by using the search function and entering either the title of the collection.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD563]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the City of Oceanside's Harbor Fishing Pier and Non-Motorized Vessel Launch Improvement Project in Oceanside, California

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

ACTION: Notice; issuance of an 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 an incidental harassment authorization (IHA) to the City of Oceanside to incidentally harass, by Level B harassment only, marine mammals during construction activities associated with harbor fishing pier and non-motorized vessel launch improvement in Oceanside, California. There are no changes from the proposed authorization to the final authorization.

DATES: This authorization is effective from March 1, 2024, through February 28, 2025.

ADDRESSES: Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-city-oceansides-harbor-fishing-pier-and-non-motorized-vessel.* In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Alyssa Clevenstine, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On May 16, 2023, NMFS received a request from the City of Oceanside for an IHA to take marine mammals incidental to construction activities associated with fishing pier and non-motorized vessel launch improvement in Oceanside Harbor, Oceanside, CA. Following NMFS' review of the application, the City of Oceanside submitted revised versions on July 18 and October 17, 2023. The application was deemed adequate and complete on November 2, 2023. The City of Oceanside's request is for take of seven species of marine mammals by Level B harassment only. Neither the City of Oceanside nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate. There are no changes from the proposed IHA to the final IHA.

Description of Specified Activity

The City of Oceanside plans to remove and replace the existing public fishing pier and non-motorized vessel launch in Oceanside Harbor, Oceanside, CA. The applicant plans to use vibratory extraction to remove four 16-inch octagonal concrete support piles; vibratory driving to install up to 18 18-inch round plastic-coated steel piles to within 0.61–1.52 meters (m; 2–5 feet (ft)) of required depth; and, potentially, impact driving to complete pile installation depending on observed soil resistance. While not expected to be required based on site geology, 18 10-inch steel piles may be used as temporary guide piles to aid in the installation of the larger 18-inch structural piles.

A maximum of 6 non-consecutive days of piling activities will occur during the course of construction (5–6 months) from March 2024 through February 2025 (table 1). All project activities for which take is being requested will be located in Oceanside Harbor, Oceanside, CA.

A detailed description of the planned construction project is provided in the **Federal Register** notice for the proposed IHA (88 FR 83081, November 28, 2023). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specified activity.

TABLE 1—PILE EXTRACTION AND INSTALLATION ACTIVITIES

Pile activity	Method	Pile size (inch), material	Piles per day	Duration of activity (days)	Duration of vibratory activity per pile (minutes)	Estimated blows of impact driving per pile (strikes)
Extraction	Vibratory	16, concrete	4	1	25	N/A
Installation	Vibratory	18, steel	4	*5	25	N/A
Installation	Impact	18, steel	4	*5	N/A	300

TABLE 1—PILE EXTRACTION AND INSTALLATION ACTIVITIES—Continued

Pile activity	Method	Pile size (inch), material	Piles per day	Duration of activity (days)	Duration of vibratory activity per pile (minutes)	Estimated blows of impact driving per pile (strikes)
Installation	Vibratory	10, steel	4	N/A	10	N/A

Note: Impact pile installation will be used for driving piles 0.61–1.52 m to final depth, depending on observed sediment resistance.
* Vibratory and impact installation of 18-inch steel piles will occur in the same 5 days.

Comments and Responses

A notice of NMFS' proposal to issue an IHA to the City of Oceanside was published in the **Federal Register** on November 29, 2023 (88 FR 83081). That notice described, in detail, the City of Oceanside's planned activities, the marine mammal species that may be affected by the activities, and the anticipated effects on marine mammals. In that notice, we requested public input on the request for authorization described therein, our analyses, the proposed authorization, and any other aspect of the notice of proposed IHA, and requested that interested persons submit relevant information, suggestions, and comments. During the 30-day public comment period no substantive comments were received.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the IHA application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*https://www.fisheries.noaa.gov/find-species).*

Table 2 lists all species for which take is authorized for this activity and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Pacific SARs. All values presented in table 2 are the most recent available at the time of publication (including from the 2022 SARs) and are available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.*

TABLE 2—MARINE MAMMAL SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES [1]

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [2]	Stock abundance (CV, N_{min}, most recent abundance survey) [3]	PBR	Annual M/SI [4]
Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Bottlenose dolphin	*Tursiops truncatus*	California Coastal	-/-; N	453 (0.06, 346, 2011)	2.7	≥2
Long-beaked common dolphin.	*Delphinus delphis capensis*	California	-/-; N	83,379 (0.216, 69,636, 2018)	668	≥29.7
Short-beaked common dolphin.	*Delphinus delphis delphis*	California/Oregon/Washington.	-/-; N	1,056,308 (0.21, 888,971, 2018).	8,889	≥30.5
Pacific white-sided dolphin.	*Lagenorhynchus obliquidens*	California	-/-; N	34,999 (0.222, 29,090, 2018)	279	7
Order Carnivora—Pinnipedia						
Family Otariidae (eared seals and sea lions):						
California sea lion	*Zalophus californianus*	U.S.	-/-; N	257,606 (N/A, 233,515, 2015).	14,011	>321
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina richardii*	California	-/-; N	30,968 (0.157, 27,348, 2012)	1,641	42.8
Northern elephant seal	*Mirounga angustirostris*	California Breeding	-/-; N	187,386 (N/A, 85,369, 2013)	5,122	13.7

[1] Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy (*https://marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies/;* Committee on Taxonomy (2022)).

[2] 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 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.

[3] NMFS marine mammal stock assessment reports online at: *https://www.nmfs.noaa.gov/pr/sars/*. CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

[4] These values, found in NMFS's 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. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

As indicated above, all seven species in table 2 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur. Based on previous marine mammal monitoring events near the mouth of Oceanside Harbor (Merkel and Associates, Inc., 2022; Merkel and Associates, Inc., 2023), other marine mammals rarely occur within Oceanside Harbor and any occurrence in the project area would be very rare. While Risso's dolphins (*Grampus griseus*) and gray whales (*Eschrichtius robustus*) have been sighted outside of the harbor and in coastal waters, these species' general spatial occurrence is such that take is not expected to occur as they typically occur more offshore, and they are not discussed further.

A detailed description of the species likely to be affected by this project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (88 FR 83081, November 28, 2023); since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to the NMFS website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995, Wartzok and Ketten, 1999, Au and Hastings, 2008). To reflect this, Southall *et al.* (2007, 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, *etc.*). Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in table 3.

TABLE 3—MARINE MAMMAL HEARING GROUPS

[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, Cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 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 are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.,* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006, Kastelein *et al.,* 2009, Reichmuth *et al.,* 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from the City of Oceanside's construction activities have the potential to result in Level B harassment of marine mammals in the project area. The notice of the proposed IHA (88 FR 83081, November 28, 2023) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from the City of Oceanside's construction activities on marine mammals and their habitat. That information and analysis is referenced in this final IHA determination and is not repeated here; please refer to the notice of the proposed IHA (88 FR 83081, November 28, 2023).

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes authorized through this IHA, which informed both NMFS' consideration of ''small numbers'' and the negligible impact determinations.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of 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).

Authorized takes would be by Level B harassment only in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to the acoustic sources. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.,* shutdown), Level A harassment is neither anticipated nor authorized (see Mitigation and Monitoring and Reporting sections).

As described previously, no serious injury or mortality is anticipated or authorized for this activity. Below we describe how the take numbers are estimated.

For acoustic impacts, generally speaking, we estimate take by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) the number of days of activities. We note that while these factors can contribute to a basic calculation to provide an initial prediction of potential takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the authorized take estimates.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur Permanent Threshold Shift (PTS) of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (*e.g.,* frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.,* bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.,* Southall *et al.,* 2007, Southall *et al.,* 2021, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared sound pressure levels (RMS SPL) of 120 dB (referenced to 1 microPascal (re 1 µPa)) for continuous (*e.g.,* vibratory pile driving, drilling) and above RMS SPL 160 dB re 1 µPa for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources. Generally speaking, Level B harassment take estimates based on these behavioral harassment thresholds are expected to include any likely takes by temporary threshold shift (TTS) as, in most cases, the likelihood of TTS occurs at distances from the source less than those at which behavioral harassment is likely. TTS of a sufficient degree can manifest as behavioral harassment, as reduced hearing sensitivity and the potential reduced opportunities to detect important signals (*e.g.,* conspecific communication, predators, prey) may result in changes in behavior patterns that would not otherwise occur.

The City of Oceanside's construction activities include the use of continuous (vibratory pile removal and installation) and, potentially, impulsive (impact pile installation) sources, and therefore the RMS SPL thresholds of 120 and 160 dB re 1 µPa are both applicable.

Level A harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0, Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). The City of Oceanside's activities include the use of impulsive (impact hammer) and non-impulsive (vibratory hammer) sources.

These thresholds are provided in table 4 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS' 2018 Technical Guidance, which may be accessed at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance*.

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,\ MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 µPa, and cumulative sound exposure level (L_E) has a reference value of 1µPa^{2}s. In this table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI, 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The 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 acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activities that are used in estimating the area ensonified above the acoustic thresholds, including source levels and transmission loss (TL) coefficient.

Pile driving activities using an impact hammer as well as a vibratory hammer generate underwater noise that could result in disturbance to marine mammals near the project area. A review of underwater sound measurements for similar projects was conducted to estimate the near-source sound levels for impact and vibratory pile driving and vibratory extraction. Source levels and sound exposure levels (SEL) for planned removal and installation activities derived from this review are shown in table 5.

TABLE 5—PROJECT SOUND SOURCE LEVELS

Activity	Method	Pile size (inch, material)	Peak SPL dB re 1 µPa [1]	RMS SPL dB re 1 µPa [1]	SEL dB re 1 µPa [1]	Source
Extraction	Vibratory	16, concrete [2]	N/A	163	N/A	NAVFAC SW, 2022.
Installation	Vibratory	18, steel	196	158	N/A	Caltrans, 2020.
Installation	Impact	18, steel [3]	200	185	175	Caltrans, 2020.
Installation	Vibratory	10, steel [4]	171	155	N/A	Illingworth and Rodkin, 2007.

Note: All 18-inch round steel piles will be installed using both vibratory and impact driving, therefore, the total number of 18-inch piles proposed for use is 18. Use of 10-inch piles will be as temporary support, and will be driven and removed in the same day as the permanent 18-inch piles.

[1] As measured, or calculated, at 10 m (33 ft).

[2] Proxy source levels provided by NMFS from Pier 6 Replacement Project, San Diego Bay (NAVFAC SW, 2022).

[3] Analysis of pooled reported data provided by NMFS (Caltrans, 2020).

[4] In the absence of information on vibratory installation of 10-inch round steel piles, source data from 12-inch round steel piles (Illingworth and Rodkin, 2007) was used as a proxy source level.

Level B Harassment Zone—TL is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition topography. The general formula for underwater TL is:

$TL = B * Log_{10} (R_1/R_2)$,

where

TL = transmission loss in dB;

B = transmission loss coefficient;

R_1 = the distance of the modeled SPL from the driven pile; and

R_2 = the distance from the driven pile of the initial measurement.

The recommended TL coefficient for most nearshore environments is the practical spreading value of 15. This value results in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions, known as practical spreading, which is the most appropriate assumption for the City of Oceanside's activities in the absence of specific modeling and site-specific information. Sound propagation in Oceanside Harbor is limited by physical structures and substantial sound will be confined within the harbor (see figures 6–1, 6–2 in the IHA application). The Level A and Level B harassment isopleths for the City of Oceanside's activities are shown in table 6.

TABLE 6—DISTANCE TO THE LEVEL A AND LEVEL B HARASSMENT THRESHOLDS FOR CONSTRUCTION ACTIVITIES

Activity	Method	Pile size (inch, material)	Level A threshold for MF (m)	Level A threshold for PW (m)	Level A threshold for OW (m)	Level B harassment zone (m)
Extraction	Vibratory	16, concrete	1.2	7.9	0.6	7,356
Installation	Vibratory	18, steel	0.5	3.7	0.3	3,415
Installation	Impact	18, steel	11.7	176.7	12.9	100
Installation	Vibratory	10, steel	0.2	1.3	0.1	2,154

Note: For impact pile driving, the single strike SEL was used to calculate distances to Level A harassment thresholds.
Abbreviations: MF = mid-frequency cetaceans, PW = phocid pinnipeds, OW = otariid pinnipeds.

Level A Harassment Zones—The ensonified area associated with Level A harassment is more technically challenging to predict due to the need to account for a duration component. Therefore, NMFS developed an optional User Spreadsheet tool to accompany the Technical Guidance that can be used to relatively simply predict an isopleth distance for use in conjunction with marine mammal density or occurrence to help predict potential takes. We note that because of some of the assumptions included in the methods underlying this optional tool, we anticipate that the resulting isopleth estimates are typically going to be overestimates of some degree, which may result in an

overestimate of potential take by Level A harassment. However, this optional tool offers the best way to estimate isopleth distances when more sophisticated modeling methods are not available or practical. For stationary sources (*i.e.,* vibratory and impact piling), the optional User Spreadsheet tool predicts the distance at which, if a marine mammal remained at that distance for the duration of the activity, it would be expected to incur PTS. Inputs used in the optional User Spreadsheet tool, and the resulting estimated isopleths, are reported in tables 6 and 7. The isopleths generated by the User Spreadsheet used the same TL coefficients as the Level B harassment isopleth calculations, as indicated above for each activity type. Inputs used in the User Spreadsheet (*e.g.,* number of piles per day, duration and/or strikes per pile) are presented in table 1. The maximum RMS SPL, SEL, and peak SPL are reported in table 7. The cumulative SEL and peak SPL were used to calculate Level A harassment isopleths for vibratory pile driving and extraction activities, while the single strike SEL value was used to calculate Level A harassment isopleths for impact pile driving activity.

TABLE 7—SOUND LEVELS USED FOR PREDICTING UNDERWATER SOUND IMPACTS

Activity	Method	Pile size (inch, material)	Duration (hours/day)	Peak SPL dB re 1 μPa	RMS SPL dB re 1 μPa	Single strike SEL dB re 1 μPa^2 sec
Extraction	Vibratory	16, concrete	1.67	N/A	163	N/A
Installation	Vibratory	18, steel	1.67	196	158	N/A
Installation	Impact	18, steel	0.13	200	185	175
Installation	Vibratory	10, steel	0.67	171	155	N/A

Marine Mammal Occurrence

In this section we provide information about the occurrence of marine mammals, including density or other relevant information which will inform the take calculations.

Bottlenose Dolphin—Bottlenose dolphins can occur at any time of year in the waters around Oceanside Harbor. Based on previous monitoring (Merkel and Associates, Inc., 2022), an average of 6 bottlenose dolphins per day were observed with a maximum of 12 individuals being observed on a single day. This higher peak of 12 individuals was used to calculate Level B harassment for bottlenose dolphin.

Common Dolphin—Common dolphins are generally abundant in the outer coastal waters but are not known to occur regularly in Oceanside Harbor. Based on marine mammal monitoring by NAVFAC SW (2015), during El Niño conditions an average of 8.5 common dolphins per day (rounded to nine per day) were observed in northwest San Diego Bay. This expected daily individual count was used to calculate the take by Level B harassment for common dolphins within Oceanside Harbor as no local data exists.

Pacific White-Sided Dolphin—Pacific white-sided dolphins are commonly seen offshore of southern California but are not known to occur regularly in Oceanside Harbor. Based on the observations presented by NAVFAC SW (2015), during El Niño conditions an average of 0.3 Pacific white-sided dolphins per day (rounded to one per day) were observed. This expected daily individual count was used to calculate the Level B harassment for Pacific white-sided dolphins.

California Sea Lion—California sea lions are present in Oceanside Harbor year-round and numbers vary considerably. The daily estimate provided by the Oceanside Harbor Department is over 100 individuals. Limited counts from photographs and spot counts average approximately 50 individuals and are known to be incomplete estimates. Based on the variability in the number of sea lions present in the harbor, an estimate of 100 sea lions per day was used to estimate take.

Harbor Seal—Based on marine mammal monitoring by NAVFAC SW (2015), during El Niño conditions an average of 2.5 harbor seals per day (rounded to three per day) were observed. This expected daily individual count was used to calculate the Level B harassment for harbor seals in Oceanside Harbor.

Northern Elephant Seal—Due to increasing population size of northern elephant seals, presence in the Southern California Bight is considered a reasonable possibility (Carretta *et al.,* 2023). Based on marine mammal monitoring by NAVFAC SW (2015), an average of 0.1 northern elephant seals per day (rounded to one per day) were observed during El Niño conditions. This expected daily individual count was used to calculate the Level B harassment for northern elephant seals in Oceanside Harbor.

Take Estimation

Here we describe how the information provided above is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and is authorized.

No take by Level A harassment is expected for any species of marine mammal due to the small zone sizes for most taxa and the low likelihood that an animal would approach during in-water construction or remain within the Level A harassment isopleth long enough to incur PTS during the specified activities. Planned shutdown zones will encompass the extent of the estimated Level A harassment isopleths (180 m for phocid pinnipeds during impact driving, 15 m for all other species and activities) and are expected to be effective at avoiding Level A harassment for all species. Given the locations of protected species observers (PSOs) described in the Monitoring and Reporting section, in conjunction with the City of Oceanside's shutdown mitigation measure, NMFS agrees that monitoring and shutdown measures are likely to be successful at avoiding take by Level A harassment.

Incidental take by Level B harassment was estimated for each species by multiplying the expected average number of individuals per day by the number of work days (6 days; table 8). Take estimates for each species were calculated by multiplying the estimated site-specific abundance of each species by the area of impact where noise levels exceed acoustic thresholds for marine mammals during each type of piling activity (vibratory removal, vibratory driving, impact driving) and pile size (16-inch concrete, 18-inch steel, 10-inch steel). Estimated daily exposures for each species were based on evaluation of the potential presence of each marine mammal species using recent

occurrence data from Oceanside Harbor (Merkel and Associates, Inc., 2022; Merkel and Associates, Inc., 2023).

Estimated Take = Expected Average Individuals per Day × Number of Work Days

Due to a paucity of marine mammal occurrence data within Oceanside Harbor, and with the probability of El Niño conditions persisting throughout 2024 (*https://www.cpc.ncep.noaa.gov/products/analysis_monitoring/enso_advisory/ensodisc.shtml*), four species of marine mammal (common dolphin, Pacific white-sided dolphin, harbor seal, northern elephant seal) that are unlikely to occur within a semi-enclosed harbor environment were included to account for a potential increase in occurrence that has been previously documented for those species under similar climatological conditions (NAVFAC SW, 2015).

TABLE 8—TAKE BY LEVEL B HARASSMENT AUTHORIZED

Common name	Scientific name	Stock	Expected average individuals per day	Maximum estimated Level B harassment takes	Estimated takes as a percentage of population
Bottlenose dolphin [1]	*Tursiops truncatus*	California Coastal	12	72	15.9
Common dolphin (long-beaked) [2].	*Delphinus capensis*	California	*9	*54	<1
Common dolphin (short-beaked) [2].	*Delphinus delphis*	California/Oregon/Washington.	*9	*54	<1
Pacific white-sided dolphin [2]	*Lagenorhynchus obliquidens*	California/Oregon/Washington—Northern and Southern.	1	6	<1
California sea lion [3]	*Zalophus californianus*	U.S	100	600	<1
Harbor seal [2]	*Phoca vitulina richardii*	California	3	18	<1
Northern elephant seal [2]	*Mirounga angustirostris*	California breeding	1	6	<1

[1] Average daily counts based on observations during Oceanside Harbor Dredging 2022 Project Monitoring, rounded up to nearest individual count (Merkel and Associates Inc., 2022).
[2] Average daily counts based on observations during Year 2 of Navy Base Point Loma's Fuel Pier Replacement Project Monitoring, rounded up to nearest individual count (NAVFAC SW, 2015).
[3] Reported high estimate of sea lions observed on pinniped float by Oceanside Harbor District staff.
* A total of 54 takes are estimated and may be attributed to either long- or short-beaked common dolphin species.

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, and impact on operations.

The City of Oceanside must ensure that construction supervisors and crews, the monitoring team, and relevant staff/contractors are trained prior to the start of all piling activities so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood. New personnel joining during the project must be trained prior to commencing work.

Timing Restrictions

All piling activities will be conducted during daylight hours, generally between 45 minutes post-sunrise and 45 minutes pre-sunset. All piling will occur in March 2024 and/or September 2024 through February 2025, when the likelihood of ESA-listed California least tern breeding and nesting in the work area is minimal, as proposed by the City of Oceanside.

Protected Species Observers

The placement of PSOs during all pile driving activities (described in the Monitoring and Reporting section) will ensure that the entire shutdown zone is visible. Should environmental conditions deteriorate such that the entire shutdown zone is not visible (*e.g.,* fog, heavy rain), pile driving will be delayed until the PSO is confident marine mammals within the shutdown zone can be detected.

PSOs will monitor the full shutdown zones and the Level B harassment zones to the extent practicable. Monitoring zones provide utility for observing by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring zones enable observers to be aware of and communicate the presence of marine mammals in the project areas outside the shutdown zones and thus prepare for a potential cessation of activity should the animal enter the shutdown zone.

Pre- and Post-Activity Monitoring

Monitoring will take place from 30 minutes prior to initiation of pile driving activities (*i.e.,* pre-clearance

monitoring) through 30 minutes post-completion of pile driving. Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 minutes or longer occurs, PSOs will observe the shutdown and monitoring zones for a period of 30 minutes. The shutdown zone will be considered cleared when a marine mammal has not been observed within the zone for a 30-minute period. If a marine mammal is observed within the shutdown zones listed in table 9, pile driving activity will be delayed or halted. If work ceases for more than 30 minutes, the pre-activity monitoring of the shutdown zones will commence. A determination that the shutdown zone is clear must be made during a period of good visibility (*i.e.,* the entire shutdown zone and surrounding waters must be visible to the naked eye).

Soft-Start Procedures for Impact Driving

Soft-start procedures provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. If impact pile driving is necessary to achieve required tip elevation, City of Oceanside staff and/or contractors are required to provide an initial set of three strikes from the hammer at reduced energy, followed by a 30-second waiting period, then two subsequent reduced-energy strike sets. Soft-start will be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer.

Shutdown Zones

The City of Oceanside must establish shutdown zones for all pile driving activities. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity will occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones are based upon the Level A harassment isopleth for each pile size/type and driving method where applicable, as shown in table 6. During all in-water piling activities, the City of Oceanside plans to implement a buffered 15 m shutdown zone, with the exception of a 180 m shutdown zone for phocids during the use of impact pile driving of 18-inch piles. These distances exceed the estimated Level A harassment isopleths described in table 6. Adherence to this expanded shutdown zone will avoid the potential for the take of phocids by Level A harassment during impact pile driving. For pile driving, the radii of the shutdown zones are rounded to the next largest 10 m interval in comparison to the Level A harassment isopleth for each activity type. If a marine mammal is observed entering, or detected within, a shutdown zone during pile driving activity, the activity must be stopped until there is visual confirmation that the animal has left the zone or the animal is not sighted for a period of 15 minutes. Shutdown zones for each activity type are shown in table 9.

All marine mammals will be monitored in the Level B harassment zones and throughout the area as far as visual monitoring can take place. If a marine mammal enters the Level B harassment zone, in-water activities will continue and PSOs will document the animal's presence within the estimated harassment zone.

TABLE 9—SHUTDOWN AND HARASSMENT ZONES

Activity	Method	Pile size (inch), material	Shutdown zone for MF (m)	Shutdown zone for PW (m)	Shutdown zone for OW (m)	Harassment zone (m)
Extraction	Vibratory	16, concrete	15	15	15	7,360
Installation	Vibratory	18, steel	15	15	15	3,420
Installation	Impact	18, steel	15	180	15	100
Installation	Vibratory	10, steel	15	15	15	2,160

Based on our evaluation of the City of Oceanside's planned measures, NMFS has determined that the planned mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Visual Monitoring

Marine mammal monitoring must be conducted in accordance with the conditions in this section and this IHA. Marine mammal monitoring during pile driving activities will be conducted by two PSOs meeting NMFS' standards and

in a manner consistent with the following:

- PSOs must be independent of the activity contractor (for example, employed by a subcontractor) and have no other assigned tasks during monitoring periods;
- At least one PSO will have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization;
- Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training for prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization;
- Where a team of three or more PSOs is required, a lead observer or monitoring coordinator must be designated. The lead observer must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization; and
- PSOs must be approved by NMFS prior to beginning any activity subject to the IHA.

PSOs should have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

The City of Oceanside will have two PSOs stationed at the best possible vantage points in the project area to monitor during all pile driving activities. Monitoring will occur from elevated locations along the shoreline where the entire shutdown zones are visible. PSOs will be equipped with high quality binoculars for monitoring and radios or cells phones for maintaining contact with work crews. Monitoring will be conducted 30 minutes before, during, and 30 minutes after all in-water construction activities. In addition, PSOs will record all incidents of marine mammal occurrence, regardless of distance from activity, and will document any behavioral reactions in concert with distance from piles being driven or removed. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

Reporting

The City of Oceanside will provide the following reporting as necessary during active pile driving activities:

- The applicant will report any observed injury or mortality as soon as feasible and in accordance with NMFS' standard reporting guidelines. Reports will be made by phone (866–767–6114) and by email (*PR.ITP.MonitoringReports@noaa.gov*) and will include the following:
  - Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
  - Species identification (if known) or description of the animal(s) involved;
  - Condition of the animal(s) (including carcass condition if the animal is dead);
  - Observed behaviors of the animal(s), if alive;
  - If available, photographs or video footage of the animal(s); and
  - General circumstances under which the animal was discovered;
- An annual report summarizing the prior year's activities will be provided that fully documents the methods and monitoring protocols, summarizes the data recorded during monitoring, estimates the number of listed marine mammals that may have been incidentally taken during project pile driving, and provides an interpretation of the results and effectiveness of all monitoring tasks. The annual draft report will be provided no later than 90 days following completion of construction activities. Any recommendations made by NMFS will be addressed in the final report, due after the IHA expires and including a summary of all monitoring activities, prior to acceptance by NMFS. Final reports will follow a standardized format for PSO reporting from activities requiring marine mammal mitigation and monitoring; and
- All PSOs will use a standardized data entry format (see Monitoring Plan).

Negligible Impact Analysis and Determination

NMFS has defined negligible impact 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 (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.,* intensity, duration), the context of any impacts or responses (*e.g.,* critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analysis applies to all species listed in table 2, given that the anticipated effects of the construction activities on these different marine mammal stocks are expected to be similar. There is little information about the nature or severity of the impacts, or the size, status, or structure of any of these species or stocks that would lead to a different analysis for these activities.

Level A harassment is extremely unlikely for any species given the small size of the Level A harassment isopleths and the required mitigation measures designed to minimize the possibility of injury to marine mammals (see Mitigation section). No mortality or serious injury is anticipated given the nature of the activity.

Pile installation and removal activities are likely to result in the Level B harassment of marine mammals that move into the ensonified area, primarily

in the form of disturbance or displacement of marine mammals.

Take would occur within a limited, confined area of each stock's range. Level B harassment will be reduced to the level of least practicable adverse impact through use of mitigation measures described herein. Further, the amount of take authorized is extremely small when compared to stock abundance.

No marine mammal stocks for which incidental take is authorized are listed as threatened or endangered under the ESA or determined to be strategic or depleted under the MMPA. The relatively low marine mammal occurrences in the area, small shutdown zones, and planned monitoring make injury takes of marine mammals unlikely. The shutdown zones will be thoroughly monitored before vibratory pile installation and removal begins, and construction activities will be postponed if a marine mammal is sighted within the shutdown zone. There is a high likelihood that marine mammals will be detected by PSOs under environmental conditions described for the project. Limiting construction activities to daylight hours will also increase detectability of marine mammals in the area. Therefore, the planned mitigation and monitoring measures are expected to eliminate the potential for injury and Level A harassment as well as reduce the amount and intensity for Level B behavioral harassment. Furthermore, the pile installation and removal activities analyzed here are similar to, or less impactful than, numerous construction activities conducted in other similar locations which have occurred with no reported injuries or mortality to marine mammals, and no known long-term adverse consequences from behavioral harassment.

Anticipated and authorized takes are expected to be limited to short-term Level B harassment (behavioral disturbance) as construction activities will occur over the course of 5–6 months. Effects on individuals taken by Level B harassment, based upon reports in the literature as well as monitoring from other similar activities, may include increased swimming speeds, increased surfacing time, or decreased foraging (*e.g.,* NAVFAC SW, 2018). Individual animals, even if taken multiple times, would likely move away from the sound source and be temporarily displaced from the area due to elevated noise level during pile removal. There are no known feeding or other biologically important areas (BIAs) for any species in or near the project area (Ferguson *et al.,* 2015). Marine mammals could also experience TTS if they move into the Level B harassment monitoring zone. TTS is a temporary loss of hearing sensitivity when exposed to loud sound and, given the likely levels and duration of exposure to pile driving, any shift of the hearing threshold is expected to recover completely within minutes to hours. While TTS could occur, it is not considered a likely outcome of this activity.

Given the limited number of total predicted exposures, no individual marine mammals of any species, with the possible exception of California sea lions, are expected to be taken on more than a few days during the construction activities. California sea lions are relatively common in the area and potential takes would likely involve sea lions loafing on, or in the vicinity of, physical structures or moving through the area en route to foraging areas or structures where they haul out. Relocation of the float where they frequently haul out is expected to reduce both the number of sea lions present in the area during construction and also the likelihood that they may be repeatedly impacted.

The project is not expected to have significant adverse effects on marine mammal habitat. There is no ESA-designated critical habitat within the project area, and the planned activities will not permanently modify existing marine mammal habitat. The activities may cause fish to leave the area temporarily which could impact marine mammals' foraging opportunities in a limited portion of the foraging range. However, due to the short duration of the planned activities and the relatively small area of affected habitat, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activities will have only minor, short-term effects on individuals. The specified activities are not expected to impact reproduction or survival of any individual marine mammals, much less affect rates of recruitment or survival and will therefore not result in population-level impacts.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No serious injury or mortality, or Level A harassment, is anticipated or authorized;
- The specified activities are of a very short duration and associated ensonified areas are very small relative to the overall habitat ranges of both species;
- The project area does not overlap with known BIAs or ESA-designated critical habitat;
- Significant or long-term effects to marine mammal habitat are not anticipated; and
- Mitigation measures are expected to reduce the effects of the specified activity to the level of least practicable adverse impact.

Based on the analysis contained herein of the likely effects of the specified activities on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The amount of take NMFS has authorized is below one-third of the estimated stock abundances for all seven species (see table 8). For all but one species, the authorized take of individuals is less than 1 percent of the abundance of the affected stock (with the exception for bottlenose dolphins at less than 16 percent). This is likely a conservative estimate because it assumes all takes are of different individual animals, which is likely not the case. Some individuals may return multiple times in a day, but PSOs will count them as separate takes if they cannot be individually identified.

Based on the analysis contained herein of the activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure 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.

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 an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs 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 has determined that the issuance of this IHA qualifies to be categorically excluded from further NEPA review.

Authorization

NMFS has issued an IHA to the City of Oceanside for the potential harassment of small numbers of seven marine mammal species incidental to construction activities in Oceanside Harbor, Oceanside, CA, that includes the previously explained mitigation, monitoring, and reporting requirements.

Dated: January 8, 2024.

Kimberly Damon-Randall,

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

[FR Doc. 2024–00485 Filed 1–11–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Vessel Monitoring System Requirements for the Pacific Islands Fisheries

The Department of Commerce 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. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on September 1, 2023, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic & Atmospheric Administration (NOAA), Commerce.

Title: Vessel Monitoring System Requirements for the Pacific Islands Fisheries.

OMB Control Number: 0648–0441.

Form Number(s): None.

Type of Request: Regular submission. Extension of a current information collection.

Number of Respondents: 69.

Average Hours per Response: 4 hours for installation of a VMS unit; 2 hours for VMS unit replacement, and 1.5 hours for annual maintenance.

Total Annual Burden Hours: 131.

Needs and Uses: This request is for extension of a currently approved information collection. National Oceanic and Atmospheric Administration (NOAA) Fisheries, Pacific Islands Region, and the NOAA Office of Law Enforcement (OLE), Pacific Islands Division, collect vessel tracking information through a Vessel Monitoring System (VMS). The authority for this collection is specified at 50 CFR 665.19.

As part of fishery ecosystem plans developed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, owners of commercial fishing vessels in the Hawaii pelagic longline fishery, American Samoa pelagic longline fishery (only vessels longer than 50 feet), Northwestern Hawaiian Islands lobster fishery (currently inactive), and Northern Mariana Islands bottomfish fishery (only vessels longer than 40 feet) must allow NOAA to install VMS units on their vessels when directed by OLE personnel. VMS units automatically send periodic reports on the position of the vessel to OLE. NOAA uses the reports to monitor the vessel's location and activities, primarily to enforce regulated fishing areas. NOAA pays for all costs related to the VMS systems for the aforementioned fisheries. There is no public burden for the automatic messaging; however, VMS installation and maintenance are considered public burden. Aside from updates to the burden estimates, there are no changes to the collection.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: On occasion.

Respondent's Obligation: Mandatory

Legal Authority: 50 CFR 665.19

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0441.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–00579 Filed 1–11–24; 8:45 am]

BILLING CODE 3510–22–P