

## APPENDIX F-9

### Letter of Authorization (LOA) or Incidental Harassment Authorization (IHA)

#### National Oceanic and Atmospheric Administration National Marine Fisheries Service

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**Permit Packet Includes:**

1. Process Overview
2. The Marine Mammal Protection Act of 1972 As Amended 2007
3. Marine Protected Species of the Hawaiian Islands, April 2008

**Approval or Permit Required:**

To conduct an otherwise lawful activity that might incidentally, but not intentionally, “take” small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographic region. The LOA or IHA includes harassment of marine mammals by noise.

**Contact Information:**

NMFS Pacific Islands Regional Office (PIRO)  
Protected Resources Division (PRD)  
1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814  
Phone: 808-944-2200

**Website:**

<http://www.nmfs.noaa.gov/pr/permits/incidental.htm>

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Notes:

- The marine mammal non-fishery interaction program is tasked with implementation of Section 101(a)(5) (A-D) of the Marine Mammal Protection Act of 1972 (MMPA), as amended (16 U.S.C. 1371(a)(5)).
- In 1981, Congress amended the MMPA to provide for "incidental take" authorizations for maritime activities. These "incidental take" authorizations are also known as Letters of Authorization or LOAs.
- In 1994, MMPA section 101(a)(5) was amended to establish an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by "harassment", referred to as Incidental Harassment Authorizations or IHAs. It established specific time limits for public notice and comment on any requests for authorization which would be granted under this new provision.
- Because the incidental harassment authorization process has eliminated the need for promulgating specific regulations on the incidental taking, IHAs have been of increasing interest since 1994 for those individuals with relatively short-term activities that might inadvertently harass marine mammals. This program allows authorizations to be issued in 120 days, instead of the 8-18 months typically needed for LOAs issued under regulations.

#### Steps

#### Time

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| 1) Determine if an LOA or IHA is necessary. Applicants should apply for an IHA for the activity if it can be shown that:<br>a) there is no potential for serious injury or mortality; or,<br>b) the potential for serious injury or mortality can be negated through mitigation requirements that could be required under the authorization.<br><br>If these two requirements cannot be met, or in other words, if the potential for "serious injury" and/or mortalities exists and there are no mitigating measurements that could be taken to prevent this form of 'take' from occurring, then the applicant must obtain an LOA.  |  |
| 2) Submit a written request to the NMFS Office of Protected Resources (OPR) and the NMFS Pacific Islands Regional Office (PIRO). The NMFS OPR address is:<br>Office of Protected Resources (F/PR)<br>National Marine Fisheries Service<br>1315 East-West Highway<br>Silver Spring, MD 20910<br>Phone: 301-713-2332<br>Fax: 301-713-0376 or 301-713-4060<br>Email: <a href="mailto:PR.Webmaster@noaa.gov">PR.Webmaster@noaa.gov</a><br><br>These requests must include the information specified on the NOAA OPR website (website address provided above) in sufficient detail for NOAA Fisheries to meet the requirements mandated by Section 7 of the Endangered Species Act (ESA) and the National Environmental Policy Act (NEPA). |  |

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| 3) NMFS reviews applications to ensure completeness, and that applications contain or refer to the necessary NEPA documentation. Incomplete applications are returned to the applicant with explanation.                               |   |
| 4) LOA applications include two comment periods, possible public hearings, and consultations. IHA applications normally involve one comment period and the length of time for approval will depend on the issues and species involved. | 6-12 months for LOAs<br>2-6 months for IHAs |

**Total Time Period:**  
**Letters of Authorization**    **6 – 8 months**  
**Incidental Harassment Authorization**    **120 days**

| Fees        | Amount        | Maximum       |
|-------------|---------------|---------------|
| None        |               |               |
| Total Fees: | \$0 (minimum) | \$0 (maximum) |