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Incidental Take Authorizations – Applicant Instructions

See “How do I know if I need to apply for an incidental take authorization?” for general information on when to seek an authorization and the Letter of Authorization Requests page for instructions on applying for a Letter of Authorization (LOA).

These instructions apply only to marine mammals under U.S. Fish and Wildlife Service (Service) jurisdiction that our program manages: polar bears, Pacific walrus, and northern sea otters in Alaska.

To obtain an [incidental take authorization \(https://www.fws.gov/alaska/pages/incidental-take-authorizations-general-information\)](https://www.fws.gov/alaska/pages/incidental-take-authorizations-general-information) (either incidental take regulations (ITRs) or an incidental harassment authorization (IHA)), applicants must submit a written request to the Service containing information specified in the Code of Federal Regulations ([50 CFR §18.27\(d\)](https://ecfr.io/Title-50-CFR-18.27(d))) ([https://ecfr.io/Title-](https://ecfr.io/Title-50-CFR-18.27(d))

50/Section-18.27)), which is described below. Note this information is very similar, but not identical, to the information required by the National Marine Fisheries Service (NMFS) for its marine mammal incidental take requests.

We strongly encourage applicants to reach out to the Marine Mammals Management (MMM) Regulatory Program (R7mmmregulatory@fws.gov (<https://mail.google.com/mail/?view=cm&fs=1&tf=1&to=R7mmmregulatory@fws.gov>), 1-800-362-5148) prior to developing an application, in order to discuss an authorization timeline, any data needs, or other considerations that may impact your application. Communicating early and often is key to a successful application.

It may take up to 18 months from your initial communication to the promulgation of final incidental take regulations (ITRs). The process for issuance of an incidental harassment authorization (IHA) may take 12 months. Processing time will vary depending on the nature of the proposed activities, so we encourage communication well in advance of the start of proposed activities. Applicants can review [this flowchart](https://www.fws.gov/ecological-services/species/MMPA-ITA-Flowchart-for-Webpage-2016.pdf) (<https://www.fws.gov/ecological-services/species/MMPA-ITA-Flowchart-for-Webpage-2016.pdf>) of the application process.

Complete applications should be submitted to the Marine Mammals Management Regulatory Program by email to R7mmmregulatory@fws.gov (<https://mail.google.com/mail/?view=cm&fs=1&tf=1&to=R7mmmregulatory@fws.gov>).

Application Requirements (IHA and ITRs)

A complete application describes in detail the proposed activities; anticipated impacts on marine mammals (under Service jurisdiction), their habitat, and their availability for subsistence uses; and mitigation, monitoring, and reporting plans. Past applications that resulted in issued authorizations may be helpful examples and can be requested from the MMM Regulatory Program by email. We recommend structuring your application for an IHA or ITRs with separate sections for each of the 11 written request components required by Service regulations:

1. **Activity description**—A description of the specific activity or class of activities that can be expected to result in incidental taking of marine mammals.

All proposed activities for the entire effective period of the authorization should be described in detail. Descriptions should include all types of equipment to be used, including aircraft and vessels, and how they will be operated and interact with the environment. Diagrams and tables are often helpful. Please include daily operation schedules in this section. Applicants may also choose to include additional activity timing and location details in this section rather than the following section.

Here is information that is typically required for specific activities:

In-water or shoreline construction

Whether there will be pile driving, and if so, the type, size, and total numbers of piles to be driven using vibratory or impact methods; any sound attenuation methods to be used; sound source levels for equipment from field measurements and/or manufacturer specifications.

Marine vessel transit

Vessel length and type; transit speeds and track lines

Marine seismic/geophysical surveys

Acoustic source frequency, sound level, directionality, and daily usage; track lines

Aircraft operations

Aircraft model; flight paths; flights per day

Tundra travel

Travel dates and routes

Land seismic/geophysical surveys

Subblock entry and exit dates (for both advanced and full crew)

Onshore drilling operations

Percentage of total time that each area (e.g., well pad, camp, mine site, road) is occupied by humans during each month or season. Applicable seasons are open water season, 19 July – 10 November, and ice season, 11 November – 18 July.

- 2. Timing and location details**—The dates and duration of such activity and the specific geographical region where it will occur.

Applications should specify where and when activities will occur in as much detail as possible. If this information is provided in the description of activities, a brief summary of timing and location in this section is sufficient. Please note that any information provided in the application will be made available to the public. Applications must include:

- Dates (start and end) for each proposed activity. Please be as specific as possible. If timing of activities depends on certain factors, explain those factors fully. Describe activity durations and frequencies.

- Locations of activities. Please include a detailed map in the application and provide the Service with a GIS data file (i.e., shapefile) showing activity footprints, including any transit routes.

3. **Take estimates**—An estimate of the species and numbers of marine mammals (https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1df90cd8649ef6de1aeea3e8de21584&term_occur to be taken (https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=afb8311b308cb22cac56203083cbc7c7&term_occu age, sex, and reproductive conditions, and the type of taking (e.g., disturbance by sound, injury or death resulting from collision, etc.) and the number of times such taking is likely to occur.

In this section, describe the total number of marine mammal takes that are anticipated to occur during proposed activities. Include the total numbers of anticipated takes by Level B harassment, by Level A harassment, and by lethal take. If any Level A harassment is anticipated to amount to serious injury (i.e., injury with a 50% or greater chance of causing mortality), state how many “serious” Level A takes are expected to occur.

Applications should include a thorough narrative of how take estimates were generated, including all assumptions applied.

We encourage applicants to follow the Service’s methodologies to estimate total take. These generally consist of applying scientifically established take exposure thresholds (e.g., levels of noise or activity proximity thresholds that have been shown to potentially disturb or harm polar bears, sea otters, or walrus). The total area and duration of exposures above take thresholds from activities is determined, and the number of takes expected to occur is calculated based on the density of marine mammals in the exposure area and the proportion of exposures that will result in take based on animal responses.

Take estimates should account for any planned mitigation. For example, if trained observers will monitor for marine mammals and activities will not start or will cease if animals are within a certain proximity, this should be factored into the estimation of take.

The MMM Regulatory Program can provide technical assistance on the generation of take estimates. We encourage applicants to review recent Federal Register notices for similar authorizations (refer to the ITRs list page (<https://www.fws.gov/alaska/pages/list-incident-take-regulations>) and the IHA list page (<https://www.fws.gov/alaska/pages/list-incident-harassment-authorizations>)), which include thorough descriptions of the Service’s take estimation methods.

4. Species or stocks description—A description of the status, distribution, and seasonal distribution (when applicable) of the affected species or stocks likely to be affected by such activities.

Descriptions of the affected stock(s) should provide information on abundance and distribution, recent population trend, and factors affecting this trajectory. Also, describe life history, including behavioral patterns (e.g. reproduction, feeding, migrating, and hauling out) and physiological traits (e.g. hearing range, metabolic demands) that may influence how activities could affect animals. Please identify any areas or times that animals are particularly sensitive to potential impacts from activities.

Our program issues authorizations for the marine mammal stocks listed below, and the linked Service reports contain stock-specific information that may be helpful. We recommend reviewing relevant recent authorizations (IHA list page; ITRs list page) for additional sources of information on these stocks.

Species	Stock1	Service Resources2
Polar bears	Chukchi/Bering Sea	SAR (https://www.fws.gov/alaska/sites/default/files/2021-06/Chukchi_Bering%20Sea%20SAR%20Final%20May%2019%20r)
	Southern Beaufort Sea	SAR (https://www.fws.gov/alaska/sites/default/files/2021-06/Southern%20Beaufort%20Sea%20SAR%20Final_May%2019r)
Northern sea otters	Southeast Alaska	SAR (https://www.fws.gov/ecological-services/es-library/pdfs/Northern-Sea-Otter-SEAK-Final-SAR.pdf)
	Southcentral Alaska	SAR (https://www.fws.gov/ecological-services/es-library/pdfs/Northern-Sea-Otter-SCAK-Final-SAR.pdf)
	Southwest Alaska	SSA (https://ecos.fws.gov/ServCat/DownloadFile/195484) , SAF (https://www.fws.gov/ecological-services/es-library/pdfs/Northern-Sea-Otter-SWAK-Final-SAR.pdf)

Pacific walrus Single range-wide stock SSA (<https://ecos.fws.gov/ServCat/DownloadFile/132114>), SAR (<https://www.fws.gov/ecological-services/es-library/pdfs/PacificWalrus-Final-SAR.pdf>).

1 Population unit that is recognized and managed under the Marine Mammal Protection Act

2 SAR = Stock Assessment Report; SSA = Species Status Assessment

5. Anticipated impact on marine mammals—The anticipated impact of the activity upon the species or stocks.

In this section, provide a description of how proposed activities are likely to impact marine mammals. Include what biological consequences activities and incidental take may have on animal behavior, distribution, physiology, health, and the population as a whole. This section may be combined with the take estimate section as long as it is clear where this information is provided. Make sure the application includes whether any serious injury or mortality is anticipated and how severe the impacts from harassment are likely to be, given the type of harassment, time of occurrence, any cumulative stressors, and the potential for repeated exposures.

6. Anticipated impact on subsistence use of marine mammals—The anticipated impact of the activity on the availability of the species or stocks for subsistence (https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b8312b19e6ca24e842e00dfeae4bcfd3&term_occur

Authorizations may be issued only if incidental take does not have an “unmitigable adverse impact” on the availability of marine mammals for subsistence uses. Activities may have such an impact if they cause marine mammals to abandon or avoid hunting areas, directly displace subsistence users, or place physical barriers between the marine mammals and the subsistence hunters. This section should describe whether activities could have any of these effects and the specific communities and hunts that may be impacted. Applicants should consult with subsistence communities, and the Service can provide appropriate contacts, if needed. In some cases, the Service may require applicants to develop a formal Plan of Cooperation (POC), which includes:

- A statement that the applicant has notified and provided the affected subsistence community with a draft POC;
- A schedule for meeting with the affected subsistence communities to discuss proposed activities and to resolve any potential conflicts;

- A description of the measures the applicant has taken and/or will take to ensure that proposed activities will not interfere with subsistence hunting; and
- A plan to continue to meet with the affected communities, both prior to and while conducting the activity, to resolve conflicts and to notify the communities of any changes in the operation.

7. **Anticipated impact on habitat**—The anticipated impact of the activity upon the habitat of the marine mammal (https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1df90cd8649ef6de1aeea3e8de21584&term_occur) and the likelihood of restoration of the affected habitat.

Applications should describe how activities may impact marine mammal habitat, including both physical and biological features. Examples of anticipated impacts to habitat include increases in background noise levels, displacement of prey, release of contaminants, and preventing use of an area (e.g., for foraging, resting, or denning). Please explain any effects of activities that could cause marine mammals to avoid the area of impact, either temporarily or permanently. Applications should address climate change-related impacts of activities, if applicable. For authorizations affecting polar bears, it is helpful for applications to specifically address impacts to foraging habitat, denning habitat, and barrier island habitat.

8. **Anticipated impacts of habitat loss or modification on species**—The anticipated impact of the loss or modification of the habitat on the marine mammal (https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1df90cd8649ef6de1aeea3e8de21584&term_occur) involved.

This section should explain how the impacts of activities on habitat may affect marine mammal populations, e.g. by impacting animal behavior, energetics, health, exposure to threats, or vital rates.

9. **Mitigation measures**—The availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, their habitat, and, where relevant, on their availability for subsistence (https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b8312b19e6ca24e842e00dfeae4bcfd3&term_occur) paying particular attention to rookeries, mating grounds, and areas of similar significance. (The applicant and those conducting the specified activity (https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=417417b0737b3b966984e1b07e838ea5&term_occur))

the affected subsistence (https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b8312b19e6ca24e842e00dfeae4bcfd3&term_occur) are encouraged to develop mutually agreeable mitigating measures that will meet the needs of subsistence (https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b8312b19e6ca24e842e00dfeae4bcfd3&term_occur)

This section should describe in detail all mitigation measures planned to avoid, significantly reduce, or control potentially harmful impacts of activities on marine mammals. Potential mitigation measures include spatial and temporal restrictions on activities; monitoring by trained protected species observers and implementation of appropriate standoff distances, exclusion zones, and power-down or shutdown zones; conducting marine mammal surveys (e.g., for polar bear dens, walrus haulouts, or large concentrations of sea otters) prior to activities to avoid sensitive areas; development of specific marine mammal interaction plans; and use of sound-attenuation devices. Please describe when and how specific mitigation measures will be applied, and include a discussion of any measures that were considered but are not proposed because they are not feasible.

- 10. Monitoring and reporting**—Suggested means of accomplishing the necessary monitoring and reporting, which will result in increased knowledge of the species through an analysis of the level of taking or impacts, and suggested means of minimizing burdens by coordinating such reporting requirements with other schemes already applicable to persons conducting such activity.

Explain how monitoring for marine mammals will be completed before, during, and after activities. Specify what data will be collected and who will collect the data. The Service can provide sighting forms that specify relevant data to be collected (e.g., location, direction of travel, behavior, number of animals). We strongly recommend using the Service sighting form to standardize data collected. Describe how marine mammal sightings will be reported to the Service, including chains of communication and reporting schedules (i.e., frequency and timing). Note that letters of authorization (LOAs) and IHAs generally require annual or after-action reports on activities and monitoring and mitigation results. Marine mammal reports should be submitted to fw7_mmm_reports@fws.gov (https://mail.google.com/mail/?view=cm&fs=1&tf=1&to=fw7_mmm_reports@fws.gov).

In addition to developing a specific marine mammal monitoring plan, applicants should consider what additional impact monitoring may be completed during activities that can benefit future analyses. For example, please consider whether it is practicable to monitor sound levels produced by equipment, or the magnitude of other potential impacts that could affect marine mammals.

Information gained from marine mammal monitoring and reporting will serve several purposes:

- Ensure compliance with permissible methods of take and mitigation;
- Ensure activities and effects are in line with the incidental take authorization's analysis to ensure the findings remain valid; and
- Identify limits to the effectiveness or practicability of mitigation and improve procedures for future requests.

11. **Research coordination**—Suggested means of learning of, encouraging, and coordinating research (https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=aaebfadfd31d89dc09e4c805e9249c1f&term_occur: plans, and activities relating to reducing such incidental taking from such specified activities, and evaluating the effects of incidental take.

This section should list the entities the applicant will coordinate with while planning and completing activities and associated monitoring, e.g., Federal and State agencies, local and Tribal government and organizations, and other groups. Please briefly explain how the coordination will be achieved and whether the proposed activities are expected to contribute to cooperative research or conservation efforts related to marine mammals and reduction of adverse impacts.

Additional requirements – National Environmental Policy Act and Endangered Species Act

Before issuing an incidental take authorization, the Service must complete an appropriate analysis under the National Environmental Policy Act (NEPA) for this major Federal action. If any NEPA analysis has been performed for proposed actions in an incidental take authorization application, that analysis (e.g., a draft or final Environmental Assessment or Environmental Impact Statement) must be submitted to the Service with the application for review.

For proposed activities that may result in incidental take of a marine mammal that is also listed as endangered or threatened under the Endangered Species Act (ESA) (e.g., polar bears or northern sea otters from the Southwest Alaska stock), compliance with both the ESA and MMPA is required. The Service will initiate an intra-agency ESA Section 7 Consultation prior to issuing an incidental take authorization.

Paperwork Reduction Act:

The Office of Management and Budget (OMB) has approved, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection requirements associated with incidental take of marine mammals and assigned OMB control number 1018-0070 (expires January 31, 2022). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Public reporting burden for this collection of information, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, are in the table below. (NOTE: Burden hours will vary based on the complexity of the requested action.)

Type of Action	Average Completion Time (Hours)
Incidental Take of Marine Mammals – Application for Regulations	150
Incidental Take of Marine Mammals – LOA Requests	24
Incidental Take of Marine Mammals – On-site Monitoring and Observation Reports	1.5
Incidental Take of Marine Mammals – Final Monitoring Report	10
Polar Bear Den Detection Report	50

Applications and other information submitted by applicants are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552 (<https://api.fdsys.gov/link?collection=uscode&title=5&year=mostrecent§ion=552&type=usc&link-type=html>))a) and Freedom of Information Act (5 U.S.C. 552 (<https://api.fdsys.gov/link?collection=uscode&title=5&year=mostrecent§ion=552&type=usc&link-type=html>))).

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Aug 16, 2021 - 09:36

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[\(/alaska/stories/new-regulations-publish-incident-take-polar-bears-and-pacific-walruses-north-slope-alaska\)](#)

New Regulations Publish for the Incidental Take of Polar Bears and Pacific Walruses on the North Slope of Alaska and Adjacent Waters ([/alaska/stories/new-regulations-publish-incident-take-polar-bears-and-pacific-walruses-north-slope-alaska](#))

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Legacy and Love for Loons: The Connors Lake floating platform in Anchorage, Alaska ([/alaska/stories/legacy-and-love-loons-connors-lake-floating-platform-anchorage-alaska](#))



Jul 30, 2021 - 09:38

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The Service Completes Initial Review of Petition to List Alexander Archipelago Wolf: Species Status Review to be Initiated ([/alaska/stories/service-completes-initial-review-petition-list-alexander-archipelago-wolf-species-status](#))

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Prevent Disturbances to Pacific Walrus Haulouts ([/alaska/stories/prevent-disturbances-pacific-walrus-haulouts](#))

Jul 16, 2021 - 09:51

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Dazzling Dragons and Damsels of Kanuti National Wildlife Refuge ([/alaska/stories/dazzling-dragons-and-damsels-kanuti-national-wildlife-refuge](#))

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