the initial IHA,

provided all of the following conditions are met:

1. A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA).

2. The request for renewal must include the following:

- An explanation that the activities to be conducted under the requested renewal IHA 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).

- 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.

3. 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.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed renewal. A description of the renewal process may be found on our website at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals>.

##### History of Request

On August 9, 2024, NMFS issued an IHA to Phillips 66 to take marine mammals incidental to construction activities at the Ferndale Refinery Dock in Ferndale, Washington (89 FR 66057; August 14, 2024), effective from August 9, 2024 through August 8, 2025.

On May 29, 2025, NMFS received an application for the renewal of that initial IHA. Phillips 66 submitted a revised version on June 5, 2025, which was deemed adequate and complete. As described in the application for renewal, the activities for which incidental take was requested are nearly identical to those covered in the initial authorization. As required, the

applicant also provided a monitoring report (available at <https://www.fisheries.noaa.gov/action/incidental-take-authorization-phillips-66-cos-ferndale-refinery-dock-maintenance-and-pile>), which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted. The report indicates that harbor porpoise (10 animals) and harbor seal (7 animals) were the only species sighted within the estimated zones, and at far fewer numbers than estimated (447 and 157 respectively). The notice of the proposed renewal IHA was published on July 21, 2025 (90 FR 34240), beginning a supplementary 15-day comment period.

#### Description of the Specified Activities and Anticipated Impacts

The purpose of the project is to strengthen the existing timber and steel pier that has long served as a petroleum loading facility, and replace it with a new steel structure that meets current industry best practices. The continuing project will require vibratory pile installation and is expected to take 15 intermittent days between August 1, 2025 and October 31, 2025, since marine conditions are expected to be relatively calm during this period. This IHA renewal will be valid for a period

of 1 year from August 9, 2025, through August 8, 2026.

The planned work is nearly identical to the activities analyzed for this IHA and the same monitoring plan will be implemented during pile driving to minimize impacts to marine mammals in the project area. Relative to the initial construction plans, there are 54 piles of 116 remaining to drive. Phillips 66 also requested a minor change to add 4 additional piles to the project to complete all pile driving work on the causeway (58 piles total). These additional piles incorporate the maintenance of a foam building for fire suppression into the current approved Joint Aquatic Resources Permit Application for the causeway maintenance. NMFS reviewed the plan for the additional four piles at the terminal end of the dock and determined that it would not change our original analysis.

The additional piles are of the same size and materials, requiring only 48 minutes of additional vibratory driving time to complete installation. NMFS has determined that the amount of take authorized through this renewal IHA is sufficient to cover any marine mammal take likely to result from this insignificant incremental increase in pile driving activity.

A detailed description of the demolition and construction activities for which take is authorized may be found in the notices of the proposed and final IHAs for the initial authorization

(89 FR 53046, June 25, 2024; 89 FR 66057, August 14, 2024; 90 FR 34240, July 21, 2025). The location, timing, and nature of the activities, including the types of equipment planned for use, are nearly identical to those described in the previous notices. The activities are nearly identical, but are a subset of the initial work, except for the minor change of the addition of the four support piles.

#### Potential Effects on Marine Mammals and Their Habitat

A description of the marine mammals in the area of the activities for which take is authorized, including information on abundance, status, distribution, and hearing, may be found in the **Federal Register** notices of the proposed IHA for the initial authorization (89 FR 53046, June 25, 2024). NMFS has reviewed the monitoring data from the initial IHA, recent stock assessment reports (SARs), information on relevant unusual mortality events, and other scientific literature, and determined there is no new information that affects our initial analysis of impacts on marine mammals and their habitat. As noted in table 1, the 2024 NMFS Draft SARs lists the minimum population estimate (N<sub>min</sub>) for the Eastern North Pacific Southern Resident stock of killer whales as increased from 73 to 75 animals (NMFS 2024). No incidental take is here authorized for this species, and this does not change our initial analysis.

TABLE 1—SPECIES FOR WHICH TAKE COULD OCCUR IN THE PROJECT AREA

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) <sup>1</sup>	Stock abundance (CV, N <sub>min</sub> , most recent abundance survey) <sup>2</sup>	PBR	Annual M/SI <sup>3</sup>
<b>Order Artiodactyla—Cetacea—Mysticeti (baleen whales)</b>						
<i>Family Balaenopteridae (rorquals):</i>						
Humpback Whale .....	<i>Megaptera novaeangliae</i> .....	Central America/Southern Mexico—CA/OR/WA.	E, D, Y	1,494 (0.171, 1,284, 2021) ....	3.5	14.9
Humpback Whale .....	<i>Megaptera novaeangliae</i> .....	Mainland Mexico—CA/OR/WA	T, D, Y	3,477 (0.101, 3,185, 2018) ....	43	22
Humpback Whale .....	<i>Megaptera novaeangliae</i> .....	Hawaii .....	-, -, N	11,278 (0.56, 7,265, 2020) ....	127	27.09
<b>Odontoceti (toothed whales, dolphins, and porpoises)</b>						
<i>Family Delphinidae:</i>						
Killer Whale .....	<i>Orcinus orca</i> .....	Eastern North Pacific Southern Resident.	E, D, Y	75 (N/A, 75, 2024) <sup>4</sup> .....	0.13	0
Killer Whale .....	<i>Orcinus orca</i> .....	West Coast Transient .....	-, -, N	349 (N/A, 349, 2018) .....	3.5	0.4
<i>Family Phocoenidae (porpoises):</i>						
Harbor porpoise .....	<i>Phocoena phocoena</i> .....	Washington Inland Waters .....	-, -, N	11,233 (0.37, 8,308, 2015) ....	66	≥7.2
<b>Order Carnivora—Pinnipedia</b>						
<i>Family Otariidae (eared seals and sea lions):</i>						
California Sea Lion .....	<i>Zalophus californianus</i> .....	U.S. ....	-, -, N	257,606 (N/A, 233,515, 2014)	14,011	>321
Steller Sea Lion .....	<i>Eumetopias jubatus</i> .....	Eastern .....	-, -, N	36,308 (N/A, 36,308, 2022) ...	2,178	93.2
<i>Family Phocidae (earless seals):</i>						

TABLE 1—SPECIES FOR WHICH TAKE COULD OCCUR IN THE PROJECT AREA—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) <sup>1</sup>	Stock abundance (CV, N <sub>min</sub> , most recent abundance survey) <sup>2</sup>	PBR	Annual M/SI <sup>3</sup>
Harbor Seal .....	<i>Phoca vitulina</i> .....	Washington Northern Inland Waters.	- , - , N	16,451 (0.07, 15,462, 2019) ..	928	40

<sup>1</sup> Information on the classification of marine mammal species follows The Society for Marine Mammalogy's Committee on Taxonomy (<https://www.marinemammal.science.org/science-and-publications/list-marine-mammal-species-subspecies/>). Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds Potential Biological Removal (PBR) or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

<sup>2</sup> NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>. CV is coefficient of variation; N<sub>min</sub> is the minimum estimate of stock abundance. In some cases, CV is not applicable.

<sup>3</sup> These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, vessel strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range.

<sup>4</sup> NMFS Draft 2024 SARs available with updated number for Eastern North Pacific Southern Resident Killer whales.

### Estimated Take

A detailed description of the methods and inputs used to estimate take for the specified activity are found in the **Federal Register** notice of the proposed IHA for the initial authorization (89 FR 53046, June 25, 2024). Specifically, the source levels, days of operation (reduced to 15 days in this renewal), and marine mammal density/occurrence

data applicable to this authorization remain unchanged from the previously issued IHA. The number of takes authorized is based on the subset of activities to be completed under this renewal IHA, and therefore represents a proportion of the initial authorized takes. These takes reflect the estimated remaining number of days of work and number of piles to be driven. Estimated take by Level B harassment for the

renewal was calculated using the same methodology as in the initial proposed and final IHAs (89 FR 53046, June 25, 2024; 89 FR 66057, August 14, 2024). Similarly, the stocks taken, methods of take, and types of take remain unchanged from the previously issued IHA. The number of takes, reduced to a subset of the initial IHA (smaller number of piles and days pile driving), are indicated below in table 2.

TABLE 2—AUTHORIZED TAKE OF MARINE MAMMALS BY LEVEL B HARASSMENT BY SPECIES, STOCK/REGION, ABUNDANCE, DENSITY, AND PERCENT OF TAKE BY STOCK FOR 15 DAYS OF PILE DRIVING

Common name	Stock (region characterized)	Stock abundance	Density (animals/km <sup>2</sup> )	Total proposed take	Proposed take as percentage of stock
Harbor porpoise .....	Washington Inland Waters (North Puget Sound).	11,233	2.16	192	1.71
Steller sea lion .....	Eastern U.S. (North Puget Sound/San Juan Islands (Fall)).	36,308	0.0027	15	0.03
California sea lion .....	U.S. (North Puget Sound/San Juan Islands (Fall)).	257,606	0.0179	45	0.02
Harbor seal .....	Washington Northern Inland (North Puget Sound/San Juan Islands (Fall)).	16,451	0.76	67	0.61

On October 24, 2024, NMFS published (89 FR 84872) its final Updated Technical Guidance (<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance-other-acoustic-tools>), which includes updated thresholds and weighting functions to inform auditory injury estimates and is replacing the 2018

Technical Guidance referenced in the notices of the proposed and final IHAs for the initial authorization (89 FR 53046, June 25, 2024; 89 FR 66057, August 14, 2024). In consideration of the best available science, NMFS conducted calculations using the 2024 Updated Technical Guidance and NMFS optional user spreadsheet, using the source levels and spreadsheet inputs

provided in the notices for the proposed and final IHAs (89 FR 53046, June 25, 2024; 89 FR 66057, August 14, 2024), for the purpose of understanding how Level A harassment (auditory injury) zones might change from the initial IHA. The updated marine mammal hearing groups and updated thresholds can be found in tables 3 and 4.

TABLE 3—MARINE MAMMAL HEARING GROUPS  
[NMFS 2024]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales) .....	7 Hz to 36 kHz.
High-frequency (HF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales) .....	150 Hz to 160 kHz.
Very High-frequency (VHF) cetaceans (true porpoises, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i> ).	200 Hz to 165 kHz.
Phocid pinnipeds (PW) (underwater) (true seals) .....	40 Hz to 90 kHz.

TABLE 3—MARINE MAMMAL HEARING GROUPS—Continued  
[NMFS 2024]

Hearing group	Generalized hearing range *
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals) .....	60 Hz to 68 kHz.

\* Represents the generalized hearing range for the entire group as a composite (*i.e.*, all species within the group), where individual species' hearing ranges may not be as broad. Generalized hearing range chosen based on approximately 65 decibel (dB) threshold from composite audiogram, previous analysis in NMFS 2018, and/or data from Southall *et al.* 2007; Southall *et al.* 2019. Additionally, animals are able to detect very loud sounds above and below that "generalized" hearing range. Hertz (Hz) and kilohertz (kHz).

TABLE 4—ONSET OF AUDITORY INJURY (AUD INJ)  
[NMFS 2024]

Hearing group	AUD INJ onset thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans .....	Cell 1: $L_{p,0-pk,flat}$ : 222 dB; $L_{E,p,LF,24h}$ : 183 dB .....	Cell 2: $L_{E,p,LF,24h}$ : 197 dB.
High-Frequency (HF) Cetaceans .....	Cell 3: $L_{p,0-pk,flat}$ : 230 dB; $L_{E,p,HF,24h}$ : 193 dB .....	Cell 4: $L_{E,p,HF,24h}$ : 201 dB.
Very High-Frequency (VHF) Cetaceans .....	Cell 5: $L_{p,0-pk,flat}$ : 202 dB; $L_{E,p,VHF,24h}$ : 159 dB .....	Cell 6: $L_{E,p,VHF,24h}$ : 181 dB.
Phocid Pinnipeds (PW) (Underwater) .....	Cell 7: $L_{p,0-pk,flat}$ : 223 dB; $L_{E,p,PW,24h}$ : 183 dB .....	Cell 8: $L_{E,p,PW,24h}$ : 195 dB.
Otariid Pinnipeds (OW) (Underwater) .....	Cell 9: $L_{p,0-pk,flat}$ : 230 dB; $L_{E,p,OW,24h}$ : 185 dB .....	Cell 10: $L_{E,p,OW,24h}$ : 199 dB.

\* Dual metric thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating AUD INJ onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds are recommended for consideration.

**Note:** Peak sound pressure level ( $L_{p,0-pk}$ ) has a reference value of 1 micropascal ( $\mu$ Pa), and weighted cumulative sound exposure level ( $L_{E,p}$ ) has a reference value of 1  $\mu$ Pa<sup>2</sup>s. In this Table, thresholds are abbreviated to be more reflective of International Organization for Standardization standards (ISO 2017). The subscript "flat" is being included to indicate peak sound pressure are flat weighted or unweighted within the generalized hearing range of marine mammals (*i.e.*, 7 Hz to 165 kHz). The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, HF, and VHF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The weighted cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.*, varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these thresholds will be exceeded.

When using the 2024 Updated Technical Guidance and the NMFS optional user spreadsheet (<https://www.fisheries.noaa.gov/national/>

*marine-mammal-protection/marine-mammal-acoustic-technical-guidance-other-acoustic-tools*), the estimated Level A harassment zone sizes remain

functionally the same as those in the initial IHA, and are consistent with the intent of the measures prescribed through the initial IHA.

TABLE 5—SHUTDOWN AND HARASSMENT ZONES  
[Meters (m)]

Pile size, type, and method	Minimum shutdown zone			Level B harassment zone
	High-frequency	Phocid	Otariid	
20-in (51 cm) steel vibratory .....	10	10	10	1,585

#### Description of Mitigation, Monitoring, and Reporting Measures

The proposed mitigation, monitoring, and reporting measures included as requirements in this authorization are identical to those included in the **Federal Register** notice announcing the issuance of the initial proposed IHA, and the discussion of the least practicable adverse impact included in that document remains accurate (89 FR 53046, June 25, 2024; 89 FR 66057, August 14, 2024). The following measures apply to this renewal:

(a) The holder must employ protected species observers (PSOs) and establish monitoring locations. The holder must monitor the project area to the

maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions.

(b) Monitoring must take place from 30 minutes prior to initiation of pile driving activity (*i.e.*, pre-start clearance monitoring) through 30 minutes post-completion of pile driving activity.

(c) Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine that the shutdown zones are clear of marine mammals. Pile driving may commence following 30 minutes of observation when the determination is made that the shutdown zones are clear of marine mammals.

(d) If a marine mammal is observed entering or within the shutdown zones, pile driving activity must be delayed or halted. Pile driving must be commenced or resumed as described in condition 4(e) of this IHA.

(e) If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone, or 15 minutes have passed without re-detection of the animal.

(f) Specific measures for avoiding take of killer whales and humpback whales:

(i) Prior to the start of pile driving activities each day, the Holder must

contact the Orca Network to obtain the latest sightings information for killer whales and humpback whales.

(ii) The holder must delay or halt pile driving activities if Southern Resident Killer Whale (SRKW), unidentified killer whale (*i.e.* transient), or humpback whales are sighted within the vicinity of the project area and are approaching the Level B harassment zones during in-water activities.

(iii) If a SRKW, unidentified killer whale, or humpback whale enters the Level B harassment zone undetected, in-water pile driving must be suspended immediately upon detection and must not resume until the animal exits the Level B harassment zone or 15 minutes have passed without re-detection of the animal.

(g) Pile driving activity must be halted (as described in condition 4(d) of initial IHA) upon observation of either a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met, entering or within the harassment zone.

(h) The Holder, construction supervisors and crews, PSOs, and relevant Phillips 66 staff must avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 m of such activity, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions, as necessary to avoid direct physical interaction.

### Comments and Responses

A notice of NMFS' proposal to issue a renewal IHA to Phillips 66 was published in the **Federal Register** on July 21, 2025 (90 FR 34240). That notice either described, or referenced descriptions of, the Phillips 66's activity, the marine mammal species that may be affected by the activity, the anticipated effects on marine mammals and their habitat, estimated amount and manner of take, and proposed mitigation, monitoring, and reporting measures. NMFS received no public comments.

### Determinations

The proposed action is nearly identical to that of the initial authorization in terms of effects. The minor change of four additional piles does not modify our findings. The same marine mammals are affected, and the potential effects and estimated take are a subset of the initial IHA. Mitigation and monitoring remain the same as the initial authorization. When considering

the updated NMFS acoustic guidance (NMFS, 2024), Level A harassment shutdown zone sizes remain comparable to those of the initial IHA, functionally resulting in no changes.

With a subset of estimated take, the extensive analysis, as well as the associated findings included in the prior documents remain applicable. We found that the previous IHA had a negligible impact, and with the issuance of a renewal, the taking would be small relative to population size.

NMFS has concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following: (1) the required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) Phillip 66's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action; and (5) appropriate monitoring and reporting requirements are included.

### 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 a renewal IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental take authorizations 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 determined that the issuance of the initial IHA qualified to be categorically excluded from further NEPA review. NMFS has determined that the application of this categorical exclusion remains appropriate for this renewal IHA.

### Endangered Species Act

Section 7(a)(2) of the Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency ensure 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. No incidental take of ESA-listed species is authorized for this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

### Renewal

NMFS has issued a renewal IHA to Phillips 66 for the take of marine mammals incidental to conducting Ferndale Refinery Dock Maintenance and Pile Replacement Project Activities in Ferndale, Washington, for 1 year from August 9, 2025 through August 8, 2026.

Dated: August 8, 2025.

**Kimberly Damon-Randall,**

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

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## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Patent Review and Derivation Proceedings

**AGENCY:** United States Patent and Trademark Office, Department of Commerce.

**ACTION:** Notice of information collection; request for comments.

**SUMMARY:** The United States Patent and Trademark Office (USPTO) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The USPTO invites comments on the information collection renewal of 0651-0069 (Patent Review and Derivation Proceedings), which helps the USPTO assess the impact of its information collection requirements and minimize the public's reporting burden. Public