

The meeting is open to the public; however, during the “Report Writing” session on Friday, June 21, 2024, from 11 a.m. to 4 p.m., the public should not engage in discussion with the Peer Review Panel.

#### Special Accommodations

This meeting is physically accessible to people with disabilities. Special requests should be directed to Michele Traver, via email.

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

Dated: June 4, 2024.

**Karen H. Abrams,**

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

[FR Doc. 2024–12568 Filed 6–6–24; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Evaluation of California Coastal Management Program; Notice of Public Meeting; Request for Comments

**AGENCY:** Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

**ACTION:** Notice of public meeting and opportunity to comment.

**SUMMARY:** The National Oceanic and Atmospheric Administration (NOAA), Office for Coastal Management, will hold a virtual public meeting to solicit input on the performance evaluation of the California Coastal Management Program. NOAA also invites the public to submit written comments.

**DATES:** NOAA will hold a virtual public meeting on Wednesday, August 28, 2024, at 12 p.m. Pacific Daylight Time (PDT). NOAA may close the meeting 15 minutes after the conclusion of public testimony and after responding to any clarifying questions from hearing participants. NOAA will consider all relevant written comments received by Friday, September 6, 2024.

**ADDRESSES:** Comments may be submitted by one of the following methods:

- *Virtual Public Meeting:* Register at <https://forms.gle/fzivtXuP1VLj5Fd16> to participate in the virtual public meeting on Wednesday, August 28, 2024, from 12 p.m. to 1 p.m. PDT. We request that all participants register by Tuesday, August 27, 2024 at 6 p.m. PDT. Please indicate on the registration form if you intend to provide oral comments. The speaker lineup is based on the date and

time of this registration. Upon registration, NOAA will send a confirmation email. One hour prior to the start of the August 28, 2024 virtual meeting, NOAA will send an email to all registered speakers with a link to the public meeting and information about participating. While advance registration is requested, registration will remain open until the meeting closes, and any participant may provide oral comment after the registered speakers conclude. Meeting registrants may remain anonymous by typing “Anonymous” into the “First Name” and “Last Name” fields on the registration form.

- *Email:* Send written comments to Carrie Hall, evaluator, NOAA Office for Coastal Management, at [czma.evaluations@noaa.gov](mailto:czma.evaluations@noaa.gov). Include “Comments on Performance Evaluation of the California Coastal Management Program” in the subject line.

NOAA will accept anonymous comments; however, the written comments NOAA receives are considered part of the public record, and the entirety of the comment, including the name of the commenter, email address, attachments, and other supporting materials, will be publicly accessible. Sensitive personally identifiable information, such as account numbers and social security numbers, should not be included with the comment. Comments that are not related to the performance evaluation of the California Coastal Management Program, or that contain profanity, vulgarity, threats, or other inappropriate language will not be considered.

#### FOR FURTHER INFORMATION CONTACT:

Carrie Hall, evaluator, NOAA Office for Coastal Management, by email at [Carrie.Hall@noaa.gov](mailto:Carrie.Hall@noaa.gov) or by phone at (240) 410–3422. Copies of the previous evaluation findings and assessment and strategies may be viewed and downloaded at [coast.noaa.gov/czm/evaluations](https://coast.noaa.gov/czm/evaluations). A copy of the evaluation notification letter and most recent progress report may be obtained upon request by contacting Carrie Hall.

**SUPPLEMENTARY INFORMATION:** Section 312 of the Coastal Zone Management Act (CZMA), 16 U.S.C. 1458, requires NOAA to conduct periodic evaluations of federally approved coastal management programs. The evaluation process includes holding one or more public meetings, considering public comments, and consulting with interested Federal, State, and local agencies and members of the public. During the evaluation, and consistent with CZMA Section 312 and implementing regulations at 15 CFR

923, subpart L, NOAA will consider the extent to which the State of California has met the national objectives and addressed the coastal management needs identified in CZMA section 303(2), implemented and enforced the management program approved by the Secretary of Commerce, and adhered to the terms of financial assistance under the CZMA. When the evaluation is complete, NOAA’s Office for Coastal Management will place a notice in the **Federal Register** announcing the availability of the final evaluation findings.

*Authority:* 16 U.S.C. 1458.

**Keelin Kuipers,**

*Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.*

[FR Doc. 2024–12512 Filed 6–6–24; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648–XD999]

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Terminal 4 Expansion and Redevelopment Project at the Port of Grays Harbor, Washington

**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 Ag Processing Inc. (AGP) to incidentally harass marine mammals during construction activities associated with the Terminal 4 (T4) Expansion and Redevelopment Project (Project) at the Port of Grays Harbor (Port) in both the City of Aberdeen and City of Hoquiam, Grays Harbor County, Washington.

**DATES:** The authorization is effective from July 16, 2024 through July 15, 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-ag-processing-incs-port-grays-harbor-terminal-4-expansion-and.* In case of problems accessing these documents, please call the contact listed below.

**FOR FURTHER INFORMATION CONTACT:**

Robert Pauline, 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 12, 2023, NMFS received a request from AGP for an IHA to take marine mammals incidental to construction activities in the City of Aberdeen and City of Hoquiam, Grays Harbor County, Washington. Following NMFS’ review of the application, AGP submitted a revised version on August 4, 2023. The application was deemed adequate and complete on February 20, 2024. The notice of proposed IHA published for public comment on April 8, 2024 (89 FR 24436).

AGP’s request is for take of harbor seal, California sea lion, Steller sea lion

and harbor porpoise by Level B harassment and, for harbor seal and harbor porpoise, by Level A harassment. Neither AGP 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 Activity**

AGP plans to work in partnership with the Port to construct a new export terminal at T4. AGP and the Port will each undertake separate stages of the construction. The IHA is held by AGP as the responsible party, and authorizes take associated with the combined specified activity, with AGP acting on behalf of the Port for that portion. The activity would include removal of existing piles and the installation of both temporary and permanent piles of various sizes. The construction would occur for 105 days, which would occur intermittently over the in-water work window. Takes of marine mammals by Level A and Level B harassment would occur due to both impact and vibratory pile driving and vibratory removal.

The existing timber-piled fender system at the Terminal 4 Berth A (T4A) will be replaced with a modern pile-supported panel system and a modern suspended panel system at Berth B (T4B). Terminal 4’s Berths A and B have distinctly different structural systems, necessitating piles to support the fender system at Berth A but not at Berth B. The new fender system will consist of a series of steel fender panels, each supported by one or more steel pipe piles at each fender location along T4A and supported by the existing deck only along T4B.

The planned Project consists of vibratory pile driving installation and removal and impact pile installation. Existing piles will be removed from the substrate using the direct pull method. If direct pulling is unsuccessful, vibratory extraction will be used. Vibratory extractors are commonly used to remove steel pile where sediments allow. Broken or damaged piles that cannot be removed by either the vibratory hammer or direct pull will be cut off at or below the mudline. However, for the purposes of estimating take it is assumed they would all be subject to vibratory removal. The Project will include the removal of up to:

- 50, 18-inch timber piles
- 6, 12-inch steel H-piles
- 27, 16.5-inch pre-stressed concrete octagonal sections

New and replacement piles will be installed with a vibratory hammer or combination of a vibratory hammer and

impact hammer. Impact pile driving would be avoided to the extent feasible. Piles will be aligned with steel templates to ensure the correct position of the piles relative to each other. The planned Project will also include installation of up to:

- 50, 36-inch steel pipe piles
- 24, 24-inch steel pipe piles
- 6, 12-inch steel H-sections
- 15, 18-inch steel pipe piles
- 24, 24 to 30-inch steel pipe piles

Additionally, a total of up to 24 temporary 24-inch steel piles may be installed for temporary construction use or to address unforeseen conditions. The temporary piles will be placed and removed as necessary.

A further detailed description of the planned construction project is provided in the **Federal Register** notice for the proposed IHA (89 FR 24436, April 8, 2024). 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. Mitigation, monitoring, and reporting measures are described in detail later in this document (please see Mitigation and Monitoring and Reporting).

**Comments and Responses**

A notice of NMFS’ proposal to issue an IHA to AGP was published in the **Federal Register** on April 8, 2024 (89 FR 24436). That notice described, in detail, AGP’s activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During that 30-day public comment period, no comments were received.

**Description of Marine Mammals in the Area of Specified Activities**

Sections 3 and 4 of the 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 1 lists all species or stocks for which take is expected and has been

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' Alaska and Pacific SARs. All values presented in table 3 are the most recent available at the time of publication (including from the draft 2023 SARs) and are available online at: (<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports>).

TABLE 1—SPECIES<sup>1</sup> LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) <sup>2</sup>	Stock abundance (CV, N <sub>min</sub> , most recent abundance survey) <sup>3</sup>	PBR	Annual M/SI <sup>4</sup>
<b>Odontoceti (toothed whales, dolphins, and porpoises)</b>						
<i>Family Phocoenidae (porpoises):</i> Harbor porpoise .....	<i>Phocoena phocoena</i> .....	Northern Oregon/, Wash- ington Coast.	-, -; N	22,074 (0.391, 16,068, 2022)	161	3.2
<b>Order Carnivora—Pinnipedia</b>						
<i>Family Otariidae (eared seals and sea lions):</i> California Sea Lion .....	<i>Zalophus californianus</i> .....	U.S. ....	-, -; N	257,606 (N/A, 233,515, 2014)	14,011	>321
Steller Sea Lion .....	<i>Eumetopias jubatus</i> .....	Eastern .....	-, -; N	36,308 (N/A, 36,308, 2022) ...	2,178	93.2
<i>Family Phocidae (earless seals):</i> Harbor Seal .....	<i>Phoca vitulina</i> .....	Oregon/Washington Coastal Stock.	-, -, N	24,731 <sup>5</sup> (1999) .....	UNK	10.6

<sup>1</sup> 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://www.marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies/>).

<sup>2</sup> 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.

<sup>3</sup> NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>. CV is coefficient of variation; N<sub>min</sub> is the minimum estimate of stock abundance. In some cases, CV is not applicable.

<sup>4</sup> 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.

<sup>5</sup> There is no current estimate of abundance available for this stock. Value presented is the most recent available and based on 1999 data.

As indicated above, all four species (with four managed stocks) in table 1 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur. While killer whales (*Orcinus orca*), humpback whales (*Megaptera novaeangliae*), gray whales (*Eschrichtius robustus*), and minke whales (*Balaenoptera acutorostrada*) have been sighted in Grays Harbor, the temporal and/or spatial occurrence of these species is such that take is not expected to occur. Furthermore, if any of these species are sighted approaching Level B harassment zones, construction activities would be shut down in order to avoid harassment. Therefore, take is not expected for these species and they are not discussed further in this document.

A detailed description of the species likely to be affected by AGP's construction project, were provided in the **Federal Register** notice for the

proposed IHA (89 FR 24436, April 8, 2024). 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 the **Federal Register** notice for these descriptions.

#### 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 2.

TABLE 2—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, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i> ). .....	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 AGP's pile driving activities have the potential to result in behavioral harassment of marine mammals in the vicinity of the project area. The notice of proposed IHA (89 FR 24436, April 8, 2024) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of under noise from AGP's pile driving activities on marine mammals and their habitat. Please refer to the notice of proposed IHA (89 FR 24436, April 8, 2024) for that information and analysis, which is not repeated here.

#### Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes authorized through the IHA, which will inform NMFS' consideration of "small numbers," the negligible impact determinations, and impacts on subsistence uses.

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 primarily be by Level B harassment, as use of the acoustic stressors (*i.e.*, pile driving) has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result, primarily for high frequency species (harbor porpoise) and phocids (harbor seal). Auditory injury is unlikely to occur for other species due to permanent threshold shift (PTS) zone sizes. The required mitigation and monitoring measures are expected to minimize the severity of the taking to the extent practicable.

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 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, 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 pressure received levels (RMS SPL) of 120 dB (referenced to 1 micropascal (re 1  $\mu$ Pa)) for continuous (*e.g.*, vibratory pile driving, drilling) and above RMS SPL 160 dB (re 1  $\mu$ Pa) 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 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 (conspecific communication, predators, prey) may result in changes in behavior patterns that would not otherwise occur.

AGP's planned activity includes the use of continuous (vibratory driving and removal) and impulsive (impact pile driving) sources, and therefore the RMS SPL thresholds of 120 and 160 dB re 1  $\mu$ Pa are 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). AGP's planned activity includes the use of impulsive (impact pile driving) and non-impulsive

(vibratory pile driving and removal) sources.

These thresholds are provided in the table 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 3—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  $\mu$ Pa, and cumulative sound exposure level ( $L_E$ ) has a reference value of 1  $\mu$ Pa<sup>2</sup>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 activity that are used in estimating the area ensonified above the acoustic thresholds, including source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the planned project. Marine mammals are expected to be affected via sound generated by the primary components of the project (*i.e.*, impact pile driving, vibratory pile driving and removal). Additionally, vessel traffic and other commercial and industrial activities in the project area may contribute to elevated background noise levels which may mask sounds produced by the project.

Transmission loss ( $TL$ ) 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 and 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

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6-dB reduction in sound level for each doubling of distance from the source ( $20 * \log[\text{range}]$ ). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source ( $10 * \log[\text{range}]$ ). A practical spreading value of 15 is often used

under conditions, such as the project site, where water increases with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading loss is assumed here.

The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. In order to calculate the distances to the Level A harassment and the Level B harassment sound thresholds for the methods and piles being used in this project, NMFS used acoustic monitoring data from other locations to develop proxy source levels for the various pile types, sizes and methods. The project includes vibratory and impact pile installation of steel and vibratory removal of steel, timber piles, and concrete piles. Pile sizes range from 12-in to 36-in. Source levels for the various pile sizes and driving methods are presented in table 4. Bubble curtains would be employed during all impact driving, with an assumed 5 dB effective attenuation (Caltrans, 2020).

TABLE 4—PROXY SOUND SOURCE LEVELS FOR PILE SIZES AND DRIVING METHODS

Method and pile type	Sound level at 10 m (dB rms)		
Vibratory hammer			
36-inch steel piles (installation) <sup>1</sup> .....	170		
30-inch steel pipe piles (installation) <sup>2</sup> .....	159		
24-inch steel piles (installation and removal) <sup>3</sup> .....	154		
18-inch steel pipe piles (installation) <sup>4</sup> .....	158		
12-inch steel H-piles (installation and removal) <sup>5</sup> .....	150		
18-inch creosote timber piles (removal) <sup>6</sup> .....	162		
16.5-inch concrete octagonal sections (removal) <sup>6</sup> .....	163		
Impact hammer	dBrms	dBSEL	dBpeak
24-inch steel piles (single strike) <sup>7</sup> .....	190 (185)	177 (172)	203 (198)
36-inch steel piles (single strike) <sup>8</sup> .....	193 (188)	183 (178)	210 (205)

<sup>1</sup> Laughlin 2012 as cited in WSDOT 2020.

<sup>2</sup> 2023 NMFS Calculations based on data from Denes *et al.* 2016 (Auke Bay, Ketchikan, Kake), Edmonds Ferry Terminal (Laughlin 2011, 2017), Colman Dock—Seattle Ferry Terminal (Laughlin 2012), Kodiak Pier 3 (PND Engineers, 2015).

<sup>3</sup> 2023 NMFS Calculations based on data from Naval Base Kitsap Bangor Test Pile (Navy (2012)) and EHW-2 (Navy (2013)), Gustavus (Miner, 2020).

<sup>4</sup> Caltrans 2020.

<sup>5</sup> From generic value recommended in the Caltrans 2015 summary table, as it was representative of the data and provided a citable data point and included projects from San Rafael, CA; Norfolk Naval Station, VA; Chevron Long Wharf, CA; JEB Little Creek, Norfolk, VA.

<sup>6</sup> Data not available, anticipated noise levels are based on available noise levels for the vibratory removal of 20-inch diameter concrete piles (Naval Facilities Engineering Systems Command Southwest 2022). Noise levels were back-calculated to a 10 meter measurement distance assuming a 15 log transmission loss. Based on prior coordination with NMFS for the Johnson Pier Expansion and Dock Replacement Project IHA Request (M&N 2022) this data source is an acceptable surrogate for timber piles (Pers. comm. Cara Hotchkin 2023).

<sup>7</sup> From Caltrans 2015, pooled and averaged from 20 to 24" piles from Stockton WWTP, CA; Bradshaw Bridge, CA; Rodeo Dock, CA; Tongue Point Pier, OR; Cleer Creek WWTP, CA; SR 520 Test Pile, WA; Portland Light Rail, OR; Port of Coeyman, NY; Pritchard Lake, CA; Amorco Wharf, CA; 5th Street Bridge, CA; Schuyler Heim Bridge, CA; Tanana River, AK, NBK EHW2, WA; Crescent City, CA; Avon Wharf, CA; Orwood Bridge Replacement, CA; Tesoro Amorco Wharf, CA; USCG Floating Dock, CA; Norfolk, VA; Plains Terminal, CA. A 5dB attenuation applied in parenthesis for the use of a bubble curtain.

<sup>8</sup> Caltrans 2020, unattenuated data used as reference. A 5dB attenuation applied in parenthesis for the use of a bubble curtain.

**Note:** It is assumed that noise levels during vibratory pile installation and vibratory pile removal are similar.

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 such as impact or vibratory pile

driving and removal, 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 for impact driving in the optional User Spreadsheet tool, and the resulting estimated isopleths, are reported below in table 5 and table 6 below.

TABLE 5—USER SPREADSHEET INPUTS FOR IMPACT DRIVING

Inputs	36-inch impact	24-inch impact
Spreadsheet Tab Used	E.1) Impact Pile Driving (STATIONARY SOURCE: Impulsive, Intermittent)	
Source Level (Single Strike/shot SEL)	183	177
Weighting Factor Adjustment (kHz)	2	2
Strikes per pile	600	500
Piles Per day	4	4
Propagation (xLogR)	15	15
Distance of source level measurement (meters)	10	10

TABLE 6—CALCULATED LEVEL A HARASSMENT ZONES, IMPACT INSTALLATION (m)

Pile type	Level A threshold		
	High-frequency cetaceans 155 dB SELcum	Phocid pinnipeds 185 dB SELcum	Otariid pinnipeds 203 dB SELcum
36-inch steel piles (installation)	990	445	33

TABLE 6—CALCULATED LEVEL A HARASSMENT ZONES, IMPACT INSTALLATION (m)—Continued

Pile type	Level A threshold		
	High-frequency cetaceans 155 dB SELcum	Phocid pinnipeds 185 dB SELcum	Otariid pinnipeds 203 dB SELcum
24-inch steel piles, permanent (installation) .....	349	157	12

Table 7 shows the User Spreadsheet resulting Level A harassment zones are harassment isopleths are found in table  
Inputs for vibratory driving and the shown in table 8. Calculated Level B 9.

TABLE 7—USER SPREADSHEET INPUTS FOR VIBRATORY DRIVING

Inputs	36-in steel (install)	24-to-30-in steel (install)	24-in steel perm. (install)	24-in steel temp. (install and removal)	18-in steel (install)	12-inch steel H-piles (install and removal)	18-in timber (removal)	16.5-inch concrete (removal)
Tab Used .....	A.1) Vibratory Pile Driving (STATIONARY: Non-impulsive, Continuous)							
Source Level (RMS) .....	170	159	154	154	158	150	162	163
Weighting Factor Adjustment (kHz) .....	2.5							
Duration (minutes) .....	120	60	90	30	30	30	30	60
Piles per day .....	4	6	4	8	6	3	10	8
Propagation (xLogR) .....	15							
Distance of source level (m) .....	10							

TABLE 8—CALCULATED LEVEL A HARASSMENT ZONES, VIBRATORY INSTALLATION AND REMOVAL (m)

Pile type	Level A threshold		
	High-frequency cetaceans 173 dB SELcum	Phocid pinnipeds 201 dB SELcum	Otariid pinnipeds 219 dB SELcum
36-inch steel piles (installation) .....	161	67	5
24-to-30-inch steel pipe piles (installation) .....	25	10	1
24-inch steel piles, permanent (installation) .....	12	5	1
24-inch steel piles, temporary (installation and removal) .....	9	4	1
18-inch steel pipe piles (installation) .....	13	6	1
12-inch steel H-piles (installation and removal) .....	3	1	1
18-inch creosote timber piles (removal) .....	35	15	1
16.5-inch concrete octagonal sections (removal) .....	55	23	2

TABLE 9—LEVEL B HARASSMENT ZONES, VIBRATORY AND IMPACT DRIVING (m)

Pile type	Level B threshold all marine mammals 120 dBrms
<b>120 dB threshold</b>	
36-inch steel piles (installation) .....	21,545
24-to-30-inch steel pipe piles (installation) .....	3,981
24-inch steel piles, (installation and removal) .....	1,847
18-inch steel pipe piles (installation) .....	3,415
12-inch steel H-piles (installation and removal) .....	1,000
18-inch creosote timber piles (removal) .....	6,310
16.5-inch concrete octagonal sections (removal) .....	7,365
<b>160 dB threshold</b>	
36-inch steel piles (Installation) .....	736
24-inch steel piles, permanent (Installation) .....	465

### Marine Mammal Occurrence and Take Estimation

In this section we provide information about the occurrence of marine mammals, including density or other relevant information which will inform the take calculations. The primary source for density estimates is from the Navy Marine Species Density Database (NMSDD) Phase III for the Northwest Training and Testing Study Area (Navy, 2019) although density calculated from other aerial surveys was used for harbor seal. These density estimates will be used to calculate take due to the lack of site-specific data that is available.

To quantitatively assess potential exposure of marine mammals to noise levels from pile driving over the NMFS threshold guidance, the following equation was first used to provide an estimate of potential exposures within estimated harassment zones:

$$\text{Exposure estimate} = N \times \text{Level B harassment zone (square kilometer (km}^2\text{))} \times \text{maximum days of pile driving}$$

where

N = density estimate (animals per km<sup>2</sup>) used for each species.

### Harbor Seal

There are no harbor seal density estimates for Grays Harbor, but the NMSDD (NMSDD, 2020) estimates the density of harbor seals in the waters offshore of Grays Harbor as 0.3424 animals per square kilometer. However, harbor seals are anticipated to be more common within Grays Harbor than within offshore areas. Therefore, this density estimate may underestimate actual densities for the project site.

Two aerial surveys of Grays Harbor were conducted in June of 2014. The average count was multiplied by a regional correction factor of 1.43 (Huber *et al.*, 2001) to yield the estimated harbor seal abundance. A correction factor was used because aerial surveys of harbor seals on land only produce a minimum assessment of the population and animals in the water must be accounted for to estimate total abundance. The average survey count (7,495 seals/survey) was used to calculate density by dividing by the area of Grays Harbor (243 km<sup>2</sup>) resulting in

a calculated density of 30.85 animals per km<sup>2</sup>. This value was used to calculate estimated take by both Level A harassment and Level B harassment during the driving of the various types of piles for the Project. Estimated takes by Level B harassment are shown in table 10 and takes by Level A harassment are shown in table 11.

The largest Level A harassment zone for phocid pinnipeds extends from 157 to 445 meters (m) from the source during impact driving. AGP and NMFS agreed on the implementation of a 100 m shutdown zone in order to shut down for those animals closest to the pile driving activity but allow for pile driving to continue for animals that are beyond 100 m (see Mitigation section). AGP is confident they can complete work in an efficient manner with the occurrence of harbor seals in the project area. AGP has requested authorization of 18,830 takes of harbor seals by Level B harassment as well as 73 harbor seal takes by Level A harassment. NMFS concurs with the requests and has authorized take of harbor seals at these levels.

TABLE 10—CALCULATED TAKE ESTIMATE OF HARBOR SEALS BY LEVEL B HARASSMENT

Pile type	Installation/removal method	Harbor seal density per km <sup>2</sup>	Days of pile driving	Level B area (km <sup>2</sup> )	Shutdown zone distance	Shutdown area (km <sup>2</sup> )	Level B take estimate
36-inch steel piles (installation)	Vibratory	30.85	24	10.2	70	0.03	7,529.87
36-inch steel piles (installation)	Impact to proof	30.85	6	1.07	100	0.05	188.80
24-to-30-inch steel pipe piles (installation)	Vibratory	30.8	18	4.95	10	0.009	2,739.29
24-inch steel piles, permanent (installation)	Vibratory	30.85	10	2.72	10	0.004	804.37
24-inch steel piles, permanent (installation)	Impact to proof	30.85	2	0.46	100	0.05	30.36
24-inch steel piles, temporary (installation and removal)	Vibratory	30.85	12	2.72	10	0.004	1,005.46
18-inch steel pipe piles (installation)	Vibratory	30.85	6	4.3	10	0.009	794.26
12-inch steel H-piles (installation and removal)	Vibratory	30.85	6	1.7	10	0.004	313.93
18-inch creosote timber piles (removal)	Vibratory	30.85	12	7.4	15	0.014	2,734.30
16.5-inch concrete octagonal sections (removal)	Vibratory	30.85	9	7.97	25	0.011	2,209.82
<b>Total</b>							<b>18,350</b>

TABLE 11—CALCULATED TAKE ESTIMATE OF HARBOR SEALS BY LEVEL A HARASSMENT

Pile type	Installation/removal method	Harbor seal density per km <sup>2</sup>	Days of pile driving	Level A area (km <sup>2</sup> )	Shutdown zone distance	Shutdown area (km <sup>2</sup> )	Level A take estimate
36-inch steel piles (installation)	Vibratory	30.85	24	0.03	70	0.03	0.00
36-inch steel piles (installation)	Impact to proof	30.85	6	0.43	100	0.05	70.34
24-to-30-inch steel pipe piles (installation)	Vibratory	30.8	18	0.009	10	0.009	0.00
24-inch steel piles, permanent (installation)	Vibratory	30.85	10	0.002	10	0.004	0.00
24-inch steel piles, permanent (installation)	Impact to proof	30.85	2	0.084	100	0.05	2.52
24-inch steel piles, temporary (installation and removal)	Vibratory	30.85	12	0.0018	10	0.004	0.00
18-inch steel pipe piles (installation)	Vibratory	30.85	6	0.005	10	0.009	0.00
12-inch steel H-piles (installation and removal)	Vibratory	30.85	6	0.0009	10	0.004	0.00
18-inch creosote timber piles (removal)	Vibratory	30.85	12	0.014	15	0.014	0.00
16.5-inch concrete octagonal sections (removal)	Vibratory	30.85	9	0.01	25	0.011	0.00
<b>Total</b>							<b>73</b>

### California Sea Lion

The NMSDD estimates the density of California sea lions in the waters

offshore of Grays Harbor as 0.0288, 0.5573 and 0.66493 animals per km<sup>2</sup> in summer, fall and winter, respectively (Navy, 2019). AGP conservatively

utilized the higher winter density value to calculate estimated take. Based on this density estimate, the number of California sea lions that may be taken by



Level B harassment is presented in table 14. Take by Level A harassment is not anticipated since the nearest documented California sea lion haulout sites are at the Westport Docks, approximately 13 miles west of the Project site near the entrance to Grays

Harbor (Jeffries *et al.*, 2015), and another haulout observed in 1997 referred to as the mid-harbor flats located approximately 5.65 miles west of the Project site (WDFW, 2022). Additionally, the largest Level A harassment zone is 33 m, with all the

other zones for both impact and vibratory driving no more than 12 m.

AGP requested and NMFS has authorized 387 California sea lion takes by Level B harassment as shown in table 12.

TABLE 12—LEVEL B HARASSMENT TAKE ESTIMATES FOR CALIFORNIA SEA LIONS

Pile type	Installation/removal method	California sea lion density per km <sup>2</sup>	Days of pile driving	Level B area (km <sup>2</sup> )	Shutdown zone distance	Shutdown area (km <sup>2</sup> )	Level B take estimate
36-inch steel piles (installation) .....	Vibratory .....	0.6493	24	10.2	10	0.03	158.48
36-inch steel piles (installation) .....	Impact to proof .....	0.6493	6	1.07	35	0.016	4.11
24-to-30-inch steel pipe piles (installation) .....	Vibratory .....	0.6493	18	4.95	10	0.009	57.75
24-inch steel piles, permanent (installation) .....	Vibratory .....	0.6493	10	2.72	10	0.004	16.93
24-inch steel piles, permanent (installation) .....	Impact to proof .....	0.6493	2	0.46	15	0.006	0.71
24-inch steel piles, temporary (installation and removal) .....	Vibratory .....	0.6493	12	2.72	10	0.004	21.16
18-inch steel pipe piles (installation) .....	Vibratory .....	0.6493	6	4.3	10	0.009	16.72
12-inch steel H-piles (installation and removal) .....	Vibratory .....	0.6493	6	1.7	10	0.004	6.61
18-inch creosote timber piles (removal) .....	Vibratory .....	0.6493	12	7.4	10	0.009	57.59
16.5-inch concrete octagonal sections (removal) .....	Vibratory .....	0.6493	9	7.97	10	0.004	46.55
Total .....	.....	.....	.....	.....	.....	.....	387

### Steller Sea Lion

The NMSDD estimates the density of Steller sea lions in the waters offshore of Grays Harbor as 0.1993 animals per km<sup>2</sup> in the summer, 0.1678 animals per km<sup>2</sup> in the winter/spring, and 0.1390 animals per km<sup>2</sup> in the fall (Navy, 2020). The summer density estimate of 0.1993 per km<sup>2</sup> has been used as a conservative surrogate for Steller sea lion density within Grays Harbor.

WDFW Priority Habitat and Species Data does not indicate any observations of Steller sea lions in Grays Harbor (WDFW, 2022). The nearest documented Steller sea lion haul-out sites to the Project site are at Split Rock, 35 miles north of the entrance to Grays Harbor, and at the mouth of the Columbia River, 46 miles south of the entrance to Grays Harbor (Jeffries *et al.*, 2000). A few Steller sea lions may haul out on buoys near the Westport marina, located 13 miles west of the Project site, or at

Westport docks, similar to California sea lions. Given that the Level A harassment zone varies from 1 to 5 meters during vibratory pile installation and 12 to 33 meters during impact installation, in addition to their uncommon appearances in Grays Harbor, no take by Level A harassment is anticipated or authorized by NMFS.

AGP requested and NMFS has authorized 119 Steller sea lion takes by Level B harassment as shown in table 13.

TABLE 13—LEVEL B HARASSMENT TAKE ESTIMATES FOR STELLER SEA LIONS

Pile type	Installation/removal method	Stellar sea lion density per km <sup>2</sup>	Days of pile driving	Level B area (km <sup>2</sup> )	Shutdown zone distance	Shutdown area (km <sup>2</sup> )	Level B take estimate
36-inch steel piles (installation) .....	Vibratory .....	0.1993	24	10.2	10	0.03	48.65
36-inch steel piles (installation) .....	Impact to proof .....	0.1993	6	1.07	35	0.016	1.26
24-to-30-inch steel pipe piles (installation) .....	Vibratory .....	0.1993	18	4.95	10	0.009	17.73
24-inch steel piles, permanent (installation) .....	Vibratory .....	0.1993	10	2.72	10	0.004	5.20
24-inch steel piles, permanent (installation) .....	Impact to proof .....	0.1993	2	0.46	15	0.006	0.22
24-inch steel piles, temporary (installation and removal) .....	Vibratory .....	0.1993	12	2.72	10	0.004	6.50
18-inch steel pipe piles (installation) .....	Vibratory .....	0.1993	6	4.3	10	0.009	5.13
12-inch steel H-piles (installation and removal) .....	Vibratory .....	0.1993	6	1.7	10	0.004	2.03
18-inch creosote timber piles (removal) .....	Vibratory .....	0.1993	12	7.4	10	0.009	17.68
16.5-inch concrete octagonal sections (removal) .....	Vibratory .....	0.1993	9	7.97	10	0.004	14.29
Total .....	.....	.....	.....	.....	.....	.....	119

### Harbor Porpoise

The Navy has estimated that density of harbor porpoises in the waters offshore of Grays Harbor is 0.467 animals per km<sup>2</sup> (Navy, 2019). AGP acknowledges that this value may be an overestimate since it is based on offshore observations. However, lacking additional survey or anecdotal evidence, this NMSDD value is used as a conservative estimate for the number of

harbor porpoises that are expected to be within Grays Harbor. Estimated take by Level B harassment is shown in table 14.

During impact pile driving, the Level A harassment isopleths range from 349 to 990 m for high-frequency cetaceans and up to 161 m during vibratory driving. AGP will implement a maximum of 100-m shutdown zone. This leaves large areas where take of

harbor porpoises by Level A harassment could occur. It would be challenging for protected species observers to effectively monitor out to the full extent of these zones given the cryptic nature of harbor porpoises. Therefore, take was estimated using porpoise density multiplied by the area of the Level A harassment zone beyond 100 m (in cases where the Level A harassment zone exceeded the shutdown zone)

multiplied by the number of driving days as shown in table 15.

AGP requested and NMFS has authorized 277 harbor porpoise takes by

Level B harassment and 5 harbor porpoises by Level A harassment.

TABLE 14—CALCULATED TAKE ESTIMATE OF HARBOR PORPOISE BY LEVEL B HARASSMENT

Pile type	Installation/removal method	Harbor porpoise density per km <sup>2</sup>	Days of pile driving	Level B area (km <sup>2</sup> )	Shutdown zone distance	Shutdown area (km <sup>2</sup> )	Level B take estimate
36-inch steel piles (installation) .....	Vibratory .....	0.467	24	10.2	100	0.05	113.76
36-inch steel piles (installation) .....	Impact to proof .....	0.467	6	1.07	100	0.05	2.86
24-to-30-inch steel pipe piles (installation) .....	Vibratory .....	0.467	18	4.95	25	0.023	41.42
24-inch steel piles, permanent (installation) .....	Vibratory .....	0.467	10	2.72	10	0.004	12.18
24-inch steel piles, permanent (installation) .....	Impact to proof .....	0.467	2	0.46	100	0.05	0.46
24-inch steel piles, temporary (installation and removal) .....	Vibratory .....	0.467	12	2.72	10	0.004	15.22
18-inch steel pipe piles (installation) .....	Vibratory .....	0.467	6	4.3	15	0.014	12.01
12-inch steel H-piles (installation and removal) ....	Vibratory .....	0.467	6	1.7	10	0.004	4.75
18-inch creosote timber piles (removal) .....	Vibratory .....	0.467	12	7.4	35	0.034	41.28
16.5-inch concrete octagonal sections (removal) .....	Vibratory .....	0.467	9	7.97	55	0.025	33.39
Total .....	.....	.....	.....	.....	.....	.....	277

TABLE 15—CALCULATED TAKE ESTIMATE OF HARBOR PORPOISE BY LEVEL A HARASSMENT

Pile type	Installation/removal method	Harbor porpoise density per km <sup>2</sup>	Days of pile driving	Level A area (km <sup>2</sup> )	Shutdown zone distance	Shutdown area (km <sup>2</sup> )	Level A take estimate
36-inch steel piles (installation) .....	Vibratory .....	0.467	24	0.086	100	0.05	0.40
36-inch steel piles (installation) .....	Impact to proof .....	0.467	6	1.64	100	0.05	4.46
24-to-30-inch steel pipe piles (installation) .....	Vibratory .....	0.467	18	0.023	25	0.023	0.00
24-inch steel piles, permanent (installation) .....	Vibratory .....	0.467	10	0.005	10	0.004	0.00
24-inch steel piles, permanent (installation) .....	Impact to proof .....	0.467	2	0.28	100	0.05	0.26
24-inch steel piles, temporary (installation and removal) .....	Vibratory .....	0.467	12	0.004	10	0.004	0.00
18-inch steel pipe piles (installation) .....	Vibratory .....	0.467	6	0.012	15	0.014	0.00
12-inch steel H-piles (installation and removal) ....	Vibratory .....	0.467	6	0.001	10	0.004	0.00
18-inch creosote timber piles (removal) .....	Vibratory .....	0.467	12	0.034	35	0.034	0.00
16.5-inch concrete octagonal sections (removal) .....	Vibratory .....	0.467	9	0.025	55	0.025	0.00
Total .....	.....	.....	.....	.....	.....	.....	5

TABLE 16—ESTIMATED TAKE BY LEVEL A AND LEVEL B HARASSMENT, BY SPECIES AND STOCK

Common name	Stock	Stock abundance	Level A	Level B	Total authorized take	Authorized take as percentage of stock
Harbor porpoise .....	Northern Oregon/Washington Coast .....	22,074	5	277	282	1.3
Steller sea lion .....	Eastern U.S. ....	36,308	.....	119	119	0.3
California sea lion .....	U.S. ....	257,606	.....	387	387	0.2
Harbor seal .....	OR/WA coast stock .....	<sup>a</sup> 24,731	73	18,350	18,423	74.5

<sup>a</sup> There is no current estimate of abundance available for this stock. Value presented is the most recent available and based on 1999 data.

## 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.

*Pre-Activity Monitoring*—Prior to the start of daily in-water construction activity, or whenever a break in pile

driving/removal of 30 minutes or longer occurs, protected species observers (PSOs) would observe the shutdown and monitoring zones for a period of 30 minutes. The shutdown zone would be considered cleared when a marine mammal has not been observed within the zone for that 30-minute period. If a marine mammal is observed within the shutdown zone, a soft-start cannot proceed until the animal has left the zone or has not been observed for 15 minutes. If the monitoring zone has been observed for 30 minutes and marine mammals are not present within the zone, soft-start procedures can commence and work can continue. Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine that the shutdown zones indicated in

table 17 are clear of marine mammals. Pile driving may commence following 30 minutes of observation when the determination is made that the shutdown zones are clear of marine mammals. If work ceases for more than 30 minutes, the pre-activity monitoring of both the monitoring zone and shutdown zone would commence.

*Implementation of Shutdown Zones for Level A Harassment*—For all pile driving/removal activities, AGP would implement shutdowns within designated zones. The purpose of a shutdown zone is generally to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Implementation of shutdowns would be used to avoid or minimize takes by

Level A harassment from vibratory and impact pile driving for all four species for which take may occur. Shutdown zones would be based upon the Level A harassment isopleth for each pile size/type and driving method where applicable. However, a maximum shutdown zone of 100 m was requested by AGP and has been accepted by NMFS. This is anticipated to reduce Level A harassment exposures without resulting in a substantial risk to the project schedule that could occur if marine mammals repeatedly enter into larger shutdown zones.

A minimum shutdown zone of 10 m would be required for all in-water construction activities to avoid physical interaction with marine mammals. Shutdown zones for each activity type are shown in table 17.

TABLE 17—SHUTDOWN ZONES DURING PILE INSTALLATION AND REMOVAL (m)

Pile type	Shutdown zone			Level B harassment zone
	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds	
Impact				
36-inch steel piles (installation) .....	100	100	35	740
24-inch steel piles, permanent (installation) .....	100	100	15	465
Vibratory				
36-inch steel piles (installation) .....	100	70	10	21,550
24-to-30-inch steel pipe piles (installation) .....	25	10	10	3,985
24-inch steel piles, permanent (installation) .....	15	10	10	1,850
24-inch steel piles, temporary (installation and removal) .....	10	10	10	1,850
18-inch steel pipe piles (installation) .....	15	10	10	3,415
12-inch steel H-piles (installation and removal) .....	10	10	10	1,000
18-inch creosote timber piles (removal) .....	35	15	10	6,310
16.5-inch concrete octagonal sections (removal) .....	55	25	10	7,365

All marine mammals would 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 would continue and PSOs would document the animal's presence within the estimated harassment zone.

If a species for which authorization has not been granted, or a species which has been granted but the authorized takes are met, is observed approaching or within the Level B harassment zone, pile driving activities will be shut down immediately.

Activities will not resume until the animal has been confirmed to have left the area or 15 minutes has elapsed with no sighting of the animal.

*Soft Start*—The use of soft-start procedures are believed to 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. For impact pile driving, contractors would be required to provide an initial set of strikes from the hammer at reduced energy, with each strike followed by a 30-second waiting period. This procedure would be conducted a total of three times before impact pile driving begins. Soft start would 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. Soft start is not required during vibratory pile driving and removal activities.

*Bubble Curtain*—A bubble curtain would be employed during impact installation or proofing of steel piles. A noise attenuation device would not be required during vibratory pile driving. If a bubble curtain or similar measure is used, it would distribute air bubbles

around 100 percent of the piling perimeter for the full depth of the water column. Any other attenuation measure would be required to provide 100 percent coverage in the water column for the full depth of the pile. The lowest bubble ring would be in contact with the mudline for the full circumference of the ring. The weights attached to the bottom ring would ensure 100 percent mudline contact. No parts of the ring or other objects would prevent full mudline contact. Air flow to the bubble rings must be balanced around the circumference of the pile.

Based on our evaluation of the applicant's measures, NMFS has determined that the proposed 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

Monitoring must be conducted by NMFS-approved observers in accordance with sections 13.1 and 13.2 of the application. Trained observers must be placed from the best vantage point(s) practicable to monitor for

marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator. Observer training must be provided prior to project start, and shall include instruction on species identification (sufficient to distinguish the species in the project area), description and categorization of observed behaviors and interpretation of behaviors that may be construed as being reactions to the specified activity, proper completion of data forms, and other basic components of biological monitoring, including tracking of observed animals or groups of animals such that repeat sound exposures may be attributed to individuals (to the extent possible).

Monitoring would be conducted 30 minutes before, during, and 30 minutes after pile driving/removal activities. In addition, observers would record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven or removed. Pile driving/removal 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.

A minimum of three PSOs must be on duty during all in-water pile driving activities. One observer will be stationed on the existing dock or similar location to monitor the Level A harassment zones, and two other observers will be stationed throughout the Level B harassment zones where best line of sight views would provide most complete coverage of the zone. PSOs would monitor for marine mammals entering the harassment zones; the position(s) may vary based on construction activity and location of piles or equipment.

PSOs would scan the waters using binoculars and would use a handheld range-finder device to verify the distance to each sighting from the project site. All PSOs would be trained in marine mammal identification and behaviors and are required to have no other project-related tasks while conducting monitoring. In addition, monitoring would be conducted by qualified observers, who would be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator via a radio. AGP would adhere to the following observer qualifications:

- (i) PSOs must be independent of the activity contractor (for example,

employed by a subcontractor) and have no other assigned tasks during monitoring periods.

- (ii) At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.

- (iii) 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.

- (iv) 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.

- (v) PSOs must be approved by NMFS prior to beginning any activity subject to this IHA.

Additional standard observer qualifications include:

- 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 and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; 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.

### Reporting

A draft marine mammal monitoring report will be submitted to NMFS within 90 days after the completion of pile driving and removal activities. It will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

- Dates and times (begin and end) of all marine mammal monitoring.

- Construction activities occurring during each daily observation period, including the number and type of piles driven or removed and by what method (*i.e.*, impact driving) and the total equipment duration for cutting for each pile or total number of strikes for each pile (impact driving).

- PSO locations during marine mammal monitoring.

- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance.

- Upon observation of a marine mammal, the following information: Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting; Time of sighting; Identification of the animal(s) (*e.g.*, genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species; Distance and bearing of each marine mammal observed relative to the pile being driven for each sighting (if pile driving was occurring at time of sighting); Estimated number of animals (min/max/best estimate); Estimated number of animals by cohort (adults, juveniles, neonates, group composition, *etc.*); Animal's closest point of approach and estimated time spent within the harassment zone; and Description of any marine mammal behavioral observations (*e.g.*, observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.*, no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching).

- Number of marine mammals detected within the harassment zones, by species.

- Detailed information about any implementation of any mitigation triggered (*e.g.*, shutdowns and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.

If no comments are received from NMFS within 30 days, the draft report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

### *Reporting Injured or Dead Marine Mammals*

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as an injury, serious injury or mortality, AGP must immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the West Coast Region regional stranding coordinator. The report must include the following information:

- Description of the incident;
- Environmental conditions (*e.g.*, Beaufort sea state, visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities must not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with AGP to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. AGP will not be able to resume their activities until notified by NMFS.

In the event that the AGP discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition as described in the next paragraph), AGP must immediately report the incident to the Office of Protected Resources ([PR.ITP.MonitoringReports@noaa.gov](mailto:PR.ITP.MonitoringReports@noaa.gov)), NMFS and to the West Coast Region regional stranding coordinator as soon as feasible. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with AGP to determine whether modifications in the activities are appropriate.

### **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 majority of our analysis applies to all the species listed in table 18, given that many of the anticipated effects of this project on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, they are described independently in the analysis below.

Pile driving and removal activities associated with the project as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level A harassment and Level B harassment from underwater sounds generated from pile driving and removal. Potential takes could occur if individuals of these species are present in zones ensounded above the thresholds for Level A or Level B harassment identified above when these activities are underway.

Take by Level A and Level B harassment would be due to potential behavioral disturbance, TTS, and PTS. No serious injury or mortality is anticipated or authorized given the nature of the activity and measures designed to minimize the possibility of injury to marine mammals. Take by Level A harassment is only anticipated

for harbor porpoise and harbor seal. The potential for harassment is minimized through the construction method and the implementation of the planned mitigation measures (see Mitigation section).

Based on reports in the literature as well as monitoring from other similar activities, behavioral disturbance (*i.e.*, Level B harassment) would likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.*, Thorson and Reyff, 2006; HDR, Inc., 2012; Lerma, 2014). Most likely for pile driving, individuals would simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted in Washington, which have taken place with no observed severe responses of any individuals or known long-term adverse consequences. Level B harassment would be reduced to the level of least practicable adverse impact through use of mitigation measures described herein and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring. While vibratory driving associated with the planned project may produce sound at distances of many kilometers from the project site, thus overlapping with some likely less-disturbed habitat, the project site itself is located in a busy harbor and the majority of sound fields produced by the specified activities are close to the harbor. Animals disturbed by project sound would be expected to avoid the area and use nearby higher-quality habitats.

In addition to the expected effects resulting from authorized Level B harassment, we anticipate that harbor porpoises and harbor seals may sustain some limited Level A harassment in the form of auditory injury. However, animals in these locations that experience PTS would likely only receive slight PTS, *i.e.* minor degradation of hearing capabilities within regions of hearing that align most completely with the energy produced by pile driving, *i.e.* the low-frequency region below 2 kHz, not severe hearing impairment or impairment in the regions of greatest hearing sensitivity. If hearing impairment occurs, it is most likely that the affected animal would lose a few decibels in its hearing sensitivity, which in most cases is not

likely to meaningfully affect its ability to forage and communicate with conspecifics. As described above, we expect that marine mammals would be likely to move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice through use of soft start.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat. The project activities would not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish or invertebrates to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities, the relatively small area of the habitat that may be affected, and the availability of nearby habitat of similar or higher value, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences. While there are haulouts for pinnipeds in the area, these locations are some distance from the actual project site. According to WDFW's atlas of seal and sea lion haulout sites (Jeffries *et al.*, 2000), all haul-outs in Grays Harbor are associated with tidal flats and at high tide it is assumed that these animals are foraging elsewhere in the estuary. The nearest documented harbor seal haul-out site to the Project site is a low-tide haul-out located 6 miles to the west of the project site. The nearest documented California sea lion haulout sites to the Project site are at the Westport Docks, approximately 13 miles west of the Project site near the entrance to Grays Harbor (Jeffries *et al.*, 2015), and another haulout observed in 1997 referred to as the mid-harbor flats located approximately 5.65 miles west of the Project site (WDFW, 2022). The nearest documented Steller sea lion haul-out sites to the Project site are at Split Rock, 35 miles north of the entrance to Grays Harbor, and at the mouth of the Columbia River, 46 miles south of the entrance to Grays Harbor (Jeffries *et al.*, 2000). A few Steller sea lions may haul out on buoys near the Westport marina, located 13 miles west of the Project site, or at Westport docks, similar to California sea lions. While repeated exposures of individuals to this pile driving activity could cause limited Level A harassment in harbor seals and Level B harassment in seals and sea lions, they are unlikely to considerably disrupt foraging behavior or result in

significant decrease in fitness, reproduction, or survival for the affected individuals.

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 is anticipated or authorized;
- Any Level A harassment exposures (*i.e.*, to harbor porpoise and harbor seals, only) are anticipated to result in slight PTS (*i.e.*, of a few decibels), within the lower frequencies associated with pile driving;
- The anticipated incidents of Level B harassment would consist of, at worst, temporary modifications in behavior that would not result in fitness impacts to individuals;
- The ensounded areas from the project is very small relative to the overall habitat ranges of all species and stocks;
- Repeated exposures of pinnipeds to this pile driving activity could cause slight Level A harassment in seals and Level B harassment in seals and sea lion species, but are unlikely to considerably disrupt foraging behavior or result in significant decrease in fitness, reproduction, or survival for the affected individuals. In all, there would be no adverse impacts to the stocks as a whole; and
- The required 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 activity on marine mammals and their habitat, and taking into consideration the implementation of the required monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned 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.

Table 16 demonstrates the number of instances in which individuals of a given species could be exposed to received noise levels that could cause take of marine mammals. Our analysis shows that less than 2 percent of all but one stock could be taken by harassment. While the percentage of stock taken from the Oregon/Washington coastal stock of harbor seal appears to be high (74.5 percent), in reality the number of individuals taken by harassment would be far less. Instead, it is more likely that there will be multiple takes of a smaller number of individuals over multiple days, lowering the number of individuals taken. The range of the Oregon/Washington coastal stock includes harbor seals from the California/Oregon border to Cape Flattery on the Olympic Peninsula of Washington, which is a distance of approximately 150 miles (240 km) (Carretta *et al.*, 2002). Additionally, there are over 150 Oregon/Washington coastal harbor seal stock haulouts along the outer Washington coast spanning from the Columbia River north to Tatoosh Island on the northwestern tip of the Olympic Peninsula (Scordino, 2010). This figure does not include many additional haulout sites found along the Oregon coast. Given the expansive range of the Oregon/Washington coastal stock along with the numerous haulouts that have been documented on the Washington coast, it is unlikely that the number of individuals taken, limited largely to the pool of seals present in Grays Harbor, would exceed  $\frac{1}{3}$  of the stock. In consideration of various factors described above, we have determined that numbers of individuals taken would comprise less than one-third of the best available population abundance estimate of the Oregon/Washington coastal stock of harbor seal.

Based on the analysis contained herein of the planned activity (including the required 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 has been authorized or expected to result from 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 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 AGP for conducting pile driving activities at the Port of Grays Harbor from July 16, 2024 through July 15, 2025, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The issued IHAs can be found at: <https://www.fisheries.noaa.gov/action/incidental-take->

*authorization-ag-processing-incs-port-grays-harbor-terminal-4-expansion-and.*

Dated: June 3, 2024.

Catherine Marzin,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.  
[FR Doc. 2024-12471 Filed 6-6-24; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XD940]

### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Log Export Dock Project on the Columbia River Near Longview, WA

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

**ACTION:** Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

**SUMMARY:** NMFS has received a request from Weyerhaeuser Company (Weyerhaeuser) for authorization to take marine mammals incidental to Log Export Dock Project on the Columbia River near Longview, Washington. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-time, 1-year renewal that could be issued under certain circumstances and if all requirements are met, as described in the Request for Public Comments section at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision.

**DATES:** Comments and information must be received no later than July 8, 2024.

**ADDRESSES:** Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, and should be submitted via email to [ITP.wachtendonk@noaa.gov](mailto:ITP.wachtendonk@noaa.gov). Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may