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

Dated: August 12, 2009.

William D. Chappell,

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

[FR Doc. 09–19660 Filed 8–17–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–833]

Polyester Staple Fiber from Taiwan: Rescission of Antidumping Duty Administrative Review in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On June 24, 2009, in response to requests from the petitioner, the Department of Commerce published a notice of initiation of administrative review of the antidumping duty order on polyester staple fiber from Taiwan. The period of review is May 1, 2008, through April 30, 2009. The Department of Commerce is rescinding this review in part.

DATES: *Effective Date:* August 18, 2009.

FOR FURTHER INFORMATION: Thomas Schauer or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0410 or (202) 482–4477.

SUPPLEMENTARY INFORMATION:

Background

On June 24, 2009, in response to a request from Invista, S.a.r.L. (the petitioner), the Department of Commerce (the Department) published a notice of initiation of administrative review of the antidumping duty order on polyester staple fiber from Taiwan. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 74 FR 30052 (June 24, 2009). On July 31, 2009, the petitioner withdrew its request for an administrative review of Nan Ya Plastics Corporation. See letter from the petitioner entitled ''Polyester Staple Fiber From Taiwan - Withdrawal of Annual Review Request'' dated July 31, 2009.

Rescission of Review in Part

In accordance with 19 CFR 351.213(d)(1) the Department will rescind an administrative review ''if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.'' We received the petitioner's withdrawal letter within the 90-day time limit. Because the Department received no other requests for review of Nan Ya Plastics Corporation, the Department is rescinding the review with respect to polyester staple fiber from Taiwan from Nan Ya Plastics Corporation. This rescission is pursuant to 19 CFR 351.213(d)(1). The Department will issue appropriate assessment instructions to U.S. Customs and Border Protection 15 days after publication of this notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's assumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

We are issuing and publishing this rescission in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: August 12, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–19802 Filed 8–17–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0638–XI68

Taking of Marine Mammals Incidental to Specified Activities; Construction of the East Span of the San Francisco-Oakland Bay Bridge

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

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) has been issued to the California Department of Transportation (CALTRANS) to take small numbers of California sea lions, Pacific harbor seals, harbor porpoises, and gray whales, by harassment, incidental to construction of a replacement bridge for the East Span of the San Francisco-Oakland Bay Bridge (SF-OBB) in California.

DATES: This authorization is effective from August 14, 2009 until August 13, 2010.

ADDRESSES: A copy of the application, IHA, and/or a list of references used in this document may be obtained by writing to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225.

FOR FURTHER INFORMATION CONTACT: Shane Guan, NMFS, (301) 713–2289, ext 137, or Monica DeAngelis, NMFS, (562) 980–3232.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce 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, the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Permission 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 certain subsistence uses and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such taking are set forth. NMFS has defined egligible 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.'' Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. 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].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On March 3, 2008, CALTRANS submitted a request to NOAA requesting renewal of an IHA for the possible harassment of small numbers of California sea lions (*Zalophus californianus*), Pacific harbor seals (*Phoca vitulina richardsii*), harbor porpoises (*Phocoena phocoena*), and gray whales (*Eschrichtius robustus*) incidental to construction of a replacement bridge for the East Span of the SF-OBB, in San Francisco Bay (SFB), California. An IHA was previously issued to CALTRANS for this activity on May 2, 2007 and it expired on May 1, 2008 (72 FR 25748, May 7, 2007). However, no pile driving activities were conducted during that period. A detailed description of the SF-OBB project was provided in the November 14, 2003 (68 FR 64595) **Federal Register** notice of an earlier IHA and is not repeated here. Please refer to that **Federal Register** notice.

On June 2, 2008, CALTRANS provided an update on the proposed pile driving activities planned for the 2008 - 2009 season. In its update, CALTRANS states that pile driving for the 2009 construction would be driving the 42 - 48 in (0.17 - 0.19 m) diameter temporary piles, as opposed to the 5.9 - 8.2 ft (1.8 - 2.5 m) diameter permanent piles. Therefore, the noise from pile driving of these temporary piles would be far less than from previous pile driving activities. In addition, CALTRANS indicates that deployment of an air bubble curtain would not be feasible for the driving of these smaller temporary piles due to the complexity of the driving frames. A **Federal Register** notice of receipt of the application, the modification of mitigation measures, and proposed IHA was published on July 3, 2008 (73 FR 38180), along with new safety zones without an air bubble system. On September 15, 2008, CALTRANS provided certain acoustic measures for testing pile driving of temporary piles without air bubble curtain system.

On January 29, 2009, CAlTRANS provided NMFS with a detailed description of the SF-OBB construction work and all acoustic measurements without air bubble curtains (CALTRANS, 2009). Specifically, the modified proposed construction activities include driving of temporary piles at Temporary Towers D, F and G which are necessary for the erection of falsework to support the Self-Anchored Suspension Span (SAS) portion of the SF-OBB project. Each tower has a north and south node. All three Temporary Towers are located to the east of Yerba Buena Island (YBI). Temporary Tower D is located approximately 60 m (197 ft) from the eastern shoreline of YBI. Temporary Tower F is located approximately 100 m (328 ft) east of Temporary Tower D. Temporary Tower G is located approximately 100 m (328 ft) east of Temporary Tower F.

In addition, CALTRANS indicated that certain piles would be installed by using both vibratory and impact hammers, instead of only impact hammers as in the previous IHAs. Unlike pile driving using impact hammers which involves the repeated striking of the head of a steel pile by a double-acting hydraulic hammer, vibratory pile driving was achieved by means of a variable eccentric vibrator attached to the head of the pile. The pile driving machine is lifted and positioned over the pile by means of an excavator or crane, and is fastened to the pile by a clamp and/or bolts. The majority of piles were initially driven into the substrate by vibration, over a period of several minutes.

The use of vibratory pile driving has the benefit of having lower impact to anadramous fish species in the vicinity of the proposed project area, since the instantaneous sound pressure levels are lower when compared to noise from impact hammers. Therefore, fish species in close vicinity of the project area are less likely to suffer from mortality and injury (Hawkins, 2006). Empirical hydroacoustic measurements of impact and vibratory hammers during CALTRANS testing pile driving in San Francisco Bay on October 23, December 9, and December 11, 2008, are shown in Table 1. Hydroacoustic monitors used data collected on December 9 and December 11, 2008, determine the distance of the 120 dB isopleths. At 1,900 m from the vibratory pile driving, sound levels are in the low 120 dB rms range. At this distance pile driving was audible but not measurable due to ambient noise (CALTRANS, 2009).

Both impact and vibratory pile driving is expected to be short-term in duration. Pile driving conducted to collect hydroacoustic data showed that the vibration of the bottom segment of each pile took approximately 3 minutes; the vibration of the top segment of each pile took approximately 8 minutes; and that the impact driving of the top segment of each pile lasted an average of 15 minutes. On average, it took about 25 minutes of driving time to install each temporary pile (CALTRANS, 2009). The entire project is expected to be completed by the end of 2009.

Please refer to the CALTRANS memos for a detailed description of the modification of the proposed construction activities.

TABLE 1. ROOT-MEAN-SQUARE ISOPLETHS BASED ON HYDROACOUSTIC MONITORING IN SAN FRANCISCO BAY BY ILLINGWORTH & RODKIN, INC. (CALTRANS, 2009)

Sound Level (dB re 1 μPa rms)	120*	160* *	180* *	190* *
Radius for Vibratory Pile Driving	1,900 m	250 m	15 m	does not exist
Radius for Impact Pile Driving	NA	1,000 m	235 m	95 m

* Hydroacoustic measurements for received level at 120 dB re 1 μPa rms from vibratory pile driving were collected on December 9 and 11, 2008.

** Hydroacoustic measurements for received levels at 160, 180, and 190 dB re 1 μPa rms from vibratory pile driving were collected on October 23, 2008.

Comments and Responses

A notice of receipt and request for public comment on the application and proposed authorization was published on July 3, 2008 (73 FR 38180). During the 30 ay public comment period, the Marine Mammal Commission (Commission) provided the only comment.

Comment: The Commission states that it recommends that NMFS grant the applicant request, provided that the monitoring and mitigation activities described in the NMFS previous **Federal Register** notices are carried out as described.

Response: NMFS agrees with the Commission recommendation, and all monitoring and mitigation measured described in the previous **Federal Register** notice (73 FR 38180; July 3, 2008) are required in the current IHA.

Description of the Marine Mammals Potentially Affected by the Activity

General information on the marine mammal species found in California waters can be found in Caretta *et al.* (2007), which is available at the following URL: *http://www.nmfs.noaa.gov/pr/pdfs/sars/po2007.pdf*. Refer to that document for information on these species.

The marine mammals most likely to be found in the SF-OBB area are the California sea lion, Pacific harbor seal, and harbor porpoise. From December through May gray whales may also be present in the SF-OBB area. Information on California sea lion, harbor seal, and gray whale was provided in the November 14, 2003 (68 FR 64595), **Federal Register** notice; information on harbor porpoise was provided in the January 26, 2006 (71 FR 4352), **Federal Register** notice.

Potential Effects on Marine Mammals and Their Habitat

CALTRANS and NMFS have determined that open-water pile driving, as outlined in the project description, has the potential to result in behavioral harassment of California sea lions, Pacific harbor seals, harbor porpoises, and gray whales that may be swimming, foraging, or resting in the project vicinity while pile driving is being conducted. Pile driving could potentially harass those few pinnipeds that are in the water close to the project site, whether their heads are above or below the surface.

Based on airborne noise levels measured and on-site monitoring conducted during 2004 under the previous IHAs, noise levels from the East Span project did not result in the harassment of harbor seals hauled out on Yerba Buena Island (YBI). Also, noise levels from the East Span project are not expected to result in harassment of the sea lions hauled out at Pier 39, as airborne and waterborne sound pressure levels (SPLs) would attenuate to levels below where harassment would be expected by the time they reach that haul-out site, 5.7 km (3.5 miles) from the project site. Therefore, no pinniped hauled out would be affected as a result of the proposed pile-driving. A detailed description of the acoustic measurements is provided in the 2004 CALTRANS marine mammal and acoustic monitoring report for the same activity (CALTRANS 2005). With the modification of the proposed construction activities involving smaller piles, NMFS believes that the in-air noise would only become less intense, therefore, no pinniped hauled out would be affected.

In contrary to impact pile driving, which the striking hammers produce intense bangs with rapid raise of acoustic energy within extremely short pulse duration, noises generated by vibratory pile driving have lower instantaneous SPL but longer duration (HDR Alaska *et al.*, 2006).

However, since the transient sound produced by vibratory pile driving has longer duration then impact pile driving pulses, it is arguable that a single batch of vibratory pile driving noise could contain more acoustic energy than a single impact hammer pulse in terms of sound exposure levels (SEL). To mitigate the low level behavioral impact from this prolonged transient noise, currently NMFS uses the received level of 120 dB re 1 μPa rms as the onset of behavioral harassment for marine mammals from vibratory pile driving noise. In comparison, NMFS uses the received level of 160 dB re 1 μPa rms as the onset of behavioral harassment for marine mammals from the much shorter impulse, or noise from impact pile driving.

Since the modified proposed SF-OBB construction project would be installing smaller temporary piles with no air bubble curtain, and since the pile driving activities would be performed by using both impact and vibratory hammers, NMFS conducted an comparison of isopleths from large foundation pile driving activities using an air bubble curtain system (Table 2) with the current testing pile driving without an air bubble curtain by both impact and vibratory pile driving (Table 1). The acoustic data used from the foundation pile driving were provided by CALTRANS (CALTRANS, 2005). The comparison shows that the radius for the zone of influence (ZOI) for Level B behavioral harassment, as defined by marine mammals exposed to received SPL (impulse) of 160 dB re 1 μPa rms, for the previous larger pile driving activities using air bubble curtain was about 2,000 m. This distance is approximately the same as the radius for the proposed vibratory pile driving for the smaller temporary piles at received SPL of 120 dB re 1 μPa rms, a level thought may cause Level B behavioral harassment to marine mammals by vibratory pile driving. Therefore, NMFS concludes that the potential impacts to marine mammals from the proposed SF-OBB construction project involving installation of smaller temporary piles using both impact and vibratory hammers without deployment of an air bubble curtain system are the same as the previous construction activities of installation larger foundation piles using impact hammers and air bubble curtain system as a mitigation measure.

TABLE 2. SUMMARY OF HYDROACOUSTIC MEASUREMENTS REPORTED AS DB RE 1 μPA – PIER E3W MARINE MAMMAL HYDROACOUSTIC CHARACTERIZATION, 10/13/2004 (ADOPTED FROM CALTRANS, 2005)

Position	Water Depth	South Pile Hammer: Menck 1,700		North Pile Hammer: Menck 1,700	
		RMS impulse	Peak	RMS impulse	Peak
50m West (made by Caltrans)*	--	177	186		
100m West*	~12–14m	175	185	173	182
100m North	~12m	174	183		

TABLE 2. SUMMARY OF HYDROACOUSTIC MEASUREMENTS REPORTED AS dB RE 1 μPA – PIER E3W MARINE MAMMAL HYDROACOUSTIC CHARACTERIZATION, 10/13/2004 (ADOPTED FROM CALTRANS, 2005)—Continued

Position	Water Depth	South Pile Hammer: Menck 1,700		North Pile Hammer: Menck 1,700	
		RMS impulse	Peak	RMS impulse	Peak
100m South**	~12m			174	182
500m West	~8m	174	182		
500m South	~10m	167	177	177	188
1000m North	14 m			169	178
1000m South	~10m	169	176		
2000m North	11 m			162	169
2000m South	~10m	<140	<150		
4400m North	>12m			<130	<150
4400m South	>12 m	<130	<150		

*Continuous measurement. All others are spot measurements of at least 5 minutes in duration.
**Many obstructions including Pier E3E.

For reasons provided in greater detail in NMFS November 14, 2003 (68 FR 64595) **Federal Register** notice and in CALTRANS June 2004, January 2005 annual monitoring reports, and marine mammal observation memoranda between February and September, 2006, the proposed construction would result in harassment of only small numbers of harbor seals and would not result in more than a negligible impact on marine mammal stocks and their habitat. This was achieved by implementing a variety of monitoring and mitigation measures including marine mammal monitoring before and during pile driving, establishing safety zones, ramping up pile driving, and deploying air bubble curtain to attenuate underwater pile driving sound. However, with no air bubble curtain being deployed for the proposed pile driving of smaller temporary piles, additional cautions must be exercised to ensure that no marine mammals will be taken by Level A (i.e., injury) harassment. Based on the pinniped distribution within the proposed project area and prior monitoring reports, NMFS estimates that up to 5 harbor seals and 5 California sea lions could be taken by Level B behavioral harassment as a result of the proposed temporary pile driving project.

Short-term impacts to habitat may include minimal disturbance of the sediment where the channels are dredged for barge access and where individual bridge piers are constructed. Long-term impacts to marine mammal habitat will be limited to the footprint of the piles and the obstruction they will create following installation. However, this impact is not considered significant as the marine mammals can easily swim around the piles of the new bridge, as they currently swim around the existing bridge piers.

Mitigation Measures

For the issuance of the IHA for the planned 2008 2009 SF-OBB planned construction activities to reduce adverse impacts to marine mammals to the lowest extent practicable, NMFS requires the following mitigation measures to be implemented.

Establishment of Safety/Buffer Zones

CALTRANS indicated that for the planned 2008 2009 SF-OBB construction pile driving activities, an air bubble curtain cannot be deployed due to the complexity of the driving frame. Therefore, proposed shutdown safety zones corresponding to where a marine mammal could be injured would be established based on empirical field measurements of pile driving sound levels.

These safety zones shall include all areas where the underwater SPLs are anticipated to equal or exceed 190 dB re 1 microPa rms (impulse) for pinnipeds and 180 dB re 1 microPa rms (impulse) for gray whales and harbor porpoises, and be monitored at all times when pile driving is underway. No additional safety zone will be established for vibratory pile driving since the measured source levels will not exceed the 180 and 190 dB re 1 microPa.

Observers on boats shall survey the safety zone to ensure that no marine mammals are seen within the zone before pile driving of a pile segment begins. If marine mammals are found within the safety zone, pile driving of the segment shall be delayed until they move out of the area. If a marine mammal is seen above water and then dives below, the contractor shall wait 15 minutes and if no marine mammals are seen by the observer in that time it will be assumed that the animal has moved beyond the safety zone. This 15–minute criterion is based on scientific evidence that harbor seals in San Francisco Bay dive for a mean time of 0.50 minutes to 3.33 minutes (Harvey and Torok, 1994), and the mean diving duration for harbor porpoises ranges from 44 to 103 seconds (Westgate *et al.*, 1995). However, due to the limitations of monitoring from a boat, there can be no assurance that the zone will be devoid of all marine mammals at all times.

Once the pile driving of a segment begins it cannot be stopped until that segment has reached its predetermined depth due to the nature of the sediments underlying the Bay. If pile driving stops and then resumes, it would potentially have to occur for a longer time and at increased energy levels. In sum, this would simply amplify impacts to marine mammals, as they would endure potentially higher SPLs for longer periods of time. Pile segment lengths and wall thickness have been specially designed so that when work is stopped between segments (but not during a single segment), the pile tip is never

resting in highly resistant sediment layers. Therefore, because of this operational situation, if seals, sea lions, or harbor porpoises enter the safety zone after pile driving of a segment has begun, pile driving will continue and marine mammal observers will monitor and record marine mammal numbers and behavior. However, if pile driving of a segment ceases for 30 minutes or more and a marine mammal is sighted within the designated safety zone prior to commencement of pile driving, the observer(s) must notify the Resident Engineer (or other authorized individual) immediately and follow the mitigation requirements as outlined previously in this document.

Soft Start

It should be recognized that although marine mammals will be protected from Level A harassment (i.e., injury) through marine mammal observers monitoring a 190–dB safety zone for pinnipeds and 180–dB safety zone for cetaceans, mitigation may not be 100 percent effective at all times in locating marine mammals. Therefore, in order to provide additional protection to marine mammals near the project area by allowing marine mammals to vacate the area prior to receiving a potential injury, CALTRANS shall also oft start the hammer prior to operating at full capacity. CALTRANS typically implements a oft start with several initial hammer strikes at less than full capacity (i.e., approximately 40–60 percent energy levels) with no less than a 1 minute interval between each strike. Similar levels of noise reduction are expected underwater. Therefore, the contractor shall initiate pile driving hammers with this procedure in order to allow pinnipeds or cetaceans in the area to voluntarily move from the area. This should expose fewer animals to loud sounds both underwater and above water noise. This would also ensure that, although not expected, any pinnipeds and cetaceans that are missed during safety zone monitoring will not be injured.

Compliance with Equipment Noise Standards

To mitigate noise levels and, therefore, impacts to California sea lions, Pacific harbor seals, harbor porpoises, and gray whales, all construction equipment shall comply as much as possible with applicable equipment noise standards of the U.S. Environmental Protection Agency, and all construction equipment shall have noise control devices no less effective than those provided on the original equipment.

Monitoring

The following monitoring measures are required for the proposed SF-OBB construction activities.

Visual Observations

Safety zone monitoring shall be conducted during driving of all open-water piles without cofferdams and with cofferdams when underwater SPLs reach 190 dB RMS or greater. Monitoring of the pinniped and cetacean safety zones shall be conducted by a minimum of three qualified NMFS-approved observers for each safety zone. One three-observer team shall be required for the safety zones around each pile driving site, so that multiple teams shall be required if pile driving is occurring at multiple locations at the same time. The observers shall begin monitoring at least 30 minutes prior to startup of the pile driving. Most likely observers will conduct the monitoring from small boats, as observations from a higher vantage point (such as the SF-OBB) are not practical. Pile driving shall not begin until the safety zones are clear of marine mammals. However, as described in the Mitigation section, once pile driving of a segment begins, operations will continue uninterrupted until the segment has reached its predetermined depth. However, if pile driving of a segment ceases for 30 minutes or more and a marine mammal is sighted within the designated safety zone prior to commencement of pile driving, the observer(s) must notify the Resident Engineer (or other authorized individual) immediately and follow the mitigation requirements as outlined previously (see Mitigation). Monitoring shall continue through the pile driving period and shall end approximately 30 minutes after pile driving has been completed. Biological observations shall be made using binoculars during daylight hours.

In addition to monitoring from boats, during open-water pile driving, monitoring at one control site (i.e., harbor seal haul-out sites and the waters surrounding such sites not impacted by the East Span Project's pile driving activities, e.g., Mowry Slough) shall be designated and monitored for comparison. Monitoring shall be conducted twice a week at the control site whenever open-water pile driving is being conducted. Data on all observations shall be recorded and shall include items such as species, numbers, behavior, details of any observed disturbances, time of observation, location, and weather. The reactions of marine mammals shall be recorded based on the following classifications that are consistent with the Richmond Bridge Harbor Seal survey methodology (for information on the Richmond Bridge authorization, see 68 FR 66076, November 25, 2003): (1) No response, (2) head alert (looks toward the source of disturbance), (3) approach water (but not leave), and (4) flush (leaves haul-out site). The number of marine mammals under each disturbance reaction shall be recorded, as well as the time when seals re-haul after a flush.

Acoustical Observations

Airborne noise level measurements have been completed and underwater environmental noise levels will continue to be measured as part of the East Span Project. The purpose of the underwater sound monitoring is to establish the safety zone of 190 dB re 1 micro-Pa RMS (impulse) for pinnipeds and the safety zone of 180 dB re 1 micro-Pa RMS (impulse) for cetaceans. Monitoring will be conducted during the driving of the last half (deepest pile segment) for any given open-water pile. One pile in every other pair of pier groups will be monitored. One reference location will be established at a distance of 100 m (328 ft) from the pile driving. Sound measurements will be taken at the reference location at two depths (a depth near the mid-water column and a depth near the bottom of the water column but at least 1 m (3 ft) above the bottom) during the driving of the last half (deepest pile segment) for any given pile. Two additional in-water spot measurements will be conducted at appropriate depths (near mid water column), generally 500 m (1,640 ft) in two directions either west, east, south or north of the pile driving site will be conducted at the same two depths as the reference location measurements. In cases where such measurements cannot be obtained due to obstruction by land mass, structures or navigational hazards, measurements will be conducted at alternate spot measurement locations. Measurements will be made at other locations either nearer or farther as necessary to establish the approximate distance for the safety zones. Each measuring system shall consist of a hydrophone with an appropriate signal conditioning connected to a sound level meter and an instrument grade digital audiotape recorder (DAT). Overall SPLs shall be measured and reported in the field in dB re 1 micro-Pa rms (impulse). An infrared range finder will be used to determine distance from the monitoring location to the pile. The recorded data will be analyzed to determine the amplitude, time history and frequency content of the impulse.

Reporting

Under previous IHAs, CALTRANS submitted weekly marine mammal monitoring reports for the time when pile driving was commenced. In August 2006, CALTRANS submitted its Hydroacoustic Measurement at Piers T1 and E2 report. This report is available by contacting NMFS (see **ADDRESSES**) or on the Web at *http://biomitigation.org*.

Under the proposed IHA, coordination with NMFS will occur on a weekly basis. During periods with open-water pile driving activity, weekly monitoring reports will be made available to NMFS and the public at *http://biomitigation.org*. These weekly reports will include a summary of the previous week monitoring activities and an estimate of the number of seals and sea lions that may have been disturbed as a result of pile driving activities.

In addition, CALTRANS will to provide NMFS' Southwest Regional Administrator with a draft final report within 90 days after completion of the westbound Skyway contract and 90 days after completion of the Suspension Span foundations contract. This report should detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed due to pile driving. If no comments are received from NMFS Southwest Regional Administrator within 30 days, the draft final report will be considered the final report. If comments are received, a final report must be submitted within 30 days after receipt of comments.

National Environmental Policy Act (NEPA)

NMFS prepared an Environmental Assessment (EA) for the take of marine mammals incidental to construction of the East Span of the SF-OBB and made a Finding of No Significant Impact (FONSI) on November 4, 2003. Due to the modification of part of the construction project and the mitigation measures, NMFS reviewed additional information from CALTRANS regarding empirical measurements of pile driving noises for the smaller temporary piles without an air bubble curtain system and the use of vibratory pile driving. NMFS prepared a Supplemental Environmental Assessment (SEA) and analyzed the potential impacts to marine mammals that would result from the modification of the action. A Finding of No Significant Impact (FONSI) was signed on August 5, 2009. A copy of the SEA and FONSI is available upon request (see **ADDRESSES**).

Endangered Species Act (ESA)

On October 30, 2001, NMFS completed consultation under section 7 of the ESA with the Federal Highway Administration (FHWA) on the CALTRANS' construction of a replacement bridge for the East Span of the SF-OBB in California. Anadromous salmonids are the only listed species which may be affected by the project. The finding contained in the Biological Opinion was that the proposed action at the East Span of the SF-OBB is not likely to jeopardize the continued existence of listed anadromous salmonids, or result in the destruction or adverse modification of designated critical habitat for these species. Listed marine mammals are not expected to be in the area of the action and thus would not be affected.

NMFS proposed issuance of an IHA to CALTRANS constitutes an agency action that authorizes an activity that may affect ESA-listed species and, therefore, is subject to section 7 of the ESA. The effects of the activities on listed salmonids were analyzed during consultation between the FHWA and NMFS, and the underlying action has not changed from that considered in the consultation. Therefore, the effects discussion contained in the Biological Opinion issued to the FHWA on October 30, 2001, pertains also to this action. NMFS has determined that issuance of an IHA for this activity does not lead to any effects on listed species apart from those that were considered in the consultation on FHWA's action.

Determinations

For the reasons discussed in this document and in previously identified supporting documents, NMFS has preliminarily determined that the impact of pile driving and other activities associated with construction of the East Span Project should result, at worst, in the Level B harassment of small numbers of California sea lions, Pacific harbor seals, harbor porpoises, and potentially gray whales that inhabit or visit SFB in general and the vicinity of the SF-OBB in particular. While behavioral modifications, including temporarily vacating the area around the construction site, may be made by these species to avoid the resultant visual and acoustic disturbance, the availability of alternate areas within SFB and haul-out sites (including pupping sites) and feeding areas within the Bay has led NMFS to determine that this action will have a negligible impact on California sea lion, Pacific harbor seal, harbor porpoises, and gray whale populations along the California coast.

In addition, no take by Level A harassment (injury) or death is anticipated and harassment takes should be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document. The activity will not have an unmitigable adverse impact on subsistence uses of marine mammals described in MMPA section 101(a)(5)(D)(i)(II).

Authorization

NMFS has issued an IHA to CALTRANS for the potential harassment of small numbers of harbor seals, California sea lions, harbor porpoises, and gray whales incidental to construction of a replacement bridge for the East Span of the San Francisco-Oakland Bay Bridge in California, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: August 12, 2009.

James H. Lecky,

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

[FR Doc. E9–19771 Filed 8–17–09; 8:45 am]

BILLING CODE 3510–22–S

COURT SERVICES AND OFFENDER SUPERVISION AGENCY

Privacy Act of 1974; System of Records; Notice

AGENCY: Court Services and Offender Supervision Agency.

ACTION: Notice.

Authority: The Privacy Act of 1974 (5 U.S.C. 552a) and Office of Management and Budget (OMB) Circular No. A–130.

SUMMARY: CSOSA is proposing to establish blanket routine uses in order to: (1) Better meet our agency mission, particularly to increase public safety, prevent crime, and reduce recidivism by enhancing information sharing with our law enforcement partners; and (2) lessen the administrative burden on CSOSA by reducing the number of single requests for information from our law enforcement partners.

Unless indicated otherwise by another public notice, these blanket routine uses will apply to following CSOSA systems of records:

CSOSA–9 Supervision Offender Case File
CSOSA–11 Supervision & Management Automated Record Tracking

DATES: CSOSA must forward this Notice to the Office of Management and Budget (OMB) ten (10) days before CSOSA submits the Notice to the **Federal Register**.