

Dated: October 21, 2011.

**Emily H. Menashes,**

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

[FR Doc. 2011-27745 Filed 10-25-11; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XA788**

#### North Pacific Fishery Management Council (NPFMC); Public Meetings

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The North Pacific Fishery Management Council's (Council) Gulf of Alaska (GOA) and Bering Sea/Aleutian Islands (BS/AI) Groundfish Plan Teams will meet in Seattle.

**DATES:** November 14–18, 2011. The meetings will begin at 9 a.m., Monday, November 14, and continue through Friday, November 18, 2011.

**ADDRESSES:** The meetings will be held at the Alaska Fisheries Science Center, 7600 Sand Point Way, NE., Building 4, Observer Training Room (GOA Plan Team) and Traynor Room (BS/AI Plan Team), Seattle, WA.

*Council address:* North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252.

**FOR FURTHER INFORMATION CONTACT:** Jane DiCosimo or Diana Stram, NPFMC; telephone: (907) 271-2809.

**SUPPLEMENTARY INFORMATION:** The Plan Teams will compile and review the annual Groundfish Stock Assessment and Fishery Evaluation Report (SAFE), including the Economic Report, the Ecosystems Consideration Chapter, the stock assessments for BSAI and GOA groundfish, and recommend final groundfish catch specifications for 2012/13.

The Agenda is subject to change, and the latest version will be posted at <http://www.alaskafisheries.noaa.gov/npfmc/>.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen, (907) 271-2809, at least 5 working days prior to the meeting date.

Dated: October 20, 2011.

**Tracey L. Thompson,**

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

[FR Doc. 2011-27630 Filed 10-25-11; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Availability of Seats for the Cordell Bank National Marine Sanctuary Advisory Council

**AGENCY:** Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice and request for applications.

**SUMMARY:** The ONMS is seeking applications for the following vacant seats on the Cordell Bank National Marine Sanctuary Advisory Council: Education, Primary and Alternate seats; Fishing, Primary and Alternate seats; Research, Alternate seat; Community-at-Large Mann County, Alternate seat; Community-at-Large Sonoma County, Alternate seat. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the sanctuary. Applicants who are chosen as members should expect to serve three-year terms, pursuant to the council's Charter.

**DATES:** Applications are due by December 1, 2011.

**ADDRESSES:** Application kits may be obtained from <http://cordellbank.noaa.gov/> or Kaitlin Graiff, [kaitlin.graiff@noaa.gov](mailto:kaitlin.graiff@noaa.gov), P.O. Box 159, Olema, CA 94950. Completed applications should be sent to the above postal or e-mail address, or faxed to 415-663-0315 attn. Kaitlin Graiff.

**FOR FURTHER INFORMATION CONTACT:** Kaitlin Graiff, Advisory Council Coordinator, 415-663-0314 x105, [kaitlin.graiff@noaa.gov](mailto:kaitlin.graiff@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Cordell Bank National Marine Sanctuary Advisory Council was established in 2001 to ensure continued public participation in the management of the sanctuary. Council seats are occupied by members representing research, conservation, maritime activity, fishing, education, Mann and Sonoma County

community-at-large, as well as Federal agency partners. Individual council members act as liaisons between the Sanctuary and their constituent groups. The council holds a minimum of four regular meetings per year, and an annual retreat in the summer.

**Authority:** 16 U.S.C. 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: October 18, 2011.

**Daniel J. Basta,**

*Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.*

[FR Doc. 2011-27584 Filed 10-25-11; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XA650**

#### Small Takes of Marine Mammals Incidental to Specified Activities; Pier 36/Brannan Street Wharf Project in the San Francisco Bay, CA

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

**ACTION:** Notice; proposed incidental harassment authorization; request for comments.

**SUMMARY:** NMFS has received a complete and adequate application from the United States Army Corps of Engineers, San Francisco District (USACE), on behalf of the Port of San Francisco (Port), for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to pile driving during construction of the Brannan Street Wharf. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is proposing to issue an IHA to incidentally harass, by Level B harassment, four species of marine mammals during the specified activity within a specific geographic region and is requesting comments on its proposal. **DATES:** Comments and information must be received no later than November 25, 2011.

**ADDRESSES:** Comments on the application and this proposal should be addressed to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. The mailbox address for

providing e-mail comments is [ITP.Magliocca@noaa.gov](mailto:ITP.Magliocca@noaa.gov). NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size.

**Instructions:** All comments received are a part of the public record and will generally be posted to <http://www.nmfs.noaa.gov/pr/permits/incidental.htm> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Michelle Magliocca, Office of Protected Resources, NMFS, (301) 427-8401.

**SUPPLEMENTARY INFORMATION:**

**Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specific geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization 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), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if

the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as “\* \* \* an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.”

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) further established a 45-day time limit for NMFS’ review of an application, followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

**Summary of Request**

On May 6, 2011, NMFS received an application from the USACE, on behalf of the Port, requesting an IHA for the take, by Level B harassment, of small numbers of Pacific harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), gray whales (*Eschrichtius robustus*), and Pacific harbor porpoises (*Phocoena phocoena*) incidental to pile driving activities during construction of the Brannan Street Wharf in San Francisco, California. Upon receipt of additional information and a revised application, NMFS determined the application complete and adequate on August 7, 2011.

The Port proposes to construct a pile-supported park that would be known as the “Brannan Street Wharf” and would replace the existing Pier 36 and provide recreational space for the public. The proposed project would require installation of 261 steel and concrete piles and 57,000 square feet (ft<sup>2</sup>) of new decking. Because elevated sound levels from pile driving have the potential to result in marine mammal harassment, NMFS is proposing to issue an IHA for take incidental to the specified activity.

**Description of the Specified Activity**

The Port proposes to replace the existing Pier 36 with a pile-supported park along the San Francisco waterfront. The proposed park would provide a new open space for the purpose of public recreation and include the following: a 26,000 ft<sup>2</sup> raised lawn area; a waterside walkway with seating, shelters, and picnic tables; and a 2,000 ft<sup>2</sup> small craft float and accessible gangway for launching non-motorized recreational vessels.

To construct the 57,000 ft<sup>2</sup> open space, the existing overwater Pier 36 structures would be demolished, the existing supporting caissons would be removed, and 261 steel and concrete piles would be installed at the site using vibratory and impact pile driving. Demolition and removal of the caissons is not expected to harass marine mammals because these activities would occur above water and the height of the existing Pier 36 decking prevents marine mammals from hauling out. (The nearest haul-out site is over 3.2 kilometers (km) (2 miles [mi]) away at Yerba Buena Island.) The caissons would be removed using a barge mounted excavator and this method is not expected to generate sound at pressures outside of the ambient noise conditions. Installation of the new cast-in-place concrete decking would also occur above water. Installation of the 261 steel and concrete piles, however, would require in-water pile driving that could produce high-intensity sound and has the potential to harass marine mammals. A breakdown of proposed pile size and type is shown in Table 1.

TABLE 1—SUMMARY OF PILE TYPES AND PILE DRIVING ACTIVITY

Pile type	Total piles	Pile driver	Max piles per day
24-inch octagonal concrete .....	141	Impact .....	8
24-inch steel shell .....	116	Vibratory and impact .....	5
36-inch steel shell .....	4	Vibratory and impact .....	4

Of the 261 piles, about 141 would be 24-inch (in) octagonal concrete piles driven in water depths of 2 to 15 ft mean lower low water. These piles would be driven to a depth of 60 ft below the mudline elevation—like all the other piles—using an impact hammer. Each pile may take 20 minutes to drive into the substrate, which consists of about 20 ft of bay mud underlain by a sand mixture. Up to 800 blows from an impact hammer would be necessary for each concrete pile.

Of the 261 piles, about 116 would be 24-in steel shell piles driven in water depths of zero to 6 ft mean lower low water. These piles would be installed nearest the shoreline as pier support piles and would be used in place of concrete piles due to the presence of rock dike material along the shore. Installation would include about eight minutes of vibratory pile driving, followed by up to 300 blows from an impact hammer.

The remaining 4 piles would be 36-in steel shell piles used for the new floating dock. These piles would be installed in water depths of 10 to 15 ft mean lower low water. Each pile installation would begin with five to 15 minutes of vibratory pile driving, followed by about 600 blows from an impact hammer.

Only one pile type is expected to be installed on any given day. Conservatively assuming the maximum vibratory time and number of impact blows required for each pile, a total of 988 minutes of vibratory driving and 150,000 impact blows would be necessary over the 12-month duration of the project. All vibratory pile driving would use a standard frequency hammer similar to an APE 150, which produces up to 1,800 vibrations per minute. All impact pile driving would use a DelMag D46–32 diesel impact hammer, which produces about 122,000 foot-pounds maximum energy blow at

1.5 seconds per blow on average. A bubble curtain would be used as a sound attenuation device during impact pile driving for the 24-in and 36-in steel shell piles.

Region of Activity

The proposed activity would occur in the San Francisco Bay at Pier 36, four blocks south of the San Francisco Oakland Bay Bridge. More specifically, this area is located between Pier 30–32 and Pier 38, directly adjacent to the east side of the Embarcadero and within the South of Market district of San Francisco. San Francisco Bay and the adjacent Sacramento-San Joaquin Delta make up one of the largest estuarine systems on the continent. The Bay has undergone extensive industrialization, but remains an important environment for healthy marine mammal populations year round. The area surrounding the proposed activity is an intertidal landscape with heavy industrial use and boat traffic.

Dates of Activity

Wharf and pier demolition—which is not expected to harass marine mammals—may begin in January 2012 and last for five months. The new wharf construction, including pile driving, is scheduled to begin in May 2012 and end 13 months later; however, pile driving is expected to be complete by December 2012.

Sound Propagation

For background, sound is a mechanical disturbance consisting of minute vibrations that travel through a medium, such as air or water, and is generally characterized by several variables. Frequency describes the sound’s pitch and is measured in hertz (Hz) or kilohertz (kHz), while sound level describes the sound’s loudness and is measured in decibels (dB). Sound level increases or decreases exponentially with each dB of change.

For example, 10 dB yields a sound level 10 times more intense than 1 dB, while a 20 dB level equates to 100 times more intense, and a 30 dB level is 1,000 times more intense. Sound levels are compared to a reference sound pressure (micro-Pascal) to identify the medium. For air and water, these reference pressures are “re: 20 µPa” and “re: 1 µPa,” respectively. Root mean square (RMS) is the quadratic mean sound pressure over the duration of an impulse. RMS is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1975). RMS accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units rather than by peak pressures.

A review of numerous pile driving projects with comparable water depth and substrate conditions was conducted to identify source sound level data and estimate potential sound levels for pile driving activities around Pier 36. In their calculations, the Port conservatively assumed that the use of a bubble curtain for steel shell piles would reduce sound levels by 5 dB RMS. A conservative attenuation factor of 16 dB RMS (about 5 dB RMS per doubling of distance) was also assumed in the Port’s analysis; sound attenuation would likely be greater than 16 dB RMS for such shallow water pile driving (CalTrans, 2009). Pile driving at Pier 36 is expected to occur in water depths of zero to 15 feet. Maximum sound pressure levels for pile driving activities are shown in Table 2.

TABLE 2—MEASURED UNATTENUATED SOUND PRESSURE LEVELS IN THE NEAR FIELD (10 M) DURING PILE DRIVING IN SAN FRANCISCO BAY (CALTRANS, 2009)

Pile type	Attenuation device	Sound level (impact)	Sound level (vibratory)
24-in octagonal concrete .....	None .....	170 dB	n/a
24-in steel shell .....	Bubble curtain .....	190 dB	165 dB
36-in steel shell .....	Bubble curtain .....	190 dB	175 dB

Description of Marine Mammals in the Area of the Specified Activity

Marine mammals with confirmed occurrences in San Francisco Bay are the Pacific harbor seal, California sea lion, gray whale, harbor porpoise,

humpback whale (*Megaptera novaeangliae*), and sea otter (*Enhydra lutris*). However, humpback whales are considered extremely rare in San Francisco Bay and are highly unlikely to be present in the project vicinity during

pile driving. Sea otters are managed by the United States Fish and Wildlife Service. Therefore, these two species are not discussed further.

### *Pacific Harbor Seals*

Pacific harbor seals reside in coastal and estuarine waters off Baja, California, north to British Columbia, west through the Gulf of Alaska, and in the Bering Sea. The most recent harbor seal counts estimate the California stock of Pacific harbor seals at 34,233 individuals. The population appears to be stabilizing at what may be their carrying capacity, and human-caused mortality is declining (NMFS, 2005). The California stock of Pacific harbor seals is not listed under the Endangered Species Act (ESA) nor considered depleted under the MMPA.

In California, approximately 400–500 harbor seal haul-out sites are widely distributed along the mainland and offshore islands, including intertidal sandbars, rocky shores, and beaches. The northside of Yerba Buena Island is the closest haul-out to the project location, approximately 3.2 km (2 mi) from Pier 36. Although harbor seals use this haul-out year-round, Yerba Buena Island is not considered a pupping site. In California, breeding occurs from March to May, and pupping between April and May depending on local populations. Harbor seals around Pier 36 would likely be transiting to and from their closest haul-out (Yerba Buena Island) or opportunistically foraging. Herring spawning events could result in harbor seals congregating and approaching the action area sporadically in an unpredictable manner (pers. comm., M. DeAngelis to M. Magliocca).

Pinnipeds produce a wide range of social signals, most occurring at relatively low frequencies (Southall *et al.*, 2007), suggesting that hearing is keenest at these frequencies. Pinnipeds communicate acoustically both on land and underwater, but have different hearing capabilities dependent upon the medium (air or water). Based on numerous studies, as summarized in Southall *et al.* (2007), pinnipeds are more sensitive to a broader range of sound frequencies underwater than in air. Underwater, pinnipeds can hear frequencies from 75 Hz to 75 kHz. In air, pinnipeds can hear frequencies from 75 Hz to 30 kHz (Southall *et al.*, 2007).

### *California Sea Lions*

California sea lions reside throughout the Eastern North Pacific Ocean in shallow coastal and estuarine waters, ranging from Central Mexico to British Columbia, Canada. Their primary breeding range extends from Central Mexico to the Channel Islands in Southern California. The United States stock abundance is estimated at 238,000 sea lions (NMFS, 2007). This stock is

approaching carrying capacity and is reaching “optimum sustainable population” limits, as defined by the MMPA. California sea lions are not listed under the ESA nor considered depleted under the MMPA.

Sandy beaches are preferred habitat for haul-out sites, but marina docks, jetties, and buoys are often used in California for resting, breeding, and molting. In San Francisco Bay, sea lions have been observed at Angel Island and are known to haul out on buoys and floating docks near Pier 39, which is about 3.6 km (2.2 mi) north of the proposed project site. Sea lions usually appear at Pier 39 after returning from the Channel Islands at the beginning of August. No other sea lion haul-out sites have been identified in the Bay and no pupping has been observed in the Bay. Sea lions observed within this area may be transiting to and from nearby piers or opportunistically foraging.

Pinnipeds produce a wide range of social signals, most occurring at relatively low frequencies (Southall *et al.*, 2007), suggesting that hearing is keenest at these frequencies. Pinnipeds communicate acoustically both on land and underwater, but have different hearing capabilities dependent upon the medium (air or water). Based on numerous studies, as summarized in Southall *et al.* (2007), pinnipeds are more sensitive to a broader range of sound frequencies underwater than in air. Underwater, pinnipeds can hear frequencies from 75 Hz to 75 kHz. In air, pinnipeds can hear frequencies from 75 Hz to 30 kHz (Southall *et al.*, 2007).

### *Harbor Porpoises*

Harbor porpoises have a wide and discontinuous range that includes the North Atlantic and North Pacific. In the Eastern North Pacific, harbor porpoises are found in coastal and inland waters from Point Conception, California to Alaska. Harbor porpoises in United States waters are divided into 10 stocks, based on genetics, movement patterns, and management. Any harbor porpoises encountered during the proposed project would likely be part of the San Francisco-Russian River stock, which has an estimated abundance of 9,189 animals. This stock appeared to be stable or declining between 1988 and 1991 and has steadily increased since 1993, although not significantly. Harbor porpoises are not commonly sighted in San Francisco Bay, but have been observed traveling in small pods of two to three animals on occasion (pers. comm., M. DeAngelis to M. Magliocca) and sightings have been reported by the California Department of Transportation. The closest sightings to

Pier 36 have been near Yerba Buena Island, about 3.2 km (2 mi) away. They may occur in the action area during a time when they could be affected by pile driving activities; however, their presence in the vicinity is rare. Harbor porpoises in California are not listed under the ESA nor considered depleted under the MMPA.

Cetaceans are divided into three functional hearing groups: low-frequency, mid-frequency, and high-frequency. Harbor porpoises are considered high-frequency cetaceans and their estimated auditory bandwidth (lower to upper frequency hearing cut-off) ranges from 200 Hz to 180 kHz.

### *Gray Whales*

Gray whales are large mysticetes, or baleen whales, found mainly in shallow coastal waters of the North Pacific Ocean. Two isolated geographic distributions of gray whales exist: the Eastern North Pacific stock and the Western North Pacific stock. The Eastern North Pacific stock migrates as far south as Baja, California for breeding and calving in the winter and as far north as the Bering and Chukchi Seas for summer feeding. During migration, gray whales occasionally enter rivers and bays in very low numbers. They could potentially be in the proposed project area during pile driving activities. The most recent 2008 stock assessment report estimated the Eastern North Pacific stock to be approximately 18,813 individuals with an increasing population trend over the past several decades. Gray whales were delisted from the ESA in 1994 and are not considered depleted under the MMPA.

Gray whales, like other baleen whales, are in the low-frequency hearing group. There are no empirical data on gray whale hearing; however, Wartzok and Ketten (1999) suggest that mysticete hearing is most sensitive at the same frequencies at which they vocalize. Underwater sounds produced by gray whales range from 20 Hz to 20 kHz (Richardson *et al.*, 1995).

### **Potential Effects on Marine Mammals**

The proposed action consists of both in-water and above-water components, but the only activity with the potential to take marine mammals is pile driving. Elevated in-water sound levels from pile driving in the proposed project area may temporarily impact marine mammal behavior. Elevated in-air sound levels are not a concern because the nearest pinniped haul-out is approximately 3.2 km (2 mi) away. Marine mammals are continually exposed to many sources of sound. For example, lightning, rain, sub-sea earthquakes, and animals are

natural sound sources throughout the marine environment. Marine mammals produce sounds in various contexts and use sound for various biological functions including, but not limited to, (1) Social interactions; (2) foraging; (3) orientation; and (4) predator detection. Interference with producing or receiving these sounds may result in adverse impacts. Audible distance or received levels will depend on the sound source, ambient noise, and the sensitivity of the receptor (Richardson *et al.*, 1995). Marine mammal reactions to sound may depend on sound frequency, ambient sound, what the animal is doing, and the animal's distance from the sound source (Southall *et al.*, 2007).

#### Hearing Impairment

Marine mammals may experience temporary or permanent hearing impairment when exposed to loud sounds. Hearing impairment is classified by temporary threshold shift (TTS) and permanent threshold shift (PTS). There are no empirical data for when PTS first occurs in marine mammals; therefore, it must be estimated from when TTS first occurs and from the rate of TTS growth with increasing exposure levels. PTS is likely if the animal's hearing threshold is reduced by  $\geq 40$  dB of TTS. PTS is considered auditory injury (Southall *et al.*, 2007) and occurs in a specific frequency range and amount. Irreparable damage to the inner or outer cochlear hair cells may cause PTS; however, other mechanisms are also involved, such as exceeding the elastic limits of certain tissues and membranes in the middle and inner ears and resultant changes in the chemical composition of the inner ear fluids (Southall *et al.*, 2007). Due to proposed mitigation measures and source levels in the proposed project area, NMFS does not expect marine mammals to be exposed to PTS levels.

#### Temporary Threshold Shift (TTS)

TTS is the mildest form of hearing impairment that can occur during exposure to a loud sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises and a sound must be louder in order to be heard. TTS can last from minutes or hours to days, occurs in specific frequency ranges (*i.e.*, an animal might only have a temporary loss of hearing sensitivity between the frequencies of 1 and 10 kHz), and can occur to varying degrees (*e.g.*, an animal's hearing sensitivity might be reduced by 6 dB or by 30 dB). For sound exposures at or somewhat above the TTS-onset threshold, hearing sensitivity recovers rapidly after exposure to the

sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals. Southall *et al.* (2007) considers a 6 dB TTS (*i.e.*, baseline thresholds are elevated by 6 dB) sufficient to be recognized as an unequivocal deviation and thus a sufficient definition of TTS-onset. Because it is non-injurious, NMFS considers TTS as Level B harassment that is mediated by physiological effects on the auditory system; however, NMFS does not consider onset TTS to be the lowest level at which Level B harassment may occur.

Southall *et al.* (2007) summarizes underwater pinniped data from Kastak *et al.* (2005), indicating that a tested harbor seal showed a TTS of around 6 dB when exposed to a non-pulse noise at SPL 152 dB re: 1  $\mu$ Pa for 25 minutes. In contrast, a tested sea lion exhibited TTS-onset at 174 dB re: 1  $\mu$ Pa under the same conditions as the harbor seal. Data from a single study on underwater pulses found no signs of TTS-onset in sea lions at exposures up to 183 dB re: 1  $\mu$ Pa (peak-to-peak) (Finneran *et al.*, 2003). There is no information on species-specific TTS for harbor porpoises or gray whales.

#### Behavioral Effects

There are limited data available on the behavioral effects of non-pulse noise (for example, vibratory pile driving) on pinnipeds while underwater; however, field and captive studies to date collectively suggest that pinnipeds do not react strongly to exposures between 90 and 140 dB re: 1 microPa; no data exist from exposures at higher levels. Jacobs and Terhune (2002) observed wild harbor seal reactions to high-frequency acoustic harassment devices around nine sites. Seals came within 44 m of the active acoustic harassment devices and failed to demonstrate any behavioral response when received SPLs were estimated at 120–130 dB. In a captive study (Kastelein, 2006), scientists subjected a group of seals to non-pulse sounds between 8 and 16 kHz. Exposures between 80 and 107 dB did not induce strong behavioral responses; however, a single observation from 100 to 110 dB indicated an avoidance response. The seals returned to baseline conditions shortly following exposure. Southall *et al.* (2007) notes contextual differences between these two studies; the captive animals were not reinforced with food for remaining in the noise fields, whereas free-ranging animals may have been more tolerant of exposures because of motivation to return to a safe location or approach enclosures holding prey items.

Vibratory and impact pile driving may result in anticipated hydroacoustic levels between 165 and 190 dB root mean square. Southall *et al.* (2007) reviewed relevant data from studies involving pinnipeds exposed to pulse sounds and concluded that exposures to 150 to 180 dB generally have limited potential to induce avoidance behavior.

No known data exist for sound levels resulting from the type of vibratory hammer and pile sizes that would be used at the proposed project site; however, measured sound levels for the "King Kong" vibratory hammer used in Richmond, California ranged between 163 and 180 dB RMS (Illingworth and Rodkin, 2007). Sound levels at the proposed project site are expected to be lower because the vibratory hammer being used has an expected sound level of 165 dB for 24-in piles and 175 dB for 36-in piles. In addition, San Francisco Bay is highly industrialized and masking of the pile driver by other vessels and anthropogenic noise within the action area may, especially in the nearby shipping channel, make construction sounds difficult to hear at greater distances. Underwater ambient noise levels along the San Francisco waterfront may be around 133 dB RMS, based on measurements from the nearby Oakland Outer Harbor (Caltrans, 2009). Seals would likely also exhibit tolerance or habituation (Richardson *et al.*, 1999) due to the amount of anthropogenic noise within the proposed project area and San Francisco Bay as a whole.

No impacts to marine mammal reproduction are anticipated because there are no known pinniped haul-outs or rookeries within the proposed project area and San Francisco Bay is not a known breeding ground for cetaceans. Marine mammals may avoid the area around the hammer, thereby reducing their exposure to elevated sound levels. NMFS expects any impacts to marine mammal behavior to be temporary, Level B harassment (for example, avoidance or alteration of behavior). The Port conservatively assumes that five 24-in concrete piles would be installed per day, three 24-in steel piles would be installed per day, and four 36-in steel piles would be installed per day. Considering that only one pile type is expected to be installed on any given day, the maximum number of pile driving days is expected to be 69 over the eight-month period. Marine mammal injury or mortality is not likely, as the 180 dB isopleth (NMFS' Level A harassment threshold for cetaceans) for the impact hammer is 42 m (138 ft) and would be continuously monitored for marine mammals. Impact pile driving would

cease if a marine mammal is observed nearing or within a Level A harassment exclusion zone (50 m [164 ft]). For these reasons, NMFS expects any changes to marine mammal behavior to be temporary.

#### **Anticipated Effects on Habitat**

No permanent detrimental impacts to marine mammal habitat are expected to result from the proposed project. Pile driving (resulting in temporary ensonification) may impact prey species and marine mammals by resulting in avoidance or abandonment of the area; however, these impacts are expected to be local and temporary. Site conditions are expected to be improved or substantively unchanged from existing conditions. The proposed project would result in the net removal of approximately 3,550 ft<sup>2</sup> of pile fill and clearing of 47,000 ft<sup>2</sup> of timber debris that has collapsed at the end of Pier 36. This debris includes 350–400 creosote-treated wood pilings. Creosote can leach out of the wood over time, potentially causing long-term impacts to marine species. The proposed project would also result in a net reduction of 47,000 ft<sup>2</sup> of shadow fill (shading over the water). This increase of unshaded water is expected to be beneficial to benthic invertebrates, fish, and marine mammals through restoration of ambient light conditions and increased biological productivity. Overall, the proposed activity is not expected to cause significant or long-term adverse impacts on marine mammal habitat.

#### **Proposed 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 such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

The Port proposed the following mitigation measures to minimize adverse impacts to marine mammals:

##### *Sound Attenuation Device*

When using impact pile driving to install steel piles in water depths greater than two feet, an unconfined bubble curtain would be used to reduce hydroacoustic sound levels to avoid the potential for injury. The bubble curtain is expected to reduce sound levels by at least 5 dB.

##### *Establishment of an Exclusion Zone*

During all in-water impact pile driving, the Port would establish a preliminary marine mammal exclusion zone with 50 m (164 ft) radius around each pile to avoid exposure to sounds at or above 180 dB. This includes an 8-m (26-ft) buffer zone to further avoid marine mammals from entering the 180 dB isopleth. The exclusion zone would be monitored during all impact pile driving to ensure that no marine mammals enter the 50-m (164-ft) radius. The purpose of this area is to prevent Level A harassment (injury) of any marine mammal species. Once underwater sound measurements are taken, the exclusion zone may be adjusted accordingly so that marine mammals are not exposed to Level A harassment sound pressure levels. A safety zone for vibratory pile driving or installation of concrete piles is unnecessary as source levels would not exceed the Level A harassment threshold.

##### *Pile Driving Shut Down and Delay Procedures*

If a protected species observer sees a marine mammal within or approaching the exclusion zone prior to start of impact pile driving, the observer would notify the on-site resident engineer (or other authorized individual) who would then be required to delay pile driving until the marine mammal has moved outside of the exclusion zone or if the animal has not been resighted within 15 minutes for pinnipeds or 30 minutes for cetaceans. If a marine mammal is sighted within or on a path toward the exclusion zone during pile driving, pile driving should cease until that animal has cleared and is on a path away from the exclusion zone or 15/30 minutes (pinnipeds/cetaceans) has lapsed since the last sighting.

##### *Soft-Start Procedures*

A “soft-start” technique would be used at the beginning of each pile installation to allow any marine mammal that may be in the immediate area to leave before the pile hammer reaches full energy. For vibratory pile driving, the soft-start procedure requires contractors to initiate noise from the vibratory hammer for 15 seconds at 40–60 percent reduced energy followed by a 1-minute waiting period. The procedure would be repeated two additional times before full energy may be achieved. For impact hammering, contractors would be required to provide an initial set of three strikes from the impact hammer at 40 percent energy, followed by a 1-minute waiting

period, then two subsequent three-strike sets. Soft-start procedures would be conducted prior to driving each pile if hammering ceases for more than 30 minutes.

##### *Monitoring for Herring*

Monitoring for herring spawning events would be conducted on a daily basis between December 1 and February (although pile driving is expected to be complete in December). If a herring spawning event is observed, in-water work would cease for a period of two weeks following the spawning event (a measure designed to reduce impacts to fish). Pinniped presence can be sporadic and unpredictable during herring runs in San Francisco Bay; therefore, this mitigation measure would minimize impacts to marine mammals.

NMFS has carefully evaluated the applicant's proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals; (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measure for applicant implementation, including consideration of personnel safety, and practicality of implementation.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable adverse impacts on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

#### **Proposed 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 IHAs 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.

Hydroacoustic monitoring would be performed at the initial installation of each pile type (24-in concrete, 24-in steel, and 36-in steel) to ensure that the harassment isopleths are not extending past the calculated distances described in this notice. The Port must designate at least one biologically-trained, on-site individual, approved in advance by NMFS, to monitor the Level B harassment zone area for marine mammals 30 minutes before, during, and 30 minutes after all impact pile driving activities and call for shut down if any marine mammal is observed within or approaching the designated exclusion zone (preliminarily set at 50 m [164 ft]). In addition, at least two NMFS-approved protected species observers would conduct behavioral monitoring out to 1,900 m during all vibratory pile driving for the first two weeks of activity to validate take estimates and evaluate the behavioral impacts piles driving has on marine mammals out to the Level B harassment isopleth. If there are no observations of marine mammals within the Level B harassment isopleth during this time, behavioral monitoring may be reduced to a level agreed upon by the applicant and NMFS. Note that for impact hammering, the initial Level B (160 dB) harassment isopleths are 42 m (138 ft) for the concrete piles and 750 m (2,460 ft) for the steel piles. For vibratory hammering, the initial estimated distance is 1,900 m (6,233 ft). If light condition is low (such as early morning or late afternoon), protected species observers would use infrared scopes to conduct their observations.

Protected species observers would be provided with the equipment necessary to effectively monitor for marine

mammals (for example, high-quality binoculars, spotting scopes, compass, and range-finder) in order to determine if animals have entered into the exclusion zone or Level B harassment isopleth and to record species, behaviors, and responses to pile driving. If hydroacoustic monitoring indicates that threshold isopleths are greater than originally calculated, the Port would contact NMFS within 48 hours and make the necessary adjustments. Likewise, if threshold isopleths are actually less than originally calculated, adjustments may be made. Protected species observers would be required to submit a report to NMFS within 90 days of completion of pile driving. The report would include data from marine mammal sightings (such as species, group size, and behavior), any observed reactions to construction, distance to operating pile hammer, and construction activities occurring at time of sighting.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as:

any act of pursuit, torment, or annoyance which (i) Has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Based on the application and subsequent analysis, the impact of the described pile driving operations may result in, at most, short-term modification of behavior by small numbers of marine mammals within the action area. Marine mammals may avoid

the area or temporarily alter their behavior at time of exposure.

Current NMFS practice regarding exposure of marine mammals to anthropogenic noise is that in order to avoid the potential for injury (PTS), cetaceans and pinnipeds should not be exposed to impulsive sounds of 180 and 190 dB or above, respectively. This level is considered precautionary as it is likely that more intense sounds would be required before injury would actually occur (Southall *et al.*, 2007). Potential for behavioral harassment (Level B) is considered to have occurred when marine mammals are exposed to sounds at or above 160 dB for impulse sounds (such as impact pile driving) and 120 dB for non-pulse noise (such as vibratory pile driving). These levels are also considered precautionary.

Distances to NMFS’ harassment thresholds were calculated based on the sound levels at each source and the expected attenuation rate of sound (Table 3). Two sets of threshold distances were identified: one for concrete piles and one for steel piles. The threshold distances listed for the steel piles are those expected from the 36-in steel pile driving activities, as they would also encompass the isopleths for the 24-in steel piles. The 42-m (268-ft) distance to the Level A harassment threshold provides protected species observers plenty of time and adequate visibility to prevent marine mammals from entering the area during impact pile driving. This would prevent marine mammals from being exposed to sound levels that reach the Level A harassment threshold. In-air sound from pile driving also has the potential to affect marine mammals. However, in-air sound is not a concern here because there are no pinniped haul-outs near the project area.

TABLE 3—CALCULATED UNDERWATER DISTANCES TO NMFS’ MARINE MAMMAL HARASSMENT THRESHOLD LEVELS

Threshold	Distance from source (24-in concrete piles)	Distance from source (36-in steel piles)
120 dB RMS (Level B—continuous) .....	n/a .....	1,900 m (6,233 ft).
160 dB RMS (Level B—impulse) .....	42 m (138 ft) .....	750 m (2,460 ft).
180/190 dB RMS (Level A) .....	n/a .....	42 m (138 ft).

The estimated number of marine mammals potentially taken is based on marine mammal monitoring reports prepared by the California Department of Transportation during similar activities in San Francisco Bay and on discussions with the NMFS Southwest Regional Office. The California Department of Transportation’s San Francisco-Oakland Bay Bridge marine

mammal monitoring reports were used to estimate the number of pinnipeds near the Pier 36/Brannan Street Wharf area as both sites are relatively close in distance and are similar in bathymetric features. However, monitoring conducted for the San Francisco-Oakland Bay Bridge project was in close proximity to a haul-out area, while the Pier 36/Brannan Street Wharf location is

in an area of high commercial boat activity and no adjacent haul-outs. Therefore, the Caltrans data likely overestimate marine mammal abundance for the Pier 36/Brannan Street Wharf location. Based on consultation with the NMFS Southwest Regional Office, review of the monitoring reports described above, and the estimated number of pile driving

days, the Port requested authorization for the incidental take of 138 harbor seals (an average of 2 per day), 69 California sea lions (an average of 1 per day), 69 harbor porpoises (an average of 1 per day), and 2 gray whales (2 annually). Based on further consultation with the NMFS Southwest Regional Office and previous authorizations in this region, NMFS is proposing to authorize the take of five gray whales annually, rather than two. These numbers indicate the maximum number of animals expected to occur within the largest Level B harassment isopleth (1,900 m).

#### Negligible Impact and Small Numbers Analysis and Determination

NMFS has defined “negligible impact” in 50 CFR 216.103 as “\* \* \* an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.” In making a negligible impact determination, NMFS considers a number of factors which include, but are not limited to, number of anticipated injuries or mortalities (none of which would be authorized here), number, nature, intensity, and duration of Level B harassment, and the context in which takes occur.

As described above, marine mammals would not be exposed to activities or sound levels which would result in injury (PTS), serious injury, or mortality. Pile driving would occur in shallow coastal waters of the Columbia River. The action area (waters around Terminal 5) is not considered significant habitat for pinnipeds. The closest haul-out is 3.2 km (2 mi) away, which is well outside the project area’s largest harassment zone. Marine mammals approaching the action area would likely be traveling or opportunistically foraging. The amount of take the Port has requested, and NMFS proposes to authorize, is considered small (less than one percent) relative to the estimated populations of 34,233 Pacific harbor seals, 238,000 California sea lions, 9,189 harbor porpoises, and 18,813 gray whales. Marine mammals may be temporarily impacted by pile driving noise. However, marine mammals are expected to avoid the area, thereby reducing exposure and impacts. Pile driving activities are expected to occur for approximately 69 days. Furthermore, San Francisco Bay is a highly industrialized area, so animals are likely tolerant or habituated to anthropogenic disturbance, including low level vibratory pile driving operations, and noise from other anthropogenic sources

(such as vessels) may mask construction related sounds. There is no anticipated effect on annual rates of recruitment or survival of affected marine mammals.

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 mitigation and monitoring measures, NMFS preliminarily determines that the Port’s proposed pile driving activities will result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking from will have a negligible impact on the affected species or stocks.

#### Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action.

#### Endangered Species Act (ESA)

No marine mammal species listed under the ESA are anticipated to occur within the action area. Therefore, section 7 consultation under the ESA is not required.

#### National Environmental Policy Act (NEPA)

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (40 CFR parts 1500–1508), and NOAA Administrative Order 216–6, NMFS is preparing an Environmental Assessment (EA) to consider the direct, indirect, and cumulative effects to marine mammals and other applicable environmental resources resulting from issuance of a one-year IHA and the potential issuance of future authorizations for incidental harassment for the ongoing project. Upon completion, this EA will be available on the NMFS Web site listed in the beginning of this document (see ADDRESSES).

Dated: October 19, 2011.

**Helen M. Golde,**

*Deputy Director, Office of Protected Resources, National Marine Fisheries Service.*  
[FR Doc. 2011–27739 Filed 10–25–11; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Docket ID DOD–2010–OS–0034]

### Defense Transportation Regulation, Part IV

**AGENCY:** United States Transportation Command (USTRANSCOM), Department of Defense (DoD).

**ACTION:** Notice of announcement.

**SUMMARY:** Reference **Federal Register** Notice (FRN), Docket ID: DOD–2010–OS–0034, published April 1, 2010 (75 FR 16445–16446) and subsequently revised April 5, 2011 (76 FR 18737). We have taken industry recommendations into consideration regarding the incorporation of local moves into the intrastate/interstate program. The Surface Deployment and Distribution Command (SDDC) is conducting a Direct Procurement Method (DPM) feasibility study to determine how local moves could be better managed to serve our DoD customers. Industry will be notified of any subsequent DoD decisions associated with the future of local moves. We thank our industry partners for their review and important suggestions to improve the Defense Personal Property Program (DP3).

**FOR FURTHER INFORMATION CONTACT:** Mr. Jim Teague, United States Transportation Command, TCJ5/4–PI, 508 Scott Drive, Scott Air Force Base, IL 62225–5357; (618) 220–4803.

Dated: October 21, 2011.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2011–27654 Filed 10–25–11; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Withdrawal of the Notice of Intent To Prepare a Programmatic Environmental Impact Statement for the Stationing and Operation of Joint High Speed Vessels

**AGENCY:** Department of the Army, DoD.  
**ACTION:** Notice of intent; withdrawal.

**SUMMARY:** On February 5, 2010, the Department of the Army announced in the **Federal Register** (75 FR 6003) its intention to prepare a Programmatic Environmental Impact Statement (PEIS) for the stationing and operation of up to 12 Joint High Speed Vessels (JHSVs). In May 2011, the Army’s JHSVs were transferred to the U.S. Navy; therefore,