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### Committee Member

(a) Background Security Check (on-line Background Security Check process and fingerprinting conducted through NOAA Workforce Management); and

(b) Confidential Financial Disclosure Report: As an SGE, one is required to file annually a Confidential Financial Disclosure Report to avoid involvement in a real or apparent conflict of interest. One may find the Confidential Financial Disclosure Report at the following Web site: [http://www.usoge.gov/forms/form\\_450.aspx](http://www.usoge.gov/forms/form_450.aspx).

Dated: September 8, 2014.

**Zdenka Willis,**

*Director, U.S. Integrated Ocean Observing System.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XD070

### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Coast Guard Station Monterey Waterfront Repairs in Monterey, California

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

**ACTION:** Notice; issuance of an incidental take authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the United States Coast Guard

(USCG) to take, by harassment, small numbers of seven species of marine mammals incidental to pile driving associated with the USCG's Station Monterey waterfront repair project in Monterey, California, between June 1, 2015, through September 1, 2015.

**DATES:** Effective October 1, 2014, through September 30, 2015.

**ADDRESSES:** A copy of the application containing a list of the references used in this document, USCG's Environmental Assessment (EA), Finding of No Significant Impact (FONSI), and the IHA may be obtained by telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**) or visiting the Internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>.

Documents cited in this notice may be viewed, by appointment, during regular business hours, at 1315 East West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Shane Guan, 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 U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An 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."

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 June 27, 2013, NMFS received an application from USCG for the taking of marine mammals incidental to its Station Monterey waterfront repairs project. The purpose of the proposed activity is to improve and maintain the structural integrity of the patrol boat pier (Pier) and potable waterline at USCG Station Monterey through the replacement of Pier piles and the water line. On March 12, 2014, NMFS published a **Federal Register** notice (FR 79 13991) for the proposed IHA. No changes was made for the proposed USCG's waterfront repair project as described in the proposed IHA except the project duration was changed to June 1 through September 1, 2015, from the original June 15 through October 15, 2014, due to funding and other constraints. Please refer to **Federal Register** notice for the proposed IHA for a detailed description of the project activities.

### Comments and Responses

A notice of NMFS' proposal to issue an IHA to USCG was published in the **Federal Register** on March 12, 2014 (79 FR 13991). That notice described, in detail, USCG's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission). The Commission recommends NMFS issue the IHA to USCG, subject to inclusion of the proposed mitigation and monitoring measures described in the proposed IHA. NMFS agrees with the Commission's recommendation and has issued the IHA with mitigation and monitoring measures described below. No other comment letters were received on the proposed action.

### Description of Marine Mammals in the Area of the Specified Activity

The **Federal Register** notice (79 FR 13991) for the proposed IHA and in USCG's IHA application identified six marine mammal species under NMFS jurisdiction likely to occur in the construction area: Pacific harbor seal (*Phoca vitulina richardsi*), California sea lion (*Zalophus californianus*), Steller

sea lion (*Eumetopias jubatus*), killer whale (*Orcinus orca*), gray whale (*Eschrichtius robustus*), and humpback whale (*Megaptera novaeangliae*). Subsequence analyses identified additional two species that could also occur in the action area: Risso's dolphin (*Grampus griseus*) and bottlenose dolphin (*Tursiops truncatus*). In addition, the density of harbor porpoise was updated based on new information provided by Carretta *et al.* (2009). This new information was included later in take number estimates (please see "Estimated Take by Incidental Harassment" section).

General information on the marine mammal species found in the vicinity of the project area in Washington waters can be found in Carretta *et al.* (2012), which is available at the following URL: <http://www.nmfs.noaa.gov/pr/pdfs/sars/po2012.pdf>.

#### Potential Effects of the Specified Activity on Marine Mammals

The effects of underwater noise from in-water pile driving and pile removal associated with the waterfront repair activities at the USCG's Station Monterey has the potential to result in Level B (behavioral) harassment of marine mammal species and stocks in the vicinity of the action area. The Notice of Proposed IHA included a discussion of the effects of anthropogenic noise on marine mammals, which is not repeated here. No instances of hearing threshold shifts, injury, serious injury, or mortality are

expected as a result of USCG's activities given the strong likelihood that marine mammals would avoid the immediate vicinity of the pile driving area.

#### Potential Effects on Marine Mammal Habitat

The primary potential impacts to marine mammals and other marine species are associated with elevated sound levels, but the project may also result in additional effects to marine mammal prey species and short-term, local water turbidity caused by in-water construction due to pile removal and pile driving. These potential effects are discussed in detail in the **Federal Register** notice for the proposed IHA and are not repeated here.

#### Mitigation

In order to issue an incidental take authorization (ITA) 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 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 (where relevant).

For the proposed USCG Station Monterey waterfront repair activities, NMFS requires that USCG implement the following mitigation measures to minimize the potential impacts to marine mammals in the project vicinity.

#### Use of Noise Attenuation Devices

Bubble curtains for noise attenuation will be used during all impact pile driving to interrupt the acoustic pressure and reduce the impact on marine mammals. By reducing underwater sound pressure levels at the source, bubble curtains would reduce the area over which both Level A and B harassment would occur, thereby potentially reducing the numbers of marine mammals affected.

With the bubble curtain system in place, the exclusion zone within which marine mammal injury could occur is eliminated.

#### Time Restriction

Work would occur only during daylight hours when visual monitoring of marine mammals can be implemented.

#### Establishment of Level B Harassment Zones of Influence

Before the commencement of in-water pile driving activities, USCG shall establish Level B behavioral harassment zones of influence (ZOIs) where received underwater sound pressure levels (SPLs) are higher than 160 dB (rms) and 120 dB (rms) re 1  $\mu$ Pa for impulse noise sources (impact pile driving) and non-impulses noise sources (vibratory pile driving and mechanic dismantling), respectively. The modeled maximum isopleths for ZOIs are listed in Table 1.

TABLE 1—MODELED LEVEL B HARASSMENT ZONES OF INFLUENCE FOR VARIOUS PILE DRIVING ACTIVITIES

Pile driving activities	Distance to 120 dB re 1 $\mu$ Pa (rms) (m)	Distance to 160 dB re 1 $\mu$ Pa (rms) (m)
Vibratory pile driving .....	2,400	NA
Impact pile driving (with bubble curtain) .....	NA	465

Once the underwater acoustic measurements are conducted during initial test pile driving, USCG shall adjust the size of the ZOIs, and monitor these zones as described under the Proposed Monitoring section below.

NMFS-approved protected species observers (PSOs) shall conduct initial survey of the exclusion zones to ensure that no marine mammals are seen within the zones before impact pile driving of a pile segment begins. If marine mammals are found within the exclusion zone, impact pile driving of the segment would be delayed until they move out of the area. If a marine mammal is seen above water and then dives below, the contractor would wait 15 minutes for pinnipeds and harbor

porpoise and 30 minutes for gray and killer whales. If no marine mammals are seen by the observer in that time it can be assumed that the animal has moved beyond the exclusion zone. These criteria are based on scientific evidence that harbor seals in San Francisco Bay dive for a mean time of 0.50 minutes to 3.33 minutes (Harvey and Torok, 1994), and the mean diving duration for harbor porpoises ranges from 44 to 103 seconds (Westgate *et al.*, 1995).

#### Soft Start

A "soft-start" technique is intended to allow marine mammals to vacate the area before the pile driver reaches full power. For vibratory hammers, the contractor will initiate the driving for 15

seconds at reduced energy, followed by a 1-minute waiting period when there has been downtime of 30 minutes or more. This procedure shall be repeated two additional times before continuous driving is started. This procedure would also apply to vibratory pile extraction.

For impact driving, an initial set of three strikes would be made by the hammer at 40 percent energy, followed by a 1-minute waiting period, then two subsequent three-strike sets before initiating continuous driving.

#### Shutdown Measures

Although no marine mammal exclusion zone exists due to the implementation of noise attenuation devices (i.e., bubble curtain), USCG

shall discontinue pile driving or pile removal activities if a marine mammal within the ZOI appears disturbed by the work activity. Work may not resume until the animal leaves the ZOI, or the required minutes have passed before the disturbed animal is last sighted.

#### *Mitigation Conclusions*

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 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:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals.
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned.
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of pile driving and pile removal or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(3) A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of pile driving and pile removal, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(4) A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of pile driving, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammals 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 ITA 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 ITAs 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 in the proposed action area. USCG submitted a marine mammal monitoring plan as part of the IHA application. The plan can be found at <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

(1) An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

(2) An increase in our understanding of how many marine mammals are likely to be exposed to levels of pile driving that we associate with specific adverse effects, such as behavioral harassment, temporary threshold shift (TTS), or permanent threshold shift (PTS); and

(3) An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on

individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

(4) An increased knowledge of the affected species; and

(5) An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

#### *Monitoring Measures*

USCG shall employ NMFS-approved protected species observers (PSOs) to conduct marine mammal monitoring for its Station Monterey waterfront repair project.

Before the start of the waterfront repair work, baseline biological monitoring shall be conducted to survey the potential Level A and B harassment zones on 2 separate days within 1 week before the first day of construction. Biological information collected during baseline monitoring will be used for comparison with results of monitoring during pile driving and removal activities.

Monitoring of marine mammals around the construction site shall be conducted using high-quality binoculars (e.g., Zeiss, 10 × 42 power).

Marine mammal visual monitoring shall be conducted from the best vantage point available, including the USCG pier, jetty, adjacent docks within the harbor, to maintain an excellent view of the exclusion zone and adjacent areas during the survey period. Monitors would be equipped with radios or cell phones for maintaining contact with work crews.

Vessel-based visual marine mammal monitoring within the 120 dB and 160 dB ZOIs shall be conducted during 10% of the vibratory pile driving and removal and impact pile driving activities, respectively.

Data collection during marine mammal monitoring will consist of a count of all marine mammals by species, a description of behavior (if

possible), location, direction of movement, type of construction that is occurring, time that pile replacement work begins and ends, any acoustic or visual disturbance, and time of the observation. Environmental conditions such as weather, visibility, temperature, tide level, current and sea state would also be recorded.

#### Reporting Measures

USCG would be required to submit weekly monitoring reports that summarize the monitoring results, construction activities and environmental conditions to NMFS.

A final report would be submitted to NMFS within 90 days after completion of the proposed project.

In addition, NMFS requires USCG to notify NMFS' Office of Protected Resources and NMFS' Stranding Network within 48 hours of sighting an injured or dead marine mammal in the vicinity of the construction site. USCG shall provide NMFS with the species or

description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available).

In the event that an injured or dead marine mammal is found by USCG that is not in the vicinity of the Station Monterey construction site, USCG would report the same information as listed above as soon as operationally feasible to NMFS.

#### 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].

As discussed above, in-water pile driving (vibratory and impact) and pile removal generate loud noises that could potentially harass marine mammals in the vicinity of the USCG's proposed Station Monterey waterfront repair.

Currently NMFS uses 120 dB re 1  $\mu$ Pa and 160 dB re 1  $\mu$ Pa at the received levels for the onset of Level B harassment for non-impulse (vibratory pile driving and removal) and impulse sources (impact pile driving) underwater, respectively. For airborne noises, NMFS uses 90 dB re 20  $\mu$ Pa and 100 dB re 20  $\mu$ Pa at the received levels for the onset of Level B harassment for harbor seal and all pinnipeds except harbor seal, respectively. Table 2 summarizes the current NMFS marine mammal take criteria.

TABLE 2—CURRENT ACOUSTIC EXPOSURE CRITERIA FOR NON-EXPLOSIVE SOUND

Criterion	Criterion definition	Threshold
<b>Underwater Noise</b>		
Level A Harassment (Injury) .....	Permanent Threshold Shift (PTS) (Any level above that which is known to cause TTS).	180 dB re 1 $\mu$ Pa (cetaceans)/190 dB re 1 $\mu$ Pa (pinnipeds).
Level B Harassment .....	Behavioral Disruption (for impulse noises) .....	root mean square (rms).
Level B Harassment .....	Behavioral Disruption (for non-impulse noise) .....	160 dB re 1 $\mu$ Pa (rms).
		120 dB re 1 $\mu$ Pa (rms).
<b>Airborne Noise</b>		
Level B Harassment .....	Behavioral Disruption (for harbor seal) .....	90 dB re 20 $\mu$ Pa.
Level B Harassment .....	Behavioral Disruption (for pinnipeds other than harbor seal) .....	100 dB re 20 $\mu$ Pa.

The take calculations presented here relied on the best data currently available for marine mammal populations at the jetty and in the nearby waters of Monterey Bay. The population data used are discussed in each species take calculation subsection below. The formula below was developed for calculating take due to pile driving and is applied to each group-specific noise impact threshold. The formula is founded on the following assumptions:

- All piles to be installed would have a noise disturbance distance equal to the pile that causes the greatest noise disturbance (*i.e.*, the piling furthest from shore, in this case the farthest east pile along the jetty).

- It is estimated that an average of two or three piles will be installed and removed per day. The best estimate of the number of days during which pile driving would occur is 10 days, and this was used in all modeling calculations.

- Mitigation (*e.g.*, a noise attenuation system such as a bubble curtain) would be used during impact pile driving.

- An individual animal can only be taken once per method of installation during a 24 hour period.

The calculation for marine mammal take uses the following formula:

Take Estimate =  $(n \times \text{ZOI}) \times 10$  days of activity

Where:

$n$  (number of animals per unit area) = the density estimate used for each species. The unit of area is  $\text{km}^2$ .

ZOI (zone of influence) = the area encompassed by all locations where the sound pressure levels equal or exceed the threshold being evaluated.

Multiplying  $n \times \text{ZOI}$  produces an estimate of the abundance of animals that could be present in the area of exposure per day. The final take estimate must be a whole number; therefore, values are rounded up to the next whole number.

The ZOI impact is the estimated range of noise impact for a given threshold. Because the work will be conducted near the jetty, underwater noise is not expected to spread spherically from the source. Underwater noise contours were therefore modeled using SoundPlan. The contours were then imported to ArcGIS to calculate the area within the contours and determine the ZOI for each threshold. The ZOI for vibratory pile driving encompasses the area out to the 120 dB isopleth (Level B threshold), while the ZOI for impact driving encompasses the area out to the 160 dB isopleth (Level B threshold). It is assumed that an underwater noise attenuation system, such as a bubble curtain with an estimated 10 dB attenuation, would be used as a mitigation measure. However, the actual attenuation that will be achieved in the field is unknown and would likely vary with each installation.

Airborne noise would spread spherically from the source; therefore, the ZOI for airborne impacts was calculated as the area within a circle ( $\text{Area} = \pi \times \text{radius}^2$ ).

Although 10 days of total in-water work are proposed, pile extraction or driving would only occur periodically in that time, as described in earlier in this document. An average work day (beginning 2 hours after sunrise and ending 2 hours before sunset) is approximately 8 to 9 hours, depending on the month. Although it is anticipated that only 30 to 70 minutes would be spent pile driving per day, to take into account deviations from the estimated times for pile installation and

extraction—and to account for the additional use of the impact pile driver in case of failure of the vibratory hammer to reach the desired embedment depth—the potential impacts were modeled as if the entire day could be spent pile driving.

The exposure assessment methodology estimates the number of individuals that would be exposed, because of pile extraction and driving activities, to noise levels that exceed established NMFS thresholds. Results of the acoustic impact exposure assessments should be regarded as conservative estimates that are strongly influenced by limited biological data. Although the numbers generated from

the pile driving exposure calculations provide estimates of marine mammal exposures for consideration by NMFS, the short duration and limited extent of the repairs would limit actual exposures.

Based on the modeling results presented above, it is estimated that up to 2,099 Level B harassment takes of various species due to underwater and airborne noise from impact pile driving operations, and up to 2,849 Level B harassment takes of various species from vibratory pile driving and removal due to underwater and airborne noise. A summary of the take estimates is provided in Table 3.

TABLE 3—SUMMARY OF POTENTIAL MARINE MAMMAL TAKES AND PERCENTAGE OF STOCKS AFFECTED

	Estimated density	Estimated take by level B harassment	Abundance of stock	Percentage of stock potentially affected	Population trend
California sea lion .....	At-sea: 8.62 per km <sup>2</sup> .....	4,231	396,750	1.06	Stable.
	Haul-out: 250				
Harbor seal .....	0.965 per km <sup>2</sup> .....	70	30,196	0.20	Stable.
Harbor porpoise .....	0.999 per km <sup>2</sup> .....	77	1,492	5.16	Stable.
Killer whale (Eastern North Pacific offshore) .....	Rare .....	6	240	2.50	Stable.
Killer whale (west coast transient) .....	Rare .....	6	354	1.70	Stable.
Risso's dolphin .....	0.122 per km <sup>2</sup> .....	10	6,272	0.16	Stable.
Bottlenose dolphin .....	0.122 per km <sup>2</sup> .....	10	323	3.10	Stable.
Gray whale .....	Rare .....	6	19,126	0.03	Stable.

## Analysis and Determinations

### Negligible Impact

Negligible impact is “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 Level B harassment 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 behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

The USCG's proposed Station Monterey waterfront repair project would conduct pile driving and pile removal activities. Elevated underwater noises are expected to be generated as

a result of pile driving and pile removal. However, USCG would use noise attenuation devices (i.e., bubble curtain) during the impact pile driving, thus eliminating potential for injury (PTS) and TTS. For vibratory pile driving and pile removal, noise levels are not expected to reach to the level that may cause TTS, injury (PTS included), or mortality to marine mammals. Therefore, NMFS does not expect that any animals would experience Level A (including injury) harassment or Level B harassment in the form of TTS from being exposed to in-water pile driving and pile removal associated with USCG construction project.

In addition, the USCG's proposed activities are localized and of short duration. The entire project area is limited to the USCG's Station Monterey pier and jetty. The entire waterfront repair project would replace 17 timber piles with small 14-inch steel pipe piles. The entire duration for pile driving is expected to be fewer than 10 days, assuming driving two piles per day. The duration for driving each pile would be about 20 to 25 minutes (vibratory or impact). These low intensity, localized, and short-term noise exposures may cause brief startle reactions or short-term behavioral modification by the animals. These reactions and behavioral

changes are expected to subside quickly when the exposures cease. Additionally, no important feeding and/or reproductive areas for marine mammals are known to be near the proposed action area. Therefore, the take resulting from the proposed Station Monterey waterfront repair project is not reasonably expected to, and is not reasonably likely to, adversely affect the marine mammal species or stocks through effects on annual rates of recruitment or survival. 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 proposed monitoring and mitigation measures, NMFS finds that the total marine mammal take from USCG Station Monterey waterfront repair will have a negligible impact on the affected marine mammal species or stocks.

### Small Number

Based on analyses provided above, it is estimated that approximately 4,231 California sea lions, 70 Pacific harbor seals, 77 harbor porpoises, 6 Eastern North Pacific offshore or West coast transient killer whales (or a combination of both stocks), 10 Risso's dolphins, 10 bottlenose dolphins, and 6 gray whales could be exposed to received noise

levels that could cause Level B behavioral harassment from the proposed construction work at the USCG Station Monterey. These numbers represent approximately 0.03%–5.16% of the stocks and populations of these species that could be affected by Level B behavioral harassment.

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 finds that small numbers of marine mammals will be taken relative to the populations of 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. 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 (ESA)**

No species listed under the ESA are expected to be affected by these activities. Therefore, NMFS has determined that a section 7 consultation under the ESA is not required.

#### **National Environmental Policy Act (NEPA)**

In January 2014, the USCG prepared a Final Environmental Assessment for Waterfront Repairs at United States Coast Guard Station Monterey, Monterey, California (EA) and provided supplement information on July 30, 2014. NMFS has reviewed the EA and concluded that the environmental consequences analyzed are reflect NMFS' action of issuance of an IHA to USCG. Therefore, NMFS determined to adopt the USCG EA and will not prepare its own EA or EIS for this action.

#### **Authorization**

NMFS has issued an IHA to USCG for the potential harassment of small numbers of marine mammal species incidental to its waterfront repair project at Station Monterey in California, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: September 18, 2014.

**Perry F. Gayaldo,**

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

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**BILLING CODE 3510–22–P**

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

**RIN 0648–XC645**

#### **Taking of Threatened or Endangered Marine Mammals Incidental to Commercial Fishing Operations**

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

**ACTION:** Notice of extension of public comment period.

**SUMMARY:** NMFS is announcing an extension to the public comment period for the amended permit to authorize the incidental, but not intentional, take of two stocks of marine mammals listed as threatened or endangered under the Endangered Species Act (ESA), under the Marine Mammal Protection Act (MMPA), by the California (CA) thresher shark/swordfish drift gillnet fishery (>14 in mesh) and the Washington (WA)/Oregon (OR)/CA sablefish pot fishery. On August 25, 2014, NMFS solicited comments from the public on the draft negligible impact determination and on the proposal to issue a permit to vessels that operate in these fisheries for the taking of affected endangered stocks of marine mammals.

NMFS is extending the comment period for 30 days.

**DATES:** Information and comments must be received by close of business on October 24, 2014.

**ADDRESSES:** The draft amended Negligible Impact Determination and list of references contained in this notice are available in electronic form via the Internet at: [http://www.westcoast.fisheries.noaa.gov/protected\\_species/marine\\_mammals/marine\\_mammals.html](http://www.westcoast.fisheries.noaa.gov/protected_species/marine_mammals/marine_mammals.html). The petition and a list of references contained in this notice are available in electronic form via the Internet at <http://www.nmfs.noaa.gov/pr/>.

You may submit comments, identified by NOAA–NMFS–2013–0073, by any of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0073](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0073), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Send comments or requests to: Chris Yates, Assistant Regional Administrator, Protected Resources Division, West Coast Region, 501 W.

Ocean Blvd., Suite 4200, Long Beach, CA 90802. Comments may also be faxed to (562) 980–4027.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

#### **FOR FURTHER INFORMATION CONTACT:**

Monica DeAngelis, NMFS West Coast Region, (562) 980–3232, or Shannon Bettridge, NMFS Office of Protected Resources, (301) 427–8402.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Section 101(a)(5)(E) of the MMPA, 16 U.S.C. 1361 *et seq.*, states that NMFS, as delegated by the Secretary of Commerce, shall for a period of up to three years allow the incidental taking of marine mammal species listed under the ESA, 16 U.S.C. 1531 *et seq.*, by persons using vessels of the United States and those vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1824(b), while engaging in commercial fishing operations, if NMFS makes certain determinations. NMFS must determine, after notice and opportunity for public comment, that: (1) Incidental mortality and serious injury will have a negligible impact on the affected species or stock; (2) a recovery plan has been developed or is being developed for such species or stock under the ESA; and (3) where required under section 118 of the MMPA, a monitoring program has been established, vessels engaged in such fisheries are registered in accordance with section 118 of the MMPA, and a take reduction plan has been developed or is being developed for such species or stock.

NMFS proposes to issue an amended permit under MMPA section 101(a)(5)(E) to vessels registered in the CA thresher shark/swordfish drift gillnet fishery (>14 in mesh) to incidentally take individuals from two