in the years that follow.'' [18] Accordingly, as stated above, the petitioner and the Governments of China and Japan should submit their initial entries of appearance after publication of this notice in order to appear in the first annual inquiry service lists for these orders. Pursuant to 19 CFR 351.225(n)(3), the petitioner and the Governments of China and Japan will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioner and the Governments of China and Japan are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

Notification to Interested Parties

This notice constitutes the AD orders with respect to printing plates from China and Japan and the CVD order with respect to printing plates from China, pursuant to sections 706(a) and 736(a) of the Act. Interested parties can find a list of AD and CVD orders currently in effect at *https://www.trade.gov/datavisualization/adcvd-proceedings.*

These orders are issued and published in accordance with sections 706(a) and 736(a) of the Act and 19 CFR 351.211(b).

Dated: November 18, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Orders

The merchandise covered by these orders are aluminum lithographic printing plates. Aluminum lithographic printing plates consist of a flat substrate containing at least 90 percent aluminum. The aluminum-containing substrate is generally treated using a mechanical, electrochemical, or chemical graining process, which is followed by one or more anodizing treatments that form a hydrophilic layer on the aluminum-containing substrate. An image-recording, oleophilic layer that is sensitive to light, including but not limited to ultra-violet, visible, or infrared, is dispersed in a polymeric binder material that is applied on top of the hydrophilic layer, generally on one side of the aluminum lithographic printing plate. The oleophilic light-sensitive layer is capable of capturing an image that is transferred onto the plate by either light or heat. The image applied to an aluminum lithographic printing plate facilitates the production of newspapers, magazines, books, yearbooks, coupons, packaging, and other printed materials through an offset printing process, where an aluminum lithographic printing plate facilitates the transfer of an image onto the printed media. Aluminum lithographic printing plates within the scope of these orders include all aluminum lithographic printing plates, irrespective of the dimensions or thickness of the underlying aluminum substrate, whether the plate requires processing after an image is applied to the plate, whether the plate is ready to be mounted to a press and used in printing operations immediately after an image is applied to the plate, or whether the plate has been exposed to light or heat to create an image on the plate or remains unexposed and is free of any image.

Subject merchandise also includes aluminum lithographic printing plates produced from an aluminum sheet coil that has been coated with a light-sensitive image-recording layer in a subject country and that is subsequently unwound and cut to the final dimensions to produce a finished plate in a third country (including the United States), or exposed to light or heat to create an image on the plate in a third country (including in a foreign trade zone within the United States).

Excluded from the scope of these orders are lithographic printing plates manufactured using a substrate produced from a material other than aluminum, such as rubber or plastic.

Aluminum lithographic printing plates are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 3701.30.0000 and 3701.99.6060. Further, merchandise that falls within the scope of these orders may also be entered into the United States under HTSUS subheadings 3701.99.3000 and 8442.50.1000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

[FR Doc. 2024–27426 Filed 11–21–24; 8:45 am]

BILLING CODE 3510–DS–P

[18] *See Final Rule,* 86 FR 52335.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE193]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Gary Paxton Industrial Park Vessel Haulout Project in Sitka, Alaska

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to City and Borough of Sitka (CBS) to incidentally harass marine mammals during construction activities associated with Gary Paxton Industrial Park Vessel Haulout Project in Sawmill Cove in Sitka, Alaska.

DATES: This authorization is effective one year from the date of issuance.

ADDRESSES: Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Kate Fleming, Office of Protected Resources (OPR), NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

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

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

Summary of Request

On January 18, 2024, NMFS received a request from CBS for an IHA to take

marine mammals incidental to construction associated with the Gary Paxton Industrial Park Vessel Haulout Project in Sawmill Cove in Sitka, Alaska. Following NMFS' review of the application, CBS submitted a revised version on March 20, 2024, and another on April 27, 2024. The application was deemed adequate and complete on May 20, 2024. CBS's request is for take of nine species of marine mammals by Level B harassment and, for a subset of those species, by Level A harassment. Neither CBS nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS previously issued an IHA to CBS for similar work (82 FR 47717, October 13, 2017). CBS complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous IHA, and information regarding their monitoring results may be found in the Potential Effects of Specified Activities on Marine Mammals and Their Habitat section.

This IHA covers one year of a larger project; CBS intends to request a future take authorization for subsequent facets of the project. In year 1, construction of the following elements are planned: 150-ton capacity vessel haulout piers, expanded uplands including stormwater collection and treatment, and a vessel washdown pad. The larger multi-year project involves construction of a queuing float, approach dock and gangway, a pile-supported deck area, vessel haulout ramp, an uplands shipyard, and pile anodes. While not planned to be constructed as part of this project, CBS's goal is to eventually construct additional haulout piers to accommodate removal of vessels up to 300 tons.

Description of Specified Activity

Overview

The CBS is constructing a vessel haulout facility at Gary Paxton Industrial Park in Sawmill Cove in Sitka, Alaska. Across 62 construction days across a 1-year period, CBS plans to ibratory and impact install 36-in steel haulout pier support piles (both vertical and battered), vibratory install 24-in steel fender piles, and vibratory install and remove 24-in steel temporary template pipe piles. These methods of pile driving would introduce underwater sounds that may result in take, by Level A and Level B harassment, of marine mammals.

A detailed description of the planned construction project is provided in the **Federal Register** notice for the proposed IHA (89 FR 56317, July 9, 2024). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to the **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS' proposal to issue an IHA to CBS was published in the **Federal Register** on July 9, 2024 (89 FR 56317). That notice described, in detail, CBS's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. In that notice, we requested public input on the request for authorization described therein, our analyses, the proposed authorization, and any other aspect of the notice of proposed IHA, and requested that interested persons submit relevant information, suggestions, and comments. During the 30-day public comment period, NMFS did not receive any substantive public comments.

Changes From the Proposed IHA to Final IHA

On May 3, 2024, NMFS published (89 FR 36762) and solicited public comment on its draft updated Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing Underwater and In-Air Criteria for Onset of Auditory Injury and Temporary Threshold Shifts (Version 3.0) (2024 Technical Guidance), which includes updated thresholds and weighting functions to inform auditory injury (AUD INJ) estimates. The public comment period ended on June 17th, 2024, and the 2024 Technical Guidance was finalized on October 24, 2024. The 2024 Technical Guidance represents the best available science and has been incorporated into the analysis in this final IHA. The relevant updated hearing group names, thresholds, and weighting functions may be found in the executive summary of the 2024 Technical Guidance. The resultant updated isopleths for this project are presented in table 9 of the Estimated Take of Marine Mammals section. There were no substantive changes to Level A harassment isopleths for low frequency cetaceans (they increased slightly during vibratory activities and decreased slightly during impact pile driving). However, for high-frequency cetaceans (categorized as mid-frequency cetaceans prior to application of the 2024 Technical Guidance), phocids, and otariids, Level A harassment isopleths increased substantially during all pile driving activities. Additionally, for very high frequency cetaceans (categorized as high frequency cetaceans prior to application of the 2024 Technical Guidance), Level A harassment isopleths decreased slightly during vibratory activities and substantially during impact pile driving.

Necessary modifications to mitigation zones are presented in table 12 in the Mitigation section. In cases where the Level A harassment zones were smaller, the mitigation zones were not adjusted. In cases where the Level A harassment zones were larger, the mitigation zones were increased to either meet the Level A harassment isopleth, or to whatever distance was established after consideration of practicability and observability.

For all species, the total number of takes proposed for authorization is equal to the total number of takes authorized by Level A and Level B harassment; for some species, estimates of take by Level A harassment were updated based on the analysis under the 2024 Updated Technical Guidance. Updated take numbers are presented in table 10.

Specifically, species with increased take by Level A harassment include Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), harbor porpoise (*Phocoena phocoena*), Steller sea lion (*Eumetopias jubatus*), California sea lion (*Zalophus californianus*), Northern fur seal (*Callorhinus ursinus*), and harbor seal (*Phoca vitulina*). Take by Level A harassment increased from 5 from 6 for harbor porpoise, 89 to 240 Steller sea lion (88 to 237 Eastern Distinct Population Segment (DPS); 1 to 3 Western DPS), and 34 to 53 for harbor seal. For Pacific white-sided dolphin, California sea lion, and Northern fur seal, no take by Level A harassment was proposed for authorization; however, based on our re-analysis under the 2024 Technical Guidance, we have authorized up to 4 takes by Level A harassment for Pacific white-sided dolphin. For both California sea lion and Northern fur seal, three takes by either Level A or Level B harassment have been authorized. The negligible impact analyses has been updated to consider the increases to take by Level A harassment for Pacific white-sided dolphin, harbor porpoise, Steller sea lion, California sea lion, Northern fur seal, and harbor seal.

NMFS also corrected a number of typographical errors. In table 6 of the proposed IHA **Federal Register** notice (89 FR 56317, July 9, 2024), the total number of 24-inch (-in) steel piles to be vibratory installed and removed via vibratory installation was erroneously listed as 2 instead of 4 (permanent piles) and 2 instead of 8 (template piles).

Additionally, the total number of 36-in steel piles to be installed via impact pile driving was erroneously listed as 4 instead of 2 (support piles) and 8 instead of 2 (batter piles). These values have been corrected in table 5 of this notice. There are no changes to Level A and Level B isopleths or associated take estimates or mitigation measures associated with these typographical corrections.

Next, in table 8 of the proposed IHA **Federal Register** notice (89 FR 56317, July 9, 2024), the proposed take as a percentage of stock was incorrectly reported as <1 instead of 2.2 for the Hawai'i stock of humpback whale and as 14.2 instead of 2.3 for the Eastern North Pacific Stock of killer whale. These errors have been corrected in table 10 and do not affect the small numbers of negligible impact analysis and determination.

Finally, in the small numbers section of the proposed IHA **Federal Register** notice (89 FR 56317, July 9, 2024), the harbor porpoise take estimates proposed for authorization were erroneously listed as 16 takes by Level B harassment and 6 takes by Level A harassment instead of 17 takes by Level B harassment and 5 takes by Level A harassment. Take estimates were correctly listed elsewhere in the notice.

Description of Marine Mammals in the Area of Specified Activities

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

Table 1 lists all species or stocks for which take is expected and authorized for this activity and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Alaska and Pacific SARs. All values presented in table 1 are the most recent available at the time of publication (including from the draft 2023 SARs) and are available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.*

TABLE 1—MARINE MAMMAL SPECIES [1] LIKELY TO OCCUR NEAR THE PROJECT AREA THAT MAY BE TAKEN BY CBS'S ACTIVITIES

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [2]	Stock abundance (*CV, N_{min}*, most recent abundance survey) [3]	PBR	Annual M/S1 [4]
Order Artiodactyla—Cetacea—Mysticeti (baleen whales)						
Family Eschrichtiidae:						
Gray Whale	*Eschrichtius robustus*	Eastern N Pacific	-, -, N	26,960 (0.05, 25,849, 2016)	801	131
Family Balaenopteridae (rorquals):						
Humpback Whale	*Megaptera novaeangliae*	Hawai'i	-, -, N	11,278 (0.56, 7,265, 2020)	127	27.09
		Mexico-North Pacific	T, D, Y	N/A (N/A, N/A, 2006) [5]	UND	0.57
Family Delphinidae:						
Killer Whale	*Orcinus orca*	Eastern North Pacific Alaska Resident.	-, -, N	1,920 (N/A, 1,920, 2019) [6]	19	1.3
		Eastern North Pacific Gulf of Alaska, Aleutian Islands and Bering Sea Transient.	-, -, N	587 (N/A, 587, 2012) [6]	5.9	0.8
		Eastern Northern Pacific Northern Resident.	-, -, N	302 (N/A, 302, 2018) [6]	2.2	0.2
		West Coast Transient	-, -, N	349 (N/A, 349, 2018) [6]	3.5	0.4
Pacific White-Sided Dolphin.	*Lagenorhynchus obliquidens*	N Pacific	-, -, N	26,880 (N/A, N/A, 1990)	UND	0
Family Phocoenidae (porpoises):						
Harbor Porpoise	*Phocoena phocoena*	Yakutat/Southeast Alaska Offshore Waters.	-, -, N	N/A (N/A, N/A, 1997) [7]	UND	22.2
Order Carnivora—Pinnipedia						
Family Otariidae (eared seals and sea lions):						
CA Sea Lion	*Zalophus californianus*	U.S.	-, -, N	257,606 (N/A, 233,515, 2014)	14,011	>321
Northern Fur Seal	*Callorhinus ursinus*	Eastern Pacific	-, D, Y	626,618 (0.2, 530,376, 2019)	11,403	373
Steller Sea Lion	*Eumetopias jubatus*	Western	E, D, Y	49,837 (N/A, 49,837, 2022) [8]	299	267
		Eastern	-, -, N	36,308 (N/A, 36,308, 2022) [9]	2,178	93.2
Family Phocidae (earless seals):						

TABLE 1—MARINE MAMMAL SPECIES [1] LIKELY TO OCCUR NEAR THE PROJECT AREA THAT MAY BE TAKEN BY CBS'S ACTIVITIES—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [2]	Stock abundance (*CV, N_{min}*, most recent abundance survey) [3]	PBR	Annual M/SI [4]
Harbor Seal	*Phoca vitulina*	Sitka/Chatham Strait	-, -, N	13,289 (N/A, 11,883, 2015)	356	77

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

[2] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[3] NMFS marine mammal SARs online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region. CV* is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, *CV* is not applicable [explain if this is the case]

[4] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A *CV* associated with estimated mortality due to commercial fisheries is presented in some cases.

[5] Abundance estimates are based upon data collected more than 8 years ago and, therefore, current estimates are considered unknown.

[6] N_{est} is based upon counts of individuals identified from photo-ID catalogs.

[7] New stock split from Southeast Alaska stock.

[8] N_{est} is best estimate of counts, which have not been corrected for animals at sea during abundance surveys. Estimates provided are for the United States only. The overall N_{min} is 73,211 and overall PBR is 439.

[9] N_{est} is best estimate of counts, which have not been corrected for animals at sea during abundance surveys. Estimates provided are for the United States only.

A detailed description of the species likely to be affected by CBS's GPIP vessel haulout project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (89 FR 56317; July 9, 2024); since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007, 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, *etc.*). Subsequently, NMFS (2018, 2024) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65-decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Note that between the proposed FRN (89 FR 56317, July 9, 2024) and the issuance of the final IHA, NMFS' 2024 Technical Guidance was finalized (89 FR 84872, 24 October 2024) and has been incorporated into this analysis. The marine mammal hearing groups and their associated hearing ranges included in the proposed FRN (89 FR 56317, July 9, 2024) are provided in table 2. The re-named marine mammal hearing groups that have been incorporated into this final IHA are presented in table 3. The references, analysis, and methodology used in the development of the thresholds are described in the 2024 Technical Guidance, which may be accessed at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 2—MARINE MAMMAL HEARING GROUPS

[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, Cephalorhynchids, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65-dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.,* 2007) and PW pinniped (approximation).

TABLE 3—MARINE MAMMAL HEARING GROUPS

[NMFS 2024]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 36 kHz.
High-frequency (HF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
Very High-frequency (VHF) cetaceans (true porpoises, *Kogia,* river dolphins, Cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	200 Hz to 165 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	40 Hz to 90 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 68 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges may not be as broad. Generalized hearing range chosen based on ~65 dB threshold from composite audiogram, previous analysis in NMFS 2018, and/or data from Southall *et al.* 2007; Southall *et al.* 2019. Additionally, animals are able to detect very loud sounds above and below that ''generalized'' hearing range.

For more detail concerning these groups and associated frequency ranges, please see NMFS (2024) for a review of available information.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from CBS's construction activities have the potential to result in the harassment of marine mammals in the vicinity of the project area. The notice of proposed IHA (89 FR 56317; July 9, 2024) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from CBS's construction on marine mammals and their habitat. That information and analysis is referenced in this final IHA determination and is not repeated here; please refer to the notice of proposed IHA (89 FR 56317; July 9, 2024).

Estimated Take of Marine Mammals

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

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes are primarily by Level B harassment, as use of the acoustic sources (*i.e.,* pile driving) has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for AUD INJ (Level A harassment) to result, for all hearing groups because, after applying the 2024 Technical Guidance, the predicted AUD INJ zones have increased such that Protected Species Observers (PSO) may be unable to observe most of these species during impact pile driving. The mitigation and monitoring measures are expected to minimize the severity of the taking to the extent practicable.

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

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

Acoustic Thresholds

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

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (*e.g.,* frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.,* bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.,* Southall *et al.,* 2007, 2021; Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared pressure received levels (RMS SPL) of 120 dB (referenced to 1 micropascal (re 1 μPa)) for continuous (*e.g.,* vibratory pile driving, drilling) and above RMS SPL 160 dB re 1 μPa for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources. Generally speaking, Level B harassment take estimates based on these behavioral harassment thresholds are expected to include any likely takes by temporary threshold shift (TTS) as, in most cases, the likelihood of TTS occurs at distances from the source less than those at which behavioral harassment is likely. TTS of a sufficient degree can manifest as behavioral harassment, as reduced hearing sensitivity and the potential reduced opportunities to detect important signals (conspecific

communication, predators, prey) may result in changes in behavior patterns that would not otherwise occur.

CBS's activity includes the use of continuous (vibratory pile driving) and impulsive (impact pile driving) sources, and therefore the RMS SPL thresholds of 120 and 160 dB re 1 μPa are applicable.

Level A Harassment—NMFS' 2024 Technical Guidance (NMFS, 2024) identifies dual criteria to assess AUD INJ (Level A harassment) to 5 different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). Note that between the proposed FRN (89 FR 56317, July 9, 2024) and the issuance of the final IHA, NMFS' 2024 Technical Guidance was finalized (89 FR 84872, 24 October 2024) and has been incorporated into this analysis. CBS's activity includes the use of impulsive (impact pile driving) and non-impulsive (continuous pile driving) sources.

The thresholds identifying the onset of Permanent Threshold Shift (PTS) based on 2018 Technical Guidance and included in the proposed FRN (89 FR 56317, July 9, 2024) are provided in table 4. The references, analysis, and methodology used in the development of the thresholds used in the proposed IHA are described in NMFS' 2018 Technical Guidance, which may be accessed at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.* The updated thresholds, which identify the Onset of AUD INJ based on the 2024 Technical Guidance, have been incorporated in this final IHA are presented in table 5. The references, analysis, and methodology used in the development of the thresholds are described in the 2024 Technical Guidance, which may be accessed at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.* NMFS defines AUD INJ as ''damage to the inner ear that can result in destruction of tissue . . . which may or may not result in PTS'' (NMFS 2024). NMFS defined PTS as a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2024).

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PTS BASED ON 2018 TECHNICAL GUIDANCE

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

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

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa^2s. In this table, thresholds are abbreviated to reflect ANSI standards (ANSI, 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

TABLE 5—THRESHOLDS IDENTIFYING THE ONSET OF AUDITORY INJURY BASED ON 2024 TECHNICAL GUIDANCE

Hearing group	AUD INJ onset thresholds * (received level)	
	Impulsive	Non-impulsive
Hearing group.		
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{p,0\text{-}pk,flat}$: 222 dB; $L_{E,p,LF,24h}$: 183 dB	*Cell 2:* $L_{E,p,LF,24h}$: 197 dB.
High-Frequency (HF) Cetaceans	*Cell 3:* $L_{p,0\text{-}pk,flat}$: 230 dB; $L_{E,p,HF,24h}$: 193 dB	*Cell 4:* $L_{E,p,,\ HF,24h}$: 201 dB.
Very High-Frequency (VHF) Cetaceans	*Cell 5:* $L_{p,0\text{-}pk,flat}$: 202 dB; $L_{E,p,VHF,24h}$: 159 dB	*Cell 6:* $L_{E,p,\ VHF,24h}$: 181 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{p,0\text{-}pk.flat}$: 223 dB; $L_{E,p,PW,24h}$: 183 dB	*Cell 8:* $L_{E,p,PW,24h}$: 195 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{p,0\text{-}pk,flat}$: 230 dB; $L_{E,p,OW,24h}$: 185 dB	*Cell 10:* $L_{E,p,OW,24h}$: 199 dB.

* Dual metric thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating AUD INJ onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds are recommended for consideration.

Note: Peak sound pressure level ($L_{p,0\text{-}pk}$) has a reference value of 1 μPa, and weighted cumulative sound exposure level ($L_{E,p}$) has a reference value of 1μPa^2s. In this table, thresholds are abbreviated to be more reflective of International Organization for Standardization standards (ISO 2017). The subscript ''flat'' is being included to indicate peak sound pressure are flat weighted or unweighted within the generalized hearing range of marine mammals (*i.e.,* 7 Hz to 165 kHz). The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, HF, and VHF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The weighted cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these thresholds will be exceeded.

Ensonified Area

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

The sound field in the project area is the existing background noise plus additional construction noise from the planned project. Marine mammals are expected to be affected via sound generated by the primary components of the project (*i.e.,* pile driving and removal).

The project includes vibratory pile installation and removal, and impact pile driving. Source levels for these activities are based on reviews of measurements of the same or similar types and dimensions of piles available in the literature. Source levels for each pile size and activity each year are presented in table 6. Source levels for vibratory installation and removal of piles of the same diameter are assumed to be the same.

TABLE 6—ESTIMATES OF MEAN UNDERWATER SOUND LEVELS * GENERATED DURING VIBRATORY AND IMPACT PILE INSTALLATION AND VIBRATORY PILE REMOVAL

Pile driving method	Pile type	Pile size	dB RMS	dB peak	dB SEL	Reference
Impact	Steel Pipe Support Pile	36-in	193	210	183	Caltrans 2015, 2020.
	Steel Pipe Batter Pile	.....	.....	.....	.....	
Vibratory Installation and Extraction.	Steel Pipe Support	36-in	166	N/A	N/A	NMFS 2023 Calculations.
	Steel Pipe Batter	.....	.....	.....	.....	
	Steel Pipe Fender	24-in	163	N/A	N/A	NMFS 2023 Calculations
	Steel Pipe Template	.....	.....	.....	.....	

Note: dB peak = peak sound level; rms = root mean square; SEL = sound exposure level.
* All sound levels are referenced at 10 m.

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

$$TL = B \times \mathrm{Log10}\,(R_1/R_2),$$

where

TL = transmission loss in dB
B = transmission loss coefficient
R_1 = the distance of the modeled SPL from the driven pile, and
R_2 = the distance from the driven pile of the initial measurement

Absent site-specific acoustical monitoring with differing measured *TL,* a practical spreading value of 15 is used as the *TL* coefficient in the above formula. Site-specific *TL* data for the Sitka Sound are not available; therefore, the default coefficient of 15 is used to determine the distances to the Level A harassment and Level B harassment thresholds.

The ensonified area associated with Level A harassment is more technically challenging to predict due to the need to account for a duration component. Therefore, NMFS developed an optional User Spreadsheet tool to accompany the 2024 Technical Guidance that can be used to relatively simply predict an isopleth distance for use in conjunction with marine mammal density or occurrence to help predict potential takes. We note that because of some of the assumptions included in the methods underlying this optional tool, we anticipate that the resulting isopleth estimates are typically going to be overestimates of some degree, which may result in an overestimate of potential take by Level A harassment. However, this optional tool offers the best way to estimate isopleth distances when more sophisticated modeling methods are not available or practical. For stationary sources such as pile driving, the optional User Spreadsheet tool predicts the distance at which, if a marine mammal remained at that distance for the duration of the activity, it would be expected to incur AUD INJ, which includes, but is not limited to, PTS. Inputs used in the optional User Spreadsheet tool, and the resulting estimated isopleths, are reported below. Table 8 provides the calculated Level A isopleths that are based on the 2018 Technical Guidance, which were presented in the proposed FRN (89 FR 56317, July 9, 2024) while table 9 provides the updated Level A isopleths using the 2024 Technical Guidance.

TABLE 7—USER SPREADSHEET INPUTS

	Vibratory				Impact	
	36-in haulout pier support pile	36-in haulout pier batter pile	24-in haulout pier fender pile	24-in template pile	36-in haulout pier support pile	36-in haulout pier batter pile
	Installation			Installation or removal	Installation	
Spreadsheet Tab Used	A.1) Vibratory pile driving				E.1) Impact pile driving	
Source Level (SPL)	166 RMS		163 RMS		183 SEL	
Transmission Loss Coefficient	15					
Weighting Factor Adjustment (kHz)	2.5				2	
Activity Duration per day (minutes)	60	120	30	20	.....	.....

TABLE 7—USER SPREADSHEET INPUTS—Continued

	Vibratory				Impact	
	36-in haulout pier support pile	36-in haulout pier batter pile	24-in haulout pier fender pile	24-in template pile	36-in haulout pier support pile	36-in haulout pier batter pile
	Installation			Installation or removal	Installation	
Number of strikes per pile	.....	.....	.....	.....	2,000	3,000
Number of piles per day	2		4	8	2	
Distance of sound pressure level measurement	10					

TABLE 8—LEVEL A HARASSMENT AND LEVEL B HARASSMENT ISOPLETHS AND ASSOCIATED AREAS FROM VIBRATORY AND IMPACT PILE DRIVING AND VIBRATORY REMOVAL, USING THE 2018 TECHNICAL GUIDANCE

Pile size/type	Method	Level A harassment: isopleths (m), areas (km^2)					Level B harassment: isopleth (m), areas (km^2)
		LF	MF	HF	PW	OW	
Haulout Pier Support Pile							
36-in Steel Pipe Pile	Vibratory Installation Impact Installation	23.4, (*0.006*) 2,516, (*3.13*)	2.1, (*0.001*) 89.5, (*0.022*)	34.5, (*0.009*) 2,997, (*3.64*)	14.2, (*0.004*) 1,347, (*1.49*)	1.0, (*0.001*) 98, (*0.024*)	11,659, (*9.41*) 1,585, (*1.94*)
Haulout Pier Batter Pile							
36-in Steel Pipe Pile	Vibratory Installation Impact Installation	37.1, (*0.010*) 3,297, (3.97)	3.3, (*0.003*) 117.3, (*0.029*)	54.8, (*0.013*) 3,928, (*4.64*)	22.5, (*0.006*) 1,765, (*2.24*)	1.6, (*0.001*) 128, (*0.032*)	11,659, (*9.41*) 1,585, (*1.94*)
Haulout Pier Fender Pile							
24-in Steel Pipe Pile	Vibratory Installation	14.7, (*0.004*)	1.3, (*0.001*)	21.8, (*0.006*)	9.0, (*0.003*)	0.6, (*0.001*)	7,356, (*7.61*)
Template Pile							
24-in Steel Pipe Pile	Vibratory Installation and Removal.	17.9, (*0.005*)	1.6, (*0.001*)	26.4, (*0.008*)	10.9, (*0.003*)	0.8, (*0.001*)	7,356, (*7.61*)

TABLE 9—LEVEL A HARASSMENT AND LEVEL B HARASSMENT ISOPLETHS AND ASSOCIATED AREAS * FROM VIBRATORY AND IMPACT PILE DRIVING AND VIBRATORY REMOVAL, USING THE 2024 TECHNICAL GUIDANCE

Pile size/type	Method	Level A harassment: isopleths (m), areas (km^2)					Level B harassment: isopleth (m), areas (km^2)
		LF	HF [1]	VHF [2]	PW	OW	
Haulout Pier Support Pile							
36-in Steel Pipe Pile	Vibratory Installation Impact Installation	31.5 2,507	12.1 319.9	25.8 3,880, (*4.59*)	40.6 2,227.3, (*2.86*)	13.7 830.3, (*0.62*)	11,659, (*9.41*) 1,585, (*1.94*)
Haulout Pier Batter Pile							
36-in Steel Pipe Pile	Vibratory Installation	50.1	19.2	40.9	64.4	21.7	11,659, (*9.41*)
	Impact Installation	3,285.4	419.2	5,084.2 (*5.73*)	2,918.6 (*3.55*)	1,087.9 (*1.01*)	1,585, (*1.94*)
Haulout Pier Fender Pile							
24-in Steel Pipe Pile	Vibratory Installation	19.9	7.6	16.3	25.6	8.6	7,356, (*7.61*)
Template Pile							
24-in Steel Pipe Pile	Vibratory Installation and Removal.	24.1	9.3	19.7	31.0	10.4	7,356, (*7.61*)

* Level A harassment areas (km^2) have been presented only in cases where they are necessary to calculate updates to take by Level A harassment based on the 2024 Technical Guidance and methodology used in the Proposed IHA (89 FR 56317, July 9, 2024). In cases where the shutdown zone meets or exceeds the Level A harassment isopleth, take by Level A harassment was not reanalyzed.

[1] Species that were considered Mid-Frequency cetaceans under the NMFS 2018 Technical Guidance are now considered High Frequency cetaceans.

[2] Species that were considered High-Frequency cetaceans under the NMFS 2018 Technical Guidance are now considered Very High Frequency cetaceans.

Marine Mammal Occurrence and Take Estimation

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

Additionally, we describe how the occurrence information is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and authorized. Available information regarding marine mammal occurrence in the vicinity of the project area includes site-specific and nearby survey information and historic data sets. Prior data sets consulted included: (1) PSO monitoring completed at the project site on 8 days between September 20 and 29, 2023 during the geotechnical investigation preceding this project (Solstice, 2023), (2) PSO monitoring completed at the project site on 22 days between October and November 2017 during the Multipurpose Dock Project (TMC, 2017), (3) PSO monitoring completed at O'Connell Bridge (approximately 7 km to the east of the project site) on 4 days in June 2019 (CBS, 2019); (4) Land-based surveys conducted at Sitka's Whale Park completed weekly between September and May 1995—2000 (Straley and Pendell (2017)); and, (5) data available on the Global Biodiversity Information Facility (see CBS's application for further details).

To estimate take, CBS referred to the above referenced data sets to estimate total (Level A and Level B combined) takes per day for each species and multiplied this factor by the total number of construction days. NMFS finds it more appropriate to describe the take estimate inputs according to a daily occurrence probability in which groups per day and group size are estimated for each species and multiplied by the number of days of each type of pile driving activity. The equation used to estimate take by Level B harassment for all species is:

Exposure Estimate = group size × groups per day × days of pile driving activity.

CBS initially planned to implement shutdown zones for mid-frequency cetaceans and otariids (except Steller sea lions) that met or exceeded the Level A harassment isopleths for all activities. Using the 2018 Technical Guidance, the calculated Level A harassment zones during impact installation of 36-in steel piles, planned to occur on 30 construction days, exceeded the shutdown zones for phocids, high frequency cetaceans, and low frequency cetaceans. After applying the 2024 Technical Guidance, the calculated Level A harassment zones for this activity exceeded the shutdown zones for all species except killer whale. The best available abundance estimates for these species cover the general region of Sitka Sound and Silver Bay; therefore, we used proportional comparisons of predicted harassment areas to estimate predicted take by Level A harassment. In the absence of density data, best available monitoring data for the general area were used to estimate take by Level A harassment. Specifically, to calculate estimated take by Level A harassment for all species except California sea lion and Northern fur seal, which are expected to be very rare for the area) we proportionally compared, by hearing group, the portion of the largest Level A harassment area square kilometers (km^2) that exceeds the planned shutdown zone area (km^2) to the area (km^2) of the largest Level B harassment zone across that pile type (typically from vibratory pile driving). This ratio was then multiplied by the group size, daily sightings, and number of construction days, according to the equation below. For LF cetaceans, there was no meaningful change to the calculated Level A harassment isopleths after applying the 2024 Technical Guidance. For killer whales, the shutdown zone still exceeds the calculated Level A harassment isopleths. Therefore, the take estimates for these species (LF cetaceans and killer whale) have not changed. The estimated take by Level A harassment has been updated for all other species to account for larger Level A harassment isopleths which exceed the shutdown zone.

Take by Level A harassment = Level A harassment area (km^2)/maximum Level B harassment area (km^2) × group size × groups per day × days of pile driving.

For Steller sea lions, during impact pile driving of 36-in steel pipe piles (batter and support), the shutdown zone will be established at 60 meters (m) rather than the larger Level A harassment isopleths due to practicability; local monitoring data suggests that Steller sea lions frequently occur within close proximity of the project site. The method described above did not produce an estimate of take by Level A harassment consistent with the best available data for this species at the project location. Therefore, recent monitoring data collected at this site (Solstice, 2023), were used to calculate take by Level A harassment. The proportion of Steller sea lions detected between 60 m and the largest level A zone (130 m based on 2018 Technical Guidance, updated to 1,087 m based on the 2024 Technical Guidance) was multiplied by group size, number of daily sightings, and the number of construction days when impact pile driving would occur according to this equation:

Take by Level A harassment = group size × groups per day × days of impact pile driving activity × proportion of Steller sea lions observed occurring between 60 m and the largest level A zone during geotechnical drilling.

Take estimates were rounded up to the nearest whole number in table 10.

Gray Whale

CBS requested take by Level B harassment of 31 gray whales, based on an estimated 1 gray whale every 2 days for 62 construction days. However, during weekly surveys conducted from September to May between 1995 and 2000, gray whales were infrequently observed in groups of 3 from Whale Park. As such, NMFS proposed 1 group of 3 gray whales every 14 construction days (62/14 construction days = 4.4 2-week construction week periods), resulting in 14 takes by Level B harassment (1 group × 3 gray whales × 4.4 construction periods = 13.2 takes by Level B harassment).

The shutdown zone exceeds the calculated Level A harassment zone except during impact pile driving of 36-in steel piles (support and battered), estimated across 30 construction days. As such, it is possible that gray whales may occur in the Level A harassment zone and stay long enough to incur AUD INJ before exiting during those 30 days. For 36-in support piles, the ratio of the Level A harassment area (km^2) that exceeds the shutdown zone to the maximum predicted Level B harassment area (km^2) is 0.06. This activity is estimated to take place on 20 construction days. For 36-in batter piles, the ratio of the Level A harassment area (km^2) that exceeds the shutdown zone to the Level B harassment area is 0.16. This activity is estimated to take place on 10 construction days. As such, 3 takes by Level A harassment are estimated [(0.06 × 4.4 construction periods × 1 group × 3 gray whales) + (0.16 × 4.4 construction periods × 1 group × 3 gray whales) = 2.9 takes by Level A harassment].

Any individuals exposed to the higher levels associated with the potential for AUD INJ closer to the source might also be behaviorally disturbed, however, for the purposes of quantifying take we do not count those exposures of one individual as a take by both Level A and

Level B harassment. Therefore, takes by Level B harassment calculated as described above were further modified to deduct the authorized amount of take by Level A harassment. Therefore, NMFS has authorized 3 takes by Level A harassment and 11 takes by Level B harassment for gray whale, for a total of 14 takes. When allocating take across stocks, take estimates are rounded up to the nearest whole number.

Humpback Whale

CBS requested take by Level B harassment of 248 humpback whales, based on an estimated 4 humpback whales occurring every 1 construction day for 62 construction days. NMFS concurred with this take estimate, acknowledging that 2 groups of 2 humpback whales occurring each construction day is reasonable based on previous monitoring data (2 groups × 2 humpback whales × 62 construction days = 248 takes by Level B harassment of humpback whale).

The shutdown zone exceeds the calculated Level A harassment zone except during impact pile driving of 36-in steel piles (support and battered), estimated across 30 construction days. As such, it is possible that humpback whales may occur in the Level A harassment zone and stay long enough to incur AUD INJ before exiting. For 36-in support piles, the ratio of the Level A harassment area (km^2) that exceeds the shutdown zone to the maximum predicted Level B harassment area (km^2) is 0.06. This activity is estimated to take place on 20 construction days. For 36-in batter piles, the ratio of the Level A harassment area (km^2) that exceeds the shutdown zone to the Level B harassment area is 0.16. This activity is estimated to take place on 10 construction days. As such, 12 takes by Level A harassment are estimated [(0.06 × 20 construction days × 2 groups × 2 humpback whales) + (0.16 × 10 construction days × 2 groups × 2 humpback whales) = 11.2 takes by Level A harassment].

Any individuals exposed to the higher levels associated with the potential for AUD INJ closer to the source might also be behaviorally disturbed, however, for the purposes of quantifying take we do not count those exposures of one individual as a take by both Level A and Level B harassment. Therefore, takes by Level B harassment calculated as described above were further modified to deduct the amount of take by Level A harassment. Therefore, NMFS has authorized 12 takes by Level A harassment and 236 takes by Level B harassment for humpback whale, for a total of 248 takes. When allocating take across stocks, take estimates are rounded up to the nearest whole number.

Killer Whale

CBS requested take by Level B harassment of 31 killer whales, based on an estimated 1 killer whale occurring every 2 construction days for 62 construction days. However, because killer whales were unpredictably observed from Whale Park in groups of 4–8 during weekly surveys conducted from September to May between 1995 and 2000, NMFS found it more appropriate to propose 1 group of 8 killer whales every 7 construction days (62/7 construction days = 8.9 construction weeks), and has authorized the resulting 71 takes by Level B harassment (1 group × 8 killer whales × 8.9 construction weeks = 71 takes by Level B harassment). No takes by Level A harassment were requested or are authorized.

Pacific White-Sided Dolphin

CBS requested take by Level B harassment of 16 Pacific white-sided dolphin, based on an estimated 1 Pacific white-sided dolphin occurring every 4 construction days for 62 construction days. However, although a rare occurrence, Pacific white-sided dolphin were observed in groups averaging 4 individuals when sighted from Whale Park during weekly surveys conducted from September to May between 1995 and 2000. As such, NMFS finds it more appropriate to authorize 1 group of 4 Pacific white-sided dolphin every 14 construction days (62 ÷ 14 = 4.4 2-week construction periods), resulting in 18 authorized takes by Level B harassment (1 group × 4 Pacific white-sided dolphin × construction 4.4 periods = 17.6 takes by Level B harassment). No takes by Level A harassment were requested or proposed for authorization (89 FR 56317, July 9, 2024).

However, using the 2024 Technical Guidance, the re-calculated Level A harassment zone exceeds the planned shutdown zone during impact installation of 36-in steel piles (estimated to occur on 30 construction days). NMFS therefore finds it appropriate to authorize 4 takes by Level A harassment of Pacific white-sided dolphin, which is derived from the following: For 36-in support piles, the ratio of the Level A harassment area (km^2) that exceeds the shutdown zone to the maximum predicted Level B harassment area (km^2) is 0.003. This activity is estimated to take place on 20 construction days (20 construction days ÷ 14 days = 1.43 2-week construction periods). For 36-in batter piles, the ratio of the Level A harassment area (km^2) that exceeds the shutdown zone to the Level B harassment area is 0.01. This activity is estimated to take place on 10 construction days (10 construction days ÷ 14 days = 0.71 2-week periods). As such, 0.05 takes by Level A harassment are estimated [(0.0 × 1.43 construction days × 1 group × 4 Pacific white-sided dolphin) + (0.01 × 0.71 construction days × 1 group × 4 pacific white-sided dolphin) = 0.05 takes by Level A harassment]. The take by Level A harassment estimate was then increased to the minimum estimated group size of 4 for Pacific white-sided dolphin.

Any individuals exposed to the higher levels associated with the potential for AUD INJ closer to the source might also be behaviorally disturbed, however, for the purposes of quantifying take we do not count those exposures of one individual as a take by both Level A and Level B harassment. Therefore, takes by Level B harassment calculated as described above were further modified to deduct the amount of take by Level A harassment. Thus, NMFS has authorized 4 takes by Level A harassment and 14 takes by Level B harassment for Pacific white-sided dolphin, for a total of 18 takes. When allocating take across stocks, take estimates are rounded up to the nearest whole number.

Harbor Porpoise

CBS requested take by Level B harassment of 16 harbor porpoise, based on an estimated 1 harbor porpoise occurring every 4 construction days for 62 construction days. However, harbor porpoise were rarely observed from Whale Park in groups of five during weekly surveys conducted from September to May between 1995 and 2000. As such, NMFS finds it more appropriate to authorize 1 group of 5 harbor porpoise every 14 construction days (62 ÷ 14 construction days = 4.4 2-week construction week periods), resulting in 22 takes by Level B harassment (1 group × 5 harbor porpoises × 4.4 construction periods = 22 takes by Level B harassment).

During impact pile driving of 36-in steel piles, estimated across 30 construction days, the expected Level A harassment zone is larger than the planned shutdown zone (see Figure 1 of the Marine Mammal Mitigation and Monitoring Plan). As such, it is possible that harbor porpoise may enter the Level A harassment zone and stay long enough to incur AUD INJ before exiting. For 36-in support piles, the ratio of the Level A harassment area (km^2) that exceeds the shutdown zone to the maximum predicted Level B harassment

area (km^2) is 0.49 after applying the 2024 Technical Guidance (increased from 0.38). This activity is estimated to take place on 20 construction days (20 construction days ÷ 14 days = 1.43 2-week construction periods). For 36-in batter piles, the ratio of the portion of the Level A harassment area that exceeds the shutdown zone area (km^2) to the maximum predicted Level B harassment area is 0.60 after applying the 2024 Technical Guidance (increased from 0.48). This activity is estimated to take place on 10 construction days (10 construction days ÷ 14 days = 0.71 2-week construction periods). As such, six instead of five takes by Level A harassment are authorized [(0.49 × 1 group × 5 harbor porpoise × 1.43 2-week construction periods) + (0.60 × 1 group × 5 harbor porpoises × 0.71 2-week construction periods) = 5.6 takes by Level A harassment].

Any individuals exposed to the higher levels associated with the potential for AUD INJ closer to the source might also be behaviorally disturbed; however, for the purposes of quantifying take we do not count those exposures of one individual as a take by both Level A and Level B harassment. Therefore, takes by Level B harassment calculated as described above were further modified to deduct the amount of take by Level A harassment. Thus, NMFS has authorized 6 takes by Level A harassment and 16 takes by Level B harassment for harbor porpoise, for a total of 22 takes.

Steller Sea Lion

CBS requested take by Level B harassment of 496 Steller sea lions, based on an estimated 8 Steller sea lions occurring every 1 construction day for 62 construction days. NMFS concurs with this take estimate, acknowledging that four groups of two Steller sea lions occurring each construction day is reasonable based on previous monitoring data (2 groups × 4 Steller sea lion × 62 construction days = 496 takes by Level B harassment of Steller sea lion).

During impact pile driving of 36-in steel piles, estimated across 30 construction days, the expected Level A harassment zone is larger than the shutdown zone. As such, it is possible that Steller sea lion may enter the Level A harassment zone and stay long enough to incur AUD INJ before exiting. For 36-in support piles, the ratio of the Level A harassment area that exceeds the planned shutdown zone (km^2) to the maximum predicted Level B harassment area (km^2) for is 0.07 after applying the 2024 Technical Guidance (increased from 0.001). This activity is estimated to take place on 20 construction days. For 36-in batter piles, the ratio of the Level A harassment area (km^2) to the maximum predicted Level B harassment area is 0.1 after applying the 2024 Technical Guidance (increased from 0.002). This activity is estimated to take place on 10 construction days. As such, one take by Level A harassment was estimated [(0.07 × 20 construction days × 2 groups × 4 Steller sea lion × 20 construction days) + (0.1 × 10 construction days × 2 groups × 4 Steller sea lion × 10 construction days) = 19.2 takes by Level A harassment].

However, the 19.2 takes by Level A harassment estimated using the method described above likely does not reflect the true occurrence of Steller sea lion in the project area. Based on monitoring data collected during geotechnical survey conducted to inform CBS's IHA application, Steller sea lions are expected to disproportionally occur within close proximity to the project site. All (100 percent) Steller sea lions documented during that survey were observed between 60 m and 1,087.9 m, which corresponds to the Level A zones during impact pile driving of 36-in piles after applying the 2024 Technical Guidance. These scenarios may occur on up to 30 construction days. Therefore 240 additional takes by Level A harassment are anticipated (2 groups of 4 Steller sea lion × 30 construction days × 1 = 240 takes by Level A harassment).

Any individuals exposed to the higher levels associated with the potential for AUD INJ closer to the source might also be behaviorally disturbed, however, for the purposes of quantifying take we do not count those exposures of one individual as a take by both Level A and Level B harassment. Therefore takes by Level B harassment calculated as described above are further modified to deduct the authorized amount of take by Level A harassment. Thus, NMFS has authorized 240 takes by Level A harassment and 256 takes by Level B harassment for Steller sea lion, for a total of 496 takes.

California Sea Lion

CBS requested take by Level B harassment of five California sea lions, based on an estimated one California sea lion occurring every month that construction is planned (October to March = 5 months) to account for the unlikely but small possibility that California sea lion could occur in the project area. However, NMFS finds it more appropriate to estimate take by Level B harassment according to duration of in-water work (62 construction days/30 days in 1 month = 2.06 construction months). As such, NMFS authorized take by Level B harassment of three California sea lion (1 group × 1 California sea lion × 2.06 construction months = 2.06 takes by Level B harassment of California sea lion). After applying the 2024 Technical Guidance, calculated Level A harassment isopleths increased to 830 m and 1,087 m during impact pile driving activities, which is much further than the distances at which we estimate this species can reliably be observed by PSOs. As such NMFS has authorized a maximum total of 3 takes by either Level B or Level A harassment.

Northern Fur Seal

CBS requested take by Level B harassment of five northern fur seals, based on an estimated one northern fur seal occurring every month that construction is planned (October–March = 5 months) to account for the unlikely but small possibility that northern fur seals could occur in the project area. However, NMFS finds it more appropriate to estimate take by Level B harassment according to the duration of in-water work (62 construction days/30 days in 1 month = 2.06 months). As such, NMFS authorized take by Level B harassment of three northern fur seals (1 group × 1 northern fur seal × 2.06 construction months = 2.06 takes by Level B harassment of northern fur seal). After applying the 2024 Technical Guidance, calculated Level A harassment isopleths increased to 830 m and 1,087 m during impact pile driving activities, which is much further than the distances at which we estimate this species can reliably be observed by PSOs. As such, NMFS has authorized a maximum total of 3 takes by either Level B or Level A harassment.

Harbor Seal

CBS requested take by Level B harassment of 124 harbor seals, based on an estimated 2 harbor seals occurring every 2 construction days for 62 construction days. However, because harbor seals are frequently documented in the project area, NMFS finds it more appropriate to authorize 186 takes by Level B harassment of harbor seal, based on the maximum groups size of 3 documented at the project site in 2017 (1 group × 3 harbor seal × 62 construction days = 186 takes by Level B harassment).

During impact pile driving of 36-in steel piles, estimated across 30 construction days, the expected Level A harassment zone is larger than the planned shutdown zone. As such, it is possible that harbor seal may enter the Level A harassment zone and stay long enough to incur AUD INJ before exiting.

For 36-in support piles, the ratio of the Level A harassment area (km^2) that exceeds the planned shutdown zone to the Level B harassment area (km^2) is 0.27 after applying the 2024 Technical Guidance (increased from 0.16). This activity is estimated to take place on 20 construction days. For 36-in batter piles, the ratio of the Level A harassment area that exceeds the shutdown zone area (km^2) to the maximum predicted Level B harassment area is 0.24 after applying the 2024 Technical Guidance (increased from 0.23). This activity is estimated to take place on 10 construction days. As such, 34 takes by Level A harassment are estimated [(0.27 × 20 construction days × 1 group × 3 harbor seals) + (0.34 × 10 construction days × 1 group × 3 harbor seals) = 52.8 takes by Level A harassment].

Any individuals exposed to the higher levels associated with the potential for AUD INJ closer to the source might also be behaviorally disturbed, however, for the purposes of quantifying take we do not count those exposures of one individual as a take by both Level A and Level B harassment. Therefore, takes by Level B harassment calculated as described above are further modified to deduct the amount of take by Level A harassment. Thus, NMFS has authorized 53 takes by Level A harassment and 133 takes by Level B harassment for harbor seal, for a total of 186 takes.

The total takes authorized for all species are summarized in table 10 below, which reflects changes incorporated after applying the 2024 Technical Guidance. Take by Level A harassment is authorized for a total of 3 individuals for gray whale, 12 individuals for humpback whale, 4 individuals for Pacific white-sided dolphin (increased from 0), 6 individuals for harbor porpoise (increased from 5), 240 individuals for Steller sea lion (increased from 88), 53 (increased from 34) individuals for harbor seal, 3 individuals of California sea lion (increased from 0), and 3 individuals of Northern fur seal (increased from 0).

TABLE 10—TAKE BY STOCK AND HARASSMENT TYPE AND AS A PERCENTAGE OF STOCK ABUNDANCE PRESENTED IN PROPOSED FRN (89 FR 56317, JULY 9, 2024) AND AS AUTHORIZED BASED ON THE UPDATED 2024 TECHNICAL GUIDANCE

Species	Stock	Proposed authorized take [1]		Authorized take [1]		Authorized take as a percentage of stock abundance
		Level B harassment	Level A harassment	Level B harassment	Level A harassment	
Gray Whale	Eastern N. Pacific	11	3	11	3	<1
Humpback Whale [2]	Mexico—North Pacific.	5	1	5	1	<1
	Hawai'i	231	11	231	11	2.2
Killer Whale [3]	ENP Alaska Resident	44	0	44	0	2.3
	ENP Northern Resident.	7	0	7	0	2.3
	ENP Gulf of Alaska, Aleutian Islands, and Bering Sea.	14	0	14	0	2.4
	West Coast Transient.	8	0	8	0	2.3
Pacific white-sided dolphin.	North Pacific	18	0	14	4	<1
Harbor Porpoise	Yakutat/Southeast Alaska Offshore Waters.	17	5	16	6	(4)
Steller sea lion [5]	Western DPS	5	1	4	3	<1
	Eastern DPS	402	88	252	237	1.3
California sea lion	United States	3	0	3		<1
Northern fur seal	Eastern Pacific	3	0	3		<1
Harbor Seal	Sitka/Chatham Strait	152	34	133	53	1.4

[1] When allocating take across stocks, take estimates are rounded up to the nearest whole number.
[2] 2 percent of take by Level A and Level B harassment of humpback whales are allocated to the Mexico DPS according to NMFS, 2021.
[3] Take by level B harassment of killer whale is allocated across stocks according to the proportion of the stock compared to total number of animals in all four stocks that could occur in the project area: Alaska Residents, 60.7 percent; Northern Residents, 9.6 percent; Gulf of Alaska, Aleutian Islands, and Bering Sea: 18.6 percent ; West Coast Transient, 11.1 percent.
[4] A reliable abundance estimate for this stock is currently unavailable.
[5] 1.2 percent take by Level A and Level B harassment of Steller sea lions are allocated to the Western DPS according to Hastings *et al.* (2020).

Mitigation

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

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on

species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

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

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

Mitigation for Marine Mammals and Their Habitat

Shutdown Zones—For all pile driving activities, CBS plans to implement shutdowns within designated zones. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity will occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones vary based on the activity type and marine mammal species or hearing group (table 11 and table 12). In most cases, the shutdown zones are based on the estimated Level A harassment isopleth distances for each hearing group. However, in cases where it would be challenging to detect marine mammals at the Level A harassment isopleth (*e.g.,* for all species during impact pile driving except killer whale, after application of the 2024 Technical Guidance) and/or frequent shutdowns would create practicability concerns (*e.g.,* Steller sea lions during impact pile driving), smaller shutdown zones are planned (table 12).

Construction supervisors and crews, PSOs, and relevant CBS staff must avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 m of such activity, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions, as necessary to avoid direct physical interaction. If an activity is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until, either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone indicated in table 11, or 15 minutes have passed without re-detection of the animal.

Finally, construction activities must be halted upon observation of a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met entering or within any harassment zone. If a marine mammal species not covered under this IHA enters a harassment zone, all in-water activities will cease until the animal leaves the zone or has not been observed for at least 15 minutes, and NMFS would be notified about species and precautions taken. Pile driving will proceed if the unauthorized species is observed leaving the harassment zone or if 15 minutes have passed since the last observation.

TABLE 11—SHUTDOWN ZONES PRESENTED IN THE PROPOSED FRN

[89 FR 56317, July 9, 2024]

Pile size/type	Method	Shutdown zones (m)					
		LF	MF	HF	PW	OW	
						Steller sea lion	Other OW
Haulout Pier Support Pile							
36-in Steel Pipe Pile	Vibratory Installation	30	10	40	20	10	10
	Impact Installation	2,000	90	300	130	60	100
Haulout Pier Batter Pile							
36-in Steel Pipe Pile	Vibratory Installation	40	10	60	30	10	10
	Impact Installation	2,000	120	300	130	60	130
Haulout Pier Fender Pile							
24-in Steel Pipe Pile	Vibratory Installation	20	10	30	10	10	10
Template Pile							
24-in Steel Pipe Pile	Vibratory Installation and removal	20	10	30	20	10	10

TABLE 12—FINAL SHUTDOWN ZONES BASED ON THE 2024 TECHNICAL GUIDANCE

Pile size/type	Method	Shutdown zones (m)						
		LF	HF [1]		VHF [2]	PW	OW	
			Killer whale	Other HF			Steller sea lion	Other OW
Haulout Pier Support Pile								
36-in Steel Pipe Pile	Vibratory Installation	[3] 40	[3] 20	[3] 20	40	[3] 50	[3] 20	[3] 20
	Impact Installation	2,000	[3] 320	[4] 300	300	130	60	[4] 130
Haulout Pier Batter Pile								
36-in Steel Pipe Pile	Vibratory Installation	[3] 60	[3] 20	[3] 20	60	[3] 70	[3] 30	[3] 30

TABLE 12—FINAL SHUTDOWN ZONES BASED ON THE 2024 TECHNICAL GUIDANCE—Continued

Pile size/type	Method	Shutdown zones (m)						
		LF	HF [1]		VHF [2]	PW	OW	
			Killer whale	Other HF			Steller sea lion	Other OW
	Impact Installation	2,000	[3] 420	[4] 300	300	130	60	130
Haulout Pier Fender Pile								
24-in Steel Pipe Pile	Vibratory Installation	20	10	10	30	[3] 30	10	10
Template Pile								
24-in Steel Pipe Pile	Vibratory Installation and removal	[3] 30	10	10	30	40	20	20

[1] Species that were considered Mid-Frequency cetaceans under the NMFS 2018 Technical Guidance are now considered High Frequency cetaceans.
[2] Species that were considered High-Frequency cetaceans under the NMFS 2018 Technical Guidance are now considered Very High Frequency cetaceans.
[3] Shutdown zones have been increased to meet the calculated Level A harassment isopleths using the 2024 Technical Guidance.
[4] Shutdown zones have been increased to the extent that this hearing group is expected to be reliably observable.

Protected Species Observers—The number and placement of PSOs during all construction activities (described in the Monitoring and Reporting section) would ensure that the entire shutdown zone is visible during impact pile driving. In such cases, PSOs will monitor the Level A harassment zone and corresponding shutdown zone to the greatest extent practicable. CBS will employ at least three PSOs for all pile driving activities.

Monitoring for Level A and Level B Harassment—PSOs will monitor the shutdown zones and beyond to the extent that PSOs can see. Monitoring beyond the shutdown zones enables observers to be aware of, and communicate the presence of, marine mammals in the project areas outside the shutdown zones and thus prepare for a potential cessation of activity should the animal enter the shutdown zone. If a marine mammal enters either harassment zone, PSOs will document the marine mammal's presence and behavior.

Pre-and Post-Activity Monitoring—Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 minutes or longer occurs, PSOs will observe the shutdown zones and as much as the harassment zones as possible for a period of 30 minutes. Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine that the shutdown zones are clear of marine mammals. If the shutdown zone is obscured by fog or poor lighting conditions, in-water construction activity will not be initiated until the entire shutdown zone is visible. Pile driving may commence following 30 minutes of observation when the determination is made that the shutdown zones are clear of marine mammals. If a marine mammal is observed entering or within shutdown zones, pile-driving activity must be delayed or halted. If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal. If a marine mammal for which take by Level B harassment is authorized is present in the Level B harassment zone, activities may begin.

Soft-Start—The use of soft-start procedures are believed to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors will be required to provide an initial set of three strikes from the hammer at reduced energy, with each strike followed by a 30-second waiting period. This procedure will be conducted a total of three times before impact pile driving begins. Soft start will be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer. Soft start is not required during vibratory pile driving activities.

Based on our evaluation of the applicant's planned measures, NMFS has determined that the planned mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance. Note that the applicant opted to forgo the use of a bubble curtain as a mitigation measure as its use would decrease production rates due to the need to reposition the curtain around piles and vessel traffic, the need to maintain and operate the compressor, and delays associated with mechanical malfunctions.

Monitoring and Reporting

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

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

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or

cumulative impacts from multiple stressors;

- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Visual Monitoring—Marine mammal monitoring during pile driving activities must be conducted by NMFS-approved PSOs in a manner consistent with the following:

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

PSOs must also have the following additional qualifications:

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

Visual monitoring will be conducted by a minimum of 3 trained PSOs positioned at suitable vantage points, such as the project site, Sawmill Creek Road and Medveje Hatchery (see figure 1 in CBS's Marine Mammal Mitigation and Monitoring Plan). During vibratory pile driving, at least one PSO will have an unobstructed view of all water within the shutdown zone. During impact pile driving, a second PSO will be placed at Sawmill Creek Road to ensure the largest shutdown zone extending into Eastern Channel is observable and a third PSO would be placed at Medvejie Hatchery to ensure as much of the shutdown zone in Silver Bay is observable as possible. All PSOs will be stationed on elevated platforms to aid in monitoring marine mammals.

Monitoring will be conducted 30 minutes before, during, and 30 minutes after all in water construction activities. In addition, PSOs will record all incidents of marine mammal occurrence, regardless of distance from activity, and will document any behavioral reactions in concert with distance from piles being driven or removed. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

Reporting

CBS will submit a draft marine mammal monitoring report to NMFS within 90 days after the completion of pile driving activities, or 60 days prior to a requested date of issuance of any future IHAs for the project, or other projects at the same location, whichever comes first. The marine mammal monitoring report will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report will include:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including: (1) the number and type of piles that were driven and the method (*e.g.,* impact or vibratory); and, (2) total duration of driving time for each pile (vibratory driving) and number of strikes for each pile (impact driving);
- PSO locations during marine mammal monitoring;
- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance;
- Upon observation of a marine mammal, the following information: (1) name of PSO who sighted the animal(s) and PSO location and activity at time of sighting; (2) time of sighting; (3) identification of the animal(s) (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species; (4) distance and location of each observed marine mammal relative to the pile being driven for each sighting; (5) estimated number of animals (min/max/best estimate); (6) estimated number of animals by cohort (adults, juveniles, neonates, group composition, *etc.*); (7) animal's closest point of approach and estimated time spent within the harassment zone; and, (8) description of any marine mammal behavioral observations (*e.g.,* observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.,* no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);
- Number of marine mammals detected within the harassment zones, by species; and
- Detailed information about implementation of any mitigation (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.

A final report must be prepared and submitted within 30 calendar days following receipt of any NMFS comments on the draft report. If no comments are received from NMFS within 30 calendar days of receipt of the draft report, the report shall be considered final. All PSO data will be submitted electronically in a format that can be queried such as a spreadsheet or database and will be submitted with the draft marine mammal report.

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the Holder must report the incident to the OPR, NMFS (*PR.ITP.MonitoringReports@noaa.gov* and *itp.fleming@noaa.gov*) and Alaska Regional Stranding network (877–925–7773) as soon as feasible. If the death or injury was clearly caused by the

specified activity, the Holder must immediately cease the activities until NMFS OPR is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of this IHA. The Holder must not resume their activities until notified by NMFS. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

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

The incorporation of the 2024 Updated Technical Guidance does not alter the original scope of the activity analyzed or our effects analysis in a manner that materially affects the basis for original findings under the IHA. Shutdown zones have been increased to meet or exceed the Level A harassment zone calculated using the 2024 Technical Guidance where practicable. In cases where the shutdown zones cannot be increased due to observability or practicability concerns, a slightly larger proportion of overall proposed take has been authorized as take by Level A harassment. However, the total take authorized remains the same as the take proposed for authorization during the public comment period for all species. Accordingly, we have determined that even with the incorporation of the 2024 Technical Guidance, this project will have a negligible impact on the affected species stocks and the negligible impact analysis presented in the proposed FRN remains applicable.

To avoid repetition, the discussion of our analysis applies to all the species listed in table 1, given that the anticipated effects of this activity on these different marine mammal stocks are expected to be similar. There is little information about the nature or severity of the impacts, or the size, status, or structure of any of these species or stocks that would lead to a different analysis for this activity.

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

No serious injury or mortality is expected, even in the absence of required mitigation measures, given the nature of the activities.

Following the incorporation of the 2024 Updated Technical Guidance take by Level A harassment is authorized for all species except killer whale. Any take by Level A harassment is expected to arise from, at most, a small degree of AUD INJ (*i.e.,* minor degradation of hearing capabilities within regions of hearing that align most completely with the energy produced by impact pile driving such as the low-frequency region below 2 kHz), not severe hearing impairment or impairment within the ranges of greatest hearing sensitivity. Animals would need to be exposed to higher levels and/or longer duration than are expected to occur here in order to incur any more than a small degree of AUD INJ.

Further, the amount of take by Level A harassment authorized is very low for all marine mammal stocks and species, except Steller sea lion. NMFS expects no more than 3 takes by Level A harassment for gray whale, 12 takes by Level A harassment for humpback whale; 4 takes by Level A harassment for Pacific white-sided dolphin, 6 takes by Level A harassment for harbor porpoise; 53 takes by Level A harassment for harbor seal; 3 takes by Level A or Level B harassment for California sea lion; and, 3 takes by Level A or Level B harassment for Northern fur seal. Although 240 takes by Level A harassment for Steller sea lion are authorized, if hearing impairment occurs, it is most likely that the affected animal would lose only a few dB in its hearing sensitivity. Due to the small degree anticipated, any AUD INJ potential incurred would not be expected to affect the reproductive success or survival of any individuals, much less result in adverse impacts on the species or stock.

Additionally, some subset of the individuals that are behaviorally harassed could also simultaneously incur some small degree of TTS for a short duration of time. However, since the hearing sensitivity of individuals that incur TTS is expected to recover completely within minutes to hours, it is unlikely that the brief hearing impairment would affect the individual's long-term ability to forage and communicate with conspecifics, and would therefore not likely impact reproduction or survival of any individual marine mammal, let alone adversely affect rates of recruitment or survival of the species or stock.

Effects on individuals that are taken by Level B harassment in the form of behavioral disruption, on the basis of reports in the literature as well as monitoring from other similar activities, would likely be limited to reactions such as avoidance, increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006). Most likely, individuals would simply move away from the sound source and temporarily avoid the area where pile driving is occurring. If sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activities are occurring. We expect that

any avoidance of the project areas by marine mammals would be temporary in nature and that any marine mammals that avoid the project areas during construction would not be permanently displaced. Short-term avoidance of the project areas and energetic impacts of interrupted foraging or other important behaviors is unlikely to affect the reproduction or survival of individual marine mammals, and the effects of behavioral disturbance on individuals is not likely to accrue in a manner that would affect the rates of recruitment or survival of any affected stock.

The project is also not expected to have significant adverse effects on affected marine mammals' habitats. The project activities would not modify existing marine mammal habitat for a significant amount of time. The activities may cause a low level of turbidity in the water column and some fish may leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected (with no known particular importance to marine mammals), the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

While Steller sea lions are common in the project area, there are no essential primary constituent elements, such as haulouts or rookeries, present. The nearest haulout is well over 25 km away. Therefore, the project is not expected to have significant adverse effects on the critical habitat of Western DPS Steller sea lions. No areas of specific biological importance (*e.g.,* ESA critical habitat, BIAs, or other areas) for any other species are known to co-occur with the project area.

In addition, it is unlikely that minor noise effects in a small, localized area of habitat would have any effect on each stock's ability to recover. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activities would have only minor, short-term effects on individuals. The specified activities are not expected to impact rates of recruitment or survival and would therefore not result in population-level impacts.

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

- No serious injury or mortality is anticipated or authorized;
- Level A harassment would be of a low degree, and except for Eastern DPS Steller sea lion and harbor seal, of very small amounts;
- For all species, Silver Bay and East Channel are a very small and peripheral part of their range;
- Anticipated takes by Level B harassment are relatively low for all stocks. Level B harassment would be primarily in the form of behavioral disturbance, resulting in avoidance of the project areas around where impact or vibratory pile driving is occurring, with some low-level TTS that may limit the detection of acoustic cues for relatively brief amounts of time in relatively confined footprints of activities;
- Effects on species that serve as prey for marine mammals from the activities are expected to be short-term and, therefore, any associated impacts on marine mammal feeding are not expected to result in significant or long-term consequences for individuals, or to accrue to adverse impacts on their populations;
- The ensonified areas are very small relative to the overall habitat ranges of all species and stocks, and would not adversely affect ESA-designated critical habitat for any species or any areas of known biological importance;
- The lack of anticipated significant or long-term negative effects to marine mammal habitat; and
- CBS will implement mitigation measures including visual monitoring, soft-start, and shutdown zones to minimize the numbers of marine mammals exposed to injurious levels of sound, and to ensure that take by Level A harassment is, at most, a small degree of AUD INJ.

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 planned monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

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

The amount of take NMFS authorized is below one third of the estimated stock abundance for all species. This is likely a conservative estimate because we assume all takes are of different individual animals, which likely would not be the case. Some individuals may return multiple times in a day, but PSOs will count them as separate takes if they cannot be individually identified.

The most recent abundance estimate for the Mexico-North Pacific stock of humpback whale is likely unreliable as it is more than eight years old. The most relevant estimate of this stock's abundance in Southeast Alaska is 918 humpback whales (Wade, 2021), so the 4 authorized takes by Level B harassment and 1 authorized take by Level A harassment is small relative to the estimated abundance (<1 percent), even if each authorized take occurred to a new individual.

There is no abundance information available for the Yakutat/Southeast Alaska stock of harbor porpoise. However, the take numbers are sufficiently small (16 takes by Level B harassment and 6 takes by Level A harassment, updated from 17 takes by Level B harassment and 5 takes by Level A harassment after applying the 2024 Technical Guidance) that we can safely assume that they are small relative to any reasonable assumption of likely population abundance for these stocks. For reference, current abundance estimates for harbor porpoise stocks in Southeast Alaska include 1,619 (Northern Southeast Alaska Inland Waters) and 890 (Southern Southeast Alaska Inland Waters).

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

Unmitigable Adverse Impact Analysis and Determination

In order to issue an IHA, NMFS must find that the specified activity will not have an ''unmitigable adverse impact'' on the subsistence uses of the affected marine mammal species or stocks by Alaskan Natives. NMFS has defined ''unmitigable adverse impact'' in § 216.103 as an impact resulting from the specified activity that: (1) is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and, (2) cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

For marine mammals, Alaska Natives have traditionally harvested harbor seals and Steller sea lions in Sitka, Alaska. During the most recent ADF&G subsistence harvest report (2013), about 11 percent of Sitka households used subsistence-caught marine mammals, however, this is the most recent data available and there has not been a survey since 2013 (ADF&G, 2023).

The project is not likely to adversely impact the availability of any marine mammal species or stocks that are commonly used for subsistence purposes or impact subsistence harvest of marine mammals in the region because:

- There is no recent recorded subsistence harvest of marine mammals in the area;
- Construction activities are temporary and localized to the Gary Paxton Industrial Park, and industrial area;
- Construction will not take place during the herring spawning season when subsistence species are more active;
- Mitigation measures will be implemented to minimize disturbance of marine mammals in the action area; and
- The project will not result in significant changes to availability of subsistence resources.

Based on the description of the specified activity, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and the planned mitigation and monitoring measures, NMFS has determined that there will not be an unmitigable adverse impact on subsistence uses from CBS's planned activities.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species, in this case with the Alaska Regional Office (AKRO).

NMFS is authorizing take of western DPS of Steller sea lions and the Mexico DPS of humpback whales, which are listed under the ESA. The NMFS AKRO issued a Biological Opinion under Section 7 of the ESA on the issuance of an IHA to CBS under section 1010(a)(5)(D) of the MMPA by NMFS OPR. The biological opinion concluded that the action is not likely to jeopardize the continued existence of the listed species.

National Environmental Policy Act (NEPA)

To comply with the NEPA of 1969 (42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Authorization

NMFS has issued an IHA to CBS for the potential harassment of small numbers of nine marine mammal species incidental to the Gary Paxton Industrial Park Vessel Haulout project in Sitka, Alaska, that includes the previously explained mitigation, monitoring and reporting requirements.

Dated: November 18, 2024.

Kimberly Damon-Randall,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Marine and Coastal Area-Based Management Advisory Committee Meeting

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the proposed schedule and agenda of a forthcoming meeting of the Marine and Coastal Area-based Management Advisory Committee (MCAM). The members will discuss and provide advice on issues outlined under **SUPPLEMENTARY INFORMATION** below.

DATES: The meeting will be held on December 9, 2024, from 2 p.m. to 5 p.m. eastern time.

ADDRESSES: The meeting will be held virtually on the Google Meets Platform. Registration is not required. Participants may join the meeting by computer or by phone:

Join by computer: meet.google.com/pfb-mrfv-mtv.

Join by phone: (US) +1 475–221–6328 PIN: 102 658 159#.

The MCAM website may be found at *https://oceanservice.noaa.gov/ocean/marine-coastal-fac/meetings.html.*

FOR FURTHER INFORMATION CONTACT: Ellie Roberts, Program Analyst, NOAA's Office of National Marine Sanctuaries, *ellie.roberts@noaa.gov,* (240) 533–0676.

SUPPLEMENTARY INFORMATION: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. 1009(a)(2), notice is hereby given of a meeting of the MCAM. The MCAM was established in 2022 to advise the Under Secretary of Commerce for Oceans and Atmosphere on science-based approaches to area-based protection, conservation, restoration, and management in coastal and marine areas, including the Great Lakes. The MCAM charter is located online at *https://oceanservice.noaa.gov/ocean/marine-coastal-fac/.*

I. Matters To Be Considered

The meeting time and agenda are subject to change. The meeting is