

unliquidated entries of subject merchandise based on the revised dumping margin listed above.

#### Cash Deposit Requirements

Because there is now a final court decision, we are amending the *AR6 Final Results* and have revised the weighted-average dumping margin for the companies as shown above. As a result of the Final Remand Results, and as affirmed by the Court in *SDC International Aust. PTY. Ltd. v. United States*, the cash deposit rate for the companies listed above is 11.95%, effective July 13, 2017. The Department will instruct CBP accordingly.

#### Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: August 3, 2017.

**Carole Showers,**

*Executive Director, Office of Policy, performing the duties of Deputy Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2017-16874 Filed 8-9-17; 8:45 am]

**BILLING CODE 3510-DS-P**

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

**RIN 0648-XF213**

##### Marine Mammals; File No. 16609-01

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

**ACTION:** Notice; receipt of application for permit amendment.

**SUMMARY:** Notice is hereby given that Zoological Society of San Diego [Douglas Myers, Responsible Party], P.O. Box 120551, San Diego, CA 92112, has applied for an amendment to Scientific Research Permit No. 16609.

**DATES:** Written, telefaxed, or email comments must be received on or before September 11, 2017.

**ADDRESSES:** The application and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species home page, <https://apps.nmfs.noaa.gov>, and then selecting File No. 16609 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources,

NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427-8401; fax (301) 713-0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713-0376, or by email to [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov). Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

#### FOR FURTHER INFORMATION CONTACT:

Shasta McClenahan or Jennifer Skidmore, (301) 427-8401.

**SUPPLEMENTARY INFORMATION:** The subject amendment to Permit No. 16609 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Permit No. 16609, issued on April 27, 2017 (82 FR 29053), authorizes the receipt, import, and export of biological samples to establish and bank cell lines from any species of cetacean, pinniped, or sea turtle, including ESA-listed species, from up to 30 individuals of each species. The permit holder is requesting to amend the authorization to increase the annual number of samples to 60 individuals of each species, for receipt, import, and export to fulfill a new research objective to perform contaminant analysis.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal

Commission and its Committee of Scientific Advisors.

**Julia Harrison,**

*Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2017-16900 Filed 8-9-17; 8:45 am]

**BILLING CODE 3510-22-P**

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

**RIN 0648-XF574**

##### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to US 101/ Chehalis River Bridge-Scour Repair in Washington State

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

**ACTION:** Proposed incidental harassment authorization (IHA); request for comments.

**SUMMARY:** NMFS has received a request from Washington State Department of Transportation (WSDOT) for authorization to take marine mammals incidental to US 101/Chehalis River Bridge-Scour Repair in Washington State. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to incidentally take marine mammals during the specified activities.

**DATES:** Comments and information must be received no later than September 11, 2017.

**ADDRESSES:** Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to [ITP.guan@noaa.gov](mailto:ITP.guan@noaa.gov).

**Instructions:** NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at [www.nmfs.noaa.gov/pr/permits/incidental/construction.htm](http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm) without

change. All personal identifying information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:**

Shane Guan, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the applications and supporting documents, as well as a list of the references cited in this document, may be obtained online at: [www.nmfs.noaa.gov/pr/permits/incidental/construction.htm](http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm). In case of problems accessing these documents, please call the contact listed above.

**SUPPLEMENTARY INFORMATION:**

**Background**

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

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term “take” means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral

patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

**National Environmental Policy Act**

Issuance of an MMPA 101(a)(5)(D) authorization requires compliance with the National Environmental Policy Act.

NMFS preliminary determined the issuance of the proposed IHA is consistent with categories of activities identified in CE B4 (issuance of incidental harassment authorizations under section 101(a)(5)(A) and (D) of the MMPA for which no serious injury or mortality is anticipated) of the Companion Manual for NAO 216-6A and we have not identified any extraordinary circumstances listed in Chapter 4 of the Companion Manual for NAO 216-6A that would preclude this categorical exclusion.

We will review all comments submitted in response to this notice prior to making a final decision as to whether application of this CE is appropriate in this circumstance.

**Summary of Request**

NMFS received a request from WSDOT for an IHA to take marine mammals incidental to US 101/Chehalis River Bridge-Scour Repair in the State of Washington. WSDOT’s request was for harassment only and NMFS concurs that serious injury or mortality is not expected to result from this activity. Therefore, an IHA is appropriate.

In November 2016, WSDOT submitted a request to NMFS requesting an IHA for the possible harassment of small numbers of marine mammal species incidental to US 101/Chehalis River Bridge-Scour Repair in Washington State, between July 16 to September 30, 2018. WSDOT subsequently updated its project scope and submitted a revised IHA application on July 5, 2017. NMFS determined the IHA application was complete on July 14, 2017. NMFS is proposing to authorize the take by Level B harassment of the following marine mammal species: Harbor seal (*Phoca vitulina*); California sea lion (*Zalophus californianus*); Steller sea lion (*Eumetopias jubatus*); gray whale (*Eschrichtius robustus*); and harbor porpoise (*Phocoena phocoena*).

**Description of Proposed Activity**

*Overview*

WSDOT is proposing to repair an area of scour associated with Pier 14 of the US 101 Chehalis River Bridge (Figures 1–3 and 1–4 in the IHA application). The bridge foundation at Pier 14 is “scour critical” due to the bridge

foundation being unstable for calculated scour depths. The southwest quadrant of Pier 14 is undermined by scour void as much as 8 feet deep, and some of the untreated timber pilings have been directly exposed to river/estuary water since 2008. Marine borers may weaken enough pilings to require more extensive pier repair if this project is not built in the near future. In addition, the footing and seal are exposed at the other three quadrants of Pier 14.

The purpose of the US 101/Chehalis River Bridge Project is to make the bridge foundation stable for calculated scour depths, protect the foundation from further scour by removing debris, filling the scour void under Pier 14 with cementitious material (to protect the pilings from marine borers), and filling the scour hole and protecting the pier with scour resistant material.

*Dates and Duration*

Due to NMFS and the U.S. Fish and Wildlife Service (USFWS) in-water work timing restrictions to protect ESA-listed salmonids, planned WSDOT in-water construction is limited each year to July 16 through February 15. For this project, in-water construction is planned to take place between July 16 to September 30, 2018. The total worst-case time for pile installation and removal is 50 hours over 12 days (Table 1).

*Specified Geographic Region*

The US 101 Chehalis River Bridge is located in the City of Aberdeen, Grays Harbor County, Washington (Figure 1–1 in the IHA application). The bridge is located in Township 17 North, Range 9 West, Section 9, where the Chehalis River enters Grays Harbor. Land use in the Aberdeen area is a mix of residential, commercial, industrial, and open space and/or undeveloped lands (Figure 1–2 in the IHA application).

*Detailed Description of In-Water Pile Driving Associated With the US 101 Chehalis River Bridge Repair Project*

The proposed project includes vibratory hammer driving and removal creating elevated in-water and in-air noise that may impact marine mammals.

Vibratory hammers are commonly used in steel pile driving where sediments allow and involve the same vibratory hammer used in pile removal. The pile is placed into position using a choker and crane, and then vibrated between 1,200 and 2,400 vibrations per minute. The vibrations liquefy the sediment surrounding the pile allowing it to penetrate to the required seating depth, or to be removed.

Details of pile driving activities are provided below and are summarized in Table 1.

Vibratory driving of six steel H piles. This will take approximately 30 minutes per pile, with all 6 piles installed in one day.

- Vibratory driving of 44 sheet piles. This will take approximately 30 minutes per pile, with 10 piles installed per day over 5 days.

- Vibratory removal of 6 steel H piles. This will take approximately 30 minutes

per pile, with all 6 piles removed in one day.

- Vibratory removal of 44 sheet piles. This will take approximately 30 minutes per pile, with 10 piles removed per day over 5 days.

TABLE 1—SUMMARY OF IN-WATER PILE DRIVING AND REMOVAL DURATIONS

Method	Pile type	Pile size (inch)	Pile number	Duration per pile (minutes)	Duration (days)
Vibratory driving .....	Steel H pile .....	12	6	30	1
Vibratory driving .....	Sheet pile .....	44	44	30	5
Vibratory removal .....	Steel H pile .....	12	6	30	1
Vibratory removal .....	Sheet pile .....	44	44	30	5
Total .....	.....	.....	100	.....	12

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see “Proposed Mitigation” and “Proposed Monitoring and Reporting”).

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

We have reviewed the applicants' species information—which summarizes available information regarding status and trends, distribution and habitat preferences, behavior and life history, and auditory capabilities of the potentially affected species—for accuracy and completeness and refer the reader to Sections 3 and 4 of the applications, as well as to NMFS's Stock Assessment Reports (SAR; [www.nmfs.noaa.gov/pr/sars/](http://www.nmfs.noaa.gov/pr/sars/)), instead of reprinting all of the information here. Additional general information about these species (e.g., physical and behavioral descriptions) may be found on NMFS's Web site ([www.nmfs.noaa.gov/pr/species/mammals/](http://www.nmfs.noaa.gov/pr/species/mammals/)), or in

the U.S. Navy's Marine Resource Assessments (MRA) for relevant operating areas. The MRAs are available online at: [www.navfac.navy.mil/products\\_and\\_services/ev/products\\_and\\_services/marine\\_resources/marine\\_resource\\_assessments.html](http://www.navfac.navy.mil/products_and_services/ev/products_and_services/marine_resources/marine_resource_assessments.html). Table 2 lists all species with expected potential for occurrence in Chehalis Bridge project area and summarizes information related to the population or stock, including potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2016). PBR, 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, is considered in concert with known sources of ongoing anthropogenic mortality to assess the population-level effects of the anticipated mortality from a specific project (as described in NMFS's SARs).

While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality are included here as gross indicators of the status of the species 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 area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock.

Five species (with five managed stocks) are considered to have the potential to co-occur with the proposed construction activities. All values presented in Table 2 are the most recent available at the time of publication and are available in the 2015 SARs (Carretta *et al.*, 2016) and draft 2016 SARs (available online at: [www.nmfs.noaa.gov/pr/sars/draft.htm](http://www.nmfs.noaa.gov/pr/sars/draft.htm)).

TABLE 2—MARINE MAMMALS WITH POTENTIAL PRESENCE WITHIN THE PROPOSED PROJECT AREA

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N) <sup>1</sup>	Stock abundance (CV, N <sub>min</sub> , most recent abundance survey) <sup>2</sup>	PBR	Annual M/SI <sup>3</sup>
<b>Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)</b>						
<b>Family Eschrichtiidae</b>						
Gray whale .....	<i>Eschrichtius robustus</i> ..	Eastern North Pacific ..	N	20,990	624	132
<b>Family Phocoenidae (porpoises)</b>						
Harbor porpoise .....	<i>Phocoena phocoena</i> ...	Washington inland waters.	N	11,233	66	7.2

TABLE 2—MARINE MAMMALS WITH POTENTIAL PRESENCE WITHIN THE PROPOSED PROJECT AREA—Continued

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N) <sup>1</sup>	Stock abundance (CV, N <sub>min</sub> , most recent abundance survey) <sup>2</sup>	PBR	Annual M/SI <sup>3</sup>
<b>Order Carnivora—Superfamily Pinnipedia</b>						
Family Otariidae (eared seals and sea lions)						
California sea lion .....	<i>Zalophus californianus</i>	U.S. ....	N	296,750	9,200	389
Steller sea lion .....	<i>Eumetopias jubatus</i> ....	Eastern U.S. ....	N	71,562	2,498	108
Family Phocidae (earless seals)						
Harbor seal .....	<i>Phoca vitulina</i> .....	Washington northern inland waters.	N	<sup>4</sup> 11,036	1,641	43

<sup>1</sup> Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

<sup>2</sup> NMFS marine mammal stock assessment reports online at: [www.nmfs.noaa.gov/pr/sars/](http://www.nmfs.noaa.gov/pr/sars/). CV is coefficient of variation; N<sub>min</sub> is the minimum estimate of stock abundance.

<sup>3</sup> These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, 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.

<sup>4</sup> Harbor seal estimate is based on data that are 8 years old, but this is the best available information for use here.

### Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The “Estimated Take by Incidental Harassment” section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The “Negligible Impact Analysis and Determination” section will consider the content of this section, the “Estimated Take by Incidental Harassment” section, and the “Proposed Mitigation” section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Potential impacts to marine mammals from the proposed US 101/Chehalis Bridge repair project are from noise generated during in-water pile driving and pile removal activities.

#### Acoustic Effects

Here, we first provide background information on marine mammal hearing before discussing the potential effects of the use of active acoustic sources on marine mammals.

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. Current data indicate that 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) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.*, low-frequency cetaceans). Subsequently, NMFS (2016) 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. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily

reflecting the capabilities of every species within that group):

- Low-frequency cetaceans (mysticetes): Generalized hearing is estimated to occur between approximately 7 Hertz (Hz) and 35 kilohertz (kHz), with best hearing estimated to be from 100 Hz to 8 kHz;
- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz, with best hearing from 10 to less than 100 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members of the genera *Kogia* and *Cephalorhynchus*; including two members of the genus *Lagenorhynchus*, on the basis of recent echolocation data and genetic data): Generalized hearing is estimated to occur between approximately 275 Hz and 160 kHz.
- Pinnipeds in water; Phocidae (true seals): Generalized hearing is estimated to occur between approximately 50 Hz to 86 kHz, with best hearing between 1–50 kHz;
- Pinnipeds in water; Otariidae (eared seals): Generalized hearing is estimated to occur between 60 Hz and 39 kHz, with best hearing between 2–48 kHz.

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

(Hemilä *et al.*, 2006; Kastelein *et al.*, 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Nine marine mammal species (2 cetacean and 3 pinniped (2 otariid and 1 phocid) species) have the reasonable potential to co-occur with the proposed survey activities. Please refer to Table 2. Of the cetacean species that may be present, one species is classified as low-frequency cetaceans (*i.e.*, gray whale), and one is classified as high-frequency cetaceans (*i.e.*, harbor porpoise).

The WSDOT's US 101 Chehalis River Bridge Project using in-water pile driving and pile removal could adversely affect marine mammal species and stocks by exposing them to elevated noise levels in the vicinity of the activity area.

Exposure to high intensity sound for a sufficient duration may result in auditory effects such as a noise-induced threshold shift (TS)—an increase in the auditory threshold after exposure to noise (Finneran *et al.*, 2005). Factors that influence the amount of threshold shift include the amplitude, duration, frequency content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of TS just after exposure is the initial TS. If the TS eventually returns to zero (*i.e.*, the threshold returns to the pre-exposure value), it is a temporary threshold shift (TTS) (Southall *et al.*, 2007).

**Threshold Shift (noise-induced loss of hearing)**—When animals exhibit reduced hearing sensitivity (*i.e.*, sounds must be louder for an animal to detect them) following exposure to an intense sound or sound for long duration, it is referred to as a noise-induced TS. An animal can experience TTS or permanent threshold shift (PTS). TTS can last from minutes or hours to days (*i.e.*, there is complete recovery), can occur in specific frequency ranges (*i.e.*, an animal might only have a temporary loss of hearing sensitivity between the frequencies of 1 and 10 kHz), and can be of varying amounts (for example, an animal's hearing sensitivity might be reduced initially by only 6 dB or reduced by 30 dB). PTS is permanent, but some recovery is possible. PTS can also occur in a specific frequency range and amount as mentioned above for TTS.

For marine mammals, published data are limited to the captive bottlenose dolphin, beluga, harbor porpoise, and Yangtze finless porpoise (Finneran *et*

*al.*, 2000, 2002, 2003, 2005, 2007, 2010a, 2010b; Finneran and Schlundt, 2010; Lucke *et al.*, 2009; Mooney *et al.*, 2009a, 2009b; Popov *et al.*, 2011a, 2011b; Kastelein *et al.*, 2012a; Schlundt *et al.*, 2000; Nachtigall *et al.*, 2003, 2004). For pinnipeds in water, data are limited to measurements of TTS in harbor seals, an elephant seal, and California sea lions (Kastak *et al.*, 1999, 2005; Kastelein *et al.*, 2012b).

Lucke *et al.* (2009) found a TS of a harbor porpoise after exposing it to airgun noise with a received sound pressure level (SPL) at 200.2 dB (peak-to-peak) re: 1 micropascal ( $\mu\text{Pa}$ ), which corresponds to a sound exposure level of 164.5 dB re: 1  $\mu\text{Pa}^2 \text{ s}$  after integrating exposure. Because the airgun noise is a broadband impulse, one cannot directly determine the equivalent of root mean square (rms) SPL from the reported peak-to-peak SPLs. However, applying a conservative conversion factor of 16 dB for broadband signals from seismic surveys (McCauley, *et al.*, 2000) to correct for the difference between peak-to-peak levels reported in Lucke *et al.* (2009) and rms SPLs, the rms SPL for TTS would be approximately 184 dB re: 1  $\mu\text{Pa}$ , and the received levels associated with PTS (Level A harassment) would be higher. Therefore, based on these studies, NMFS recognizes that TTS of harbor porpoises is lower than other cetacean species empirically tested (Finneran and Schlundt, 2010; Finneran *et al.*, 2002; Kastelein and Jennings, 2012).

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.*, recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. Also, depending on the degree and frequency range, the effects of PTS on an animal could range in severity, although it is considered generally more serious because it is a permanent condition. Of note, reduced hearing sensitivity as a simple function of aging

has been observed in marine mammals, as well as humans and other taxa (Southall *et al.*, 2007), so one can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

In addition, chronic exposure to excessive, though not high-intensity, noise could cause masking at particular frequencies for marine mammals, which utilize sound for vital biological functions (Clark *et al.*, 2009). Acoustic masking is when other noises such as from human sources interfere with animal detection of acoustic signals such as communication calls, echolocation sounds, and environmental sounds important to marine mammals. Therefore, under certain circumstances, marine mammals whose acoustical sensors or environment are being severely masked could also be impaired from maximizing their performance fitness in survival and reproduction.

Masking occurs at the frequency band that the animals utilize. Therefore, since noise generated from vibratory pile driving is mostly concentrated at low frequency ranges, it may have less effect on high frequency echolocation sounds by odontocetes (toothed whales). However, lower frequency man-made noises are more likely to affect detection of communication calls and other potentially important natural sounds such as surf and prey noise. It may also affect communication signals when they occur near the noise band and thus reduce the communication space of animals (*e.g.*, Clark *et al.*, 2009) and cause increased stress levels (*e.g.*, Foote *et al.*, 2004; Holt *et al.*, 2009).

Unlike TS, masking, which can occur over large temporal and spatial scales, can potentially affect the species at population, community, or even ecosystem levels, as well as individual levels. Masking affects both senders and receivers of the signals and could have long-term chronic effects on marine mammal species and populations. Recent science suggests that low frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of sound pressure level) in the world's ocean from pre-industrial periods, and most of these increases are from distant shipping (Hildebrand, 2009). For WSDOT's Chehalis Bridge repair activities, noises from vibratory pile driving and pile removal contribute to the elevated ambient noise levels in the project area, thus increasing potential for or severity of masking. Baseline ambient noise levels in the vicinity of project area are high due to ongoing

shipping, construction and other activities in the Puget Sound.

Finally, marine mammals' exposure to certain sounds could lead to behavioral disturbance (Richardson *et al.*, 1995), such as: Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where noise sources are located; and/or flight responses (*e.g.*, pinnipeds flushing into water from haulouts or rookeries).

The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography) and is also difficult to predict (Southall *et al.*, 2007). Currently NMFS uses a received level of 160 dB re 1  $\mu$ Pa (rms) to predict the onset of behavioral harassment from impulse noises (such as impact pile driving), and 120 dB re 1  $\mu$ Pa (rms) for continuous noises (such as vibratory pile driving). For the WSDOT's US 101 Chehalis River Bridge Project, only the 120-dB level is considered for effects analysis because WSDOT plans to use vibratory pile driving and pile removal.

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be biologically significant if the change affects growth, survival, and/or reproduction, which depends on the severity, duration, and context of the effects.

#### *Potential Effects on Marine Mammal Habitat*

The primary potential impacts to marine mammal habitat are associated with elevated sound levels produced by vibratory pile removal and pile driving in the area. However, other potential impacts to the surrounding habitat from physical disturbance are also possible.

With regard to fish as a prey source for cetaceans and pinnipeds, fish are known to hear and react to sounds and to use sound to communicate (Tavolga *et al.*, 1981) and possibly avoid predators (Wilson and Dill, 2002). Experiments have shown that fish can sense both the strength and direction of sound (Hawkins, 1981). Primary factors determining whether a fish can sense a sound signal, and potentially react to it, are the frequency of the signal and the

strength of the signal in relation to the natural background noise level.

The level of sound at which a fish will react or alter its behavior is usually well above the detection level. Fish have been found to react to sounds when the sound level increased to about 20 dB above the detection level of 120 dB (Ona, 1988); however, the response threshold can depend on the time of year and the fish's physiological condition (Engas *et al.*, 1993). In general, fish react more strongly to pulses of sound (such as noise from impact pile driving) rather than continuous signals (such as noise from vibratory pile driving) (Blaxter *et al.*, 1981), and a quicker alarm response is elicited when the sound signal intensity rises rapidly compared to sound rising more slowly to the same level.

During the coastal construction only a small fraction of the available habitat would be ensonified at any given time. Disturbance to fish species would be short-term and fish would return to their pre-disturbance behavior once the pile driving activity ceases. Thus, the proposed construction would have little, if any, impact on marine mammals' prey availability in the area where construction work is planned.

Finally, the time of the proposed construction activity would avoid the spawning season of the ESA-listed salmonid species.

#### **Estimated Take**

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of whether the number of takes is "small" and the negligible impact determination.

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

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to noise generated from vibratory pile driving and removal. Based on the nature of the activity and the anticipated effectiveness of the

mitigation measures (*i.e.*, shutdown measures—discussed in detail below in Proposed Mitigation section), Level A harassment is neither anticipated nor proposed to be authorized.

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

Described in the most basic way, 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) and the number of days of activities. Below, we describe these components in more detail and present the take estimate.

#### *Acoustic Thresholds*

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—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 (*e.g.*, frequency, predictability, duty cycle), the environment (*e.g.*, bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.*, 2007, Ellison *et al.*, 2011). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1  $\mu$ Pa (rms) for continuous (*e.g.* vibratory pile-driving, drilling) and above 160 dB re 1  $\mu$ Pa (rms) for non-explosive impulsive (*e.g.*, seismic airguns) or intermittent (*e.g.*, scientific sonar) sources.

Applicant's proposed activity includes the use of continuous (vibratory pile driving and removal)

source, and therefore the 120 dB re 1  $\mu$ Pa (rms) is applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Technical Guidance, 2016) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups

(based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). Applicant's proposed activity includes the use non-impulsive (vibratory pile driving and pile removal) source.

These thresholds were developed by compiling and synthesizing the best available science and soliciting input

multiple times from both the public and peer reviewers to inform the final product, and are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: <http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm>.

TABLE 3—CURRENT ACOUSTIC EXPOSURE CRITERIA FOR NON-EXPLOSIVE SOUND UNDERWATER

Hearing group	PTS onset thresholds		Behavioral thresholds	
	Impulsive	Non-impulsive	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans.	$L_{pk,flat}$ : 219 dB; $L_{E,LF,24h}$ : 183 dB.	$L_{E,LF,24h}$ : 199 dB .....	$L_{rms,flat}$ : 160 dB .....	$L_{rms,flat}$ : 120 dB
Mid-Frequency (MF) Cetaceans.	$L_{pk,flat}$ : 230 dB; $L_{E,MF,24h}$ : 185 dB.	$L_{E,MF,24h}$ : 198 dB.		
High-Frequency (HF) Cetaceans.	$L_{pk,flat}$ : 202 dB; $L_{E,HF,24h}$ : 155 dB.	$L_{E,HF,24h}$ : 173 dB.		
Phocid Pinnipeds (PW) (Underwater).	$L_{pk,flat}$ : 218 dB; $L_{E,PW,24h}$ : 185 dB.	$L_{E,PW,24h}$ : 201 dB.		
Otariid Pinnipeds (OW) (Underwater).	$L_{pk,flat}$ : 232 dB; $L_{E,OW,24h}$ : 203 dB.	$L_{E,OW,24h}$ : 219 dB.		

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

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

#### Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds.

#### Source Levels

The project includes vibratory pile driving and removal of steel H piles and

sheet piles. The dimension of the H piles is unknown, but not is expected to be more than 12 inches (in).

Source levels for the steel H pile vibratory driving are based on in-water measurements reported by CALTRANS (2015) of 12-in steel H pile, which are 150 dB<sub>rms</sub> and 165 dB<sub>peak</sub> re 1  $\mu$ Pa at 10 meters (m). Source levels for the sheet pile are based on in-water

measurements at the Elliot Bay Seawall Project (The Greenbush Group, 2015), which is 165 dB<sub>rms</sub> and 180 dB<sub>peak</sub> re 1  $\mu$ Pa at 10 m. For vibratory pile removal, the source levels are conservatively estimated using the pile driving source levels as proxies.

A summary of source levels from different pile driving and pile removal activities is provided in Table 4.

TABLE 4—SUMMARY OF IN-WATER PILE DRIVING SOURCE LEVELS  
[at 10 m from source]

Method	Pile type/size	SEL (dB re 1 $\mu$ Pa <sup>2</sup> -s)	SPL <sub>rms</sub> (dB re 1 $\mu$ Pa)
Vibratory driving/removal .....	12-in steel H pile .....	150	150
Vibratory driving/removal .....	Sheet pile .....	165	165

These source levels are used to compute the Level A injury zones and to estimate the Level B harassment zones. For Level A harassment zones, since the peak source levels for both pile driving are below the injury thresholds, cumulative SEL were used to do the calculations using the NMFS acoustic guidance (NMFS 2016).

#### Estimating Injury Zones

When NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction

with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which will result in some degree of overestimate of Level A take. However, these tools offer the best way to predict

appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate.

For cumulative SEL (*LE*), distances to marine mammal injury thresholds were estimated using NMFS Optional User Spreadsheet based on the noise exposure guidance.

Isopleths to Level B behavioral zones are based on rms SPL ( $SPL_{rms}$ ) that are

specific for non-impulse (vibratory pile driving) sources. Distances to marine mammal behavior thresholds were calculated using practical spreading.

A summary of the measured and modeled harassment zones is provided in Table 5.

TABLE 5—DISTANCES TO HARASSMENT ZONES

Pile type, size and pile driving method	Injury zone (m)					Behavior zone (m)
	LF cetacean	MF cetacean	HF cetacean	Phocid	Otariid	
Vibratory driving & removal, sheet pile, 10 piles/day .....	36.9	3.3	54.6	22.4	1.6	10,000
Vibratory driving & removal, steel H pile, 6 piles/day .....	2.6	0.2	3.9	1.6	0.1	1,000

#### Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

In most cases, marine mammal density data are from the U.S. Navy Marine Species Density Database (U.S. Navy 2015). Harbor seal density is based on a counts of harbor seals at 44 low-tide haul outs in Grays Harbor by Jeffries, *et al.* (2000), the estimated density of harbor seals in the US 101 Chehalis River Bridge project area is 29.4 animals per square kilometer ( $km^2$ ).

The Navy Marine Species Density Database (U.S. Navy 2015) estimates the density of California sea lions in the waters offshore of Grays Harbor as 0.033 animals/ $km^2$ . This estimate will be used as a surrogate for Grays Harbor.

The Navy Marine Species Density Database (U.S. Navy 2015) estimates the

density of Steller sea lions in the waters offshore of Grays Harbor as 0.0145 animals/ $km^2$ . This estimate will be used as a surrogate for Grays Harbor.

The Navy Marine Species Density Database (U.S. Navy 2015) estimates the density of harbor porpoises in the waters offshore of Grays Harbor as a range between 0.69 and 1.67 animals per square kilometer. According to Evenson, *et al.* (2016), the maximum harbor porpoise density in the Strait of Juan de Fuca (approximately 105 miles north of Grays Harbor) in 2014 was 0.768 animals/ $km^2$ . The higher density estimate for waters offshore of Grays Harbor (1.67) will be used for this analysis.

According to counts conducted by Calambokidis *et al.* (2012), 29 gray whales were observed over a 12-year period during the months of July through September (the proposed period

of project activities). Based on this data, an average of 2.25 gray whales may be present in Grays Harbor/south Washington coast during the 3-month period.

#### Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate. For all marine mammal species except gray whale, estimated takes are calculated based on ensonified area for a specific pile driving activity multiplied by the marine mammal density in the action area, multiplied by the number of pile driving (or removal) days. Distances to and areas of different harassment zones are listed in Tables 5 and 6. Total days for sheet pile driving and removal are five days each, and the total day for steel H pile driving and removal is one day each.

TABLE 6—AREAS OF HARASSMENT ZONES

Pile type, size and pile driving method	Injury zone ( $km^2$ )					Behavior zone ( $km^2$ )
	LF cetacean	MF cetacean	HF cetacean	Phocid	Otariid	
Vibratory driving & removal, sheet pile, 10 piles/day .....	0.004	0.000	0.009	0.002	0.000	2.13
Vibratory driving & removal, steel H pile, 6 piles/day .....	0.000	0.000	0.000	0.000	0.000	0.67

The results predicted that a total of 666 harbor seals, 1 California sea lion, 0 Steller sea lion, and 38 harbor porpoise could be exposure to received levels that would cause Level B harassment. However, owing to the prior observations that California sea lion and Steller sea lion's presence in

the project area, we adjusted the take number of these species to 10.

For gray whales, the Level B takes were estimate based on an average sighting of 2.25 whales in Grays Harbor/south Washington Coast during the months of July through September (Calambokidis *et al.*, (2012) adjusted upwards to 3 animals.

Due to the extreme small injury zones (maximum zone is 0.009  $km^2$  for high-frequency cetacean), the calculation predicted no animals would be exposed to noise levels that could cause Level A harassment, and therefore no Level A take is proposed for authorization. A summary of estimated marine mammal Level B takes is listed in Table 7.



TABLE 7—ESTIMATED NUMBERS OF MARINE MAMMALS THAT MAY BE EXPOSED TO RECEIVED NOISE LEVELS THAT CAUSE LEVEL B HARASSMENT

Species	Density (animals/km <sup>2</sup> )	Estimated Level B take	Abundance	Percentage
Pacific harbor seal .....	29.4	666	11,036	6.03
California sea lion .....	0.033	10	296,750	0.00
Steller sea lion .....	0.0145	10	71,562	0.00
Gray whale .....	NA	3	20,990	0.00
Harbor porpoise .....	1.67	38	11,233	0.34

**Proposed Mitigation**

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (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 such 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, we carefully consider two primary factors:

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

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

*Mitigation for Marine Mammals and Their Habitat***1. Time Restriction**

Work would occur only during daylight hours, when visual monitoring

of marine mammals can be conducted. In addition, all in-water construction will be limited to the period between July 16, 2018, and September 30, 2018.

**2. Establishing and Monitoring Level A, Level B Harassment Zones, and Exclusion Zones**

Before the commencement of in-water construction activities, which include vibratory pile driving and pile removal, WSDOT shall establish Level A harassment zones where received underwater SEL<sub>cum</sub> could cause PTS (see above).

WSDOT shall also establish Level B harassment zones where received underwater SPLs are higher than 120 dB<sub>rms</sub> re 1 µPa for non-impulsive noise sources (vibratory pile driving and pile removal).

WSDOT shall establish exclusion zones within which marine mammals could be taken by Level A harassment. For Level A harassment zones that is less than 10 m from the source, a minimum of 10 m distance should be established as an exclusion zone.

A summary of exclusion zones is provided in Table 8.

TABLE 8—EXCLUSION ZONES FOR VARIOUS PILE DRIVING ACTIVITIES AND MARINE MAMMAL HEARING GROUPS

Pile type, size and pile driving method	Exclusion zone (m)				
	LF cetacean	MF cetacean	HF cetacean	Phocid	Otariid
Vibratory driving & removal, sheet pile, 10 piles/day .....	37	10	55	22	10
Vibratory driving & removal, steel H pile, 6 piles/day .....	10	10	10	10	10

NMFS-approved protected species observers (PSO) shall conduct an initial survey of the exclusion zones to ensure that no marine mammals are seen within the zones before pile driving and pile removal of a pile segment begins. If marine mammals are found within the exclusion zone, pile driving of the segment would be delayed until they move out of the area. If a marine mammal is seen above water and then dives below, the contractor would wait 30 minutes. If no marine mammals are seen by the observer in that time it can

be assumed that the animal has moved beyond the exclusion zone.

If pile driving of a segment ceases for 30 minutes or more and a marine mammal is sighted within the designated exclusion zone prior to commencement of pile driving, the observer(s) must notify the pile driving operator (or other authorized individual) immediately and continue to monitor the exclusion zone. Operations may not resume until the marine mammal has exited the

exclusion zone or 30 minutes have elapsed since the last sighting.

**3. Shutdown Measures**

WSDOT shall implement shutdown measures if a marine mammal is detected within an exclusion zone or is about to enter an exclusion zone listed in Table 8.

Further, WSDOT shall implement shutdown measures if the number of authorized takes for any particular species reaches the limit under the IHA (if issued) and if such marine mammals

are sighted within the vicinity of the project area and are approaching the Level B harassment zone during in-water construction activities.

Based on our evaluation of the required measures, NMFS has preliminarily determined that the prescribed mitigation measures provide the means 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.

### Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth, "requirements pertaining to the monitoring and reporting of such taking." The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for 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 in the proposed action area. 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 action; 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.

### Proposed Monitoring Measures

WSDOT shall employ NMFS-approved PSOs to conduct marine mammal monitoring for its US 101/Chehalis Bridge Repair Project. The purposes of marine mammal monitoring are to implement mitigation measures and learn more about impacts to marine mammals from WSDOT's construction activities. The PSOs will observe and collect data on marine mammals in and around the project area for 30 minutes before, during, and for 30 minutes after all pile removal and pile installation work. NMFS-approved PSOs shall meet the following requirements:

1. Independent observers (i.e., not construction personnel) are required;
2. At least one observer must have prior experience working as an observer;
3. Other observers may substitute education (undergraduate degree in biological science or related field) or training for experience;
4. Where a team of three or more observers are required, one observer should be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer; and
5. NMFS will require submission and approval of observer CVs;

Monitoring of marine mammals around the construction site shall be conducted using high-quality binoculars (e.g., Zeiss, 10 x 42 power). Due to the different sizes of ZOIs from different pile types, two different ZOIs and different monitoring protocols corresponding to a specific pile type will be established.

- For vibratory pile driving and pile removal of sheet piles, a total of four land-based PSOs will monitor the exclusion zones and Level B harassment zone.
- For vibratory pile driving and pile removal of H piles, a total of three land-based PSOs will monitor the exclusion zones and Level B harassment zone.

Locations of the land-based PSOs and routes of monitoring vessels are shown in WSDOT's Marine Mammal Monitoring Plan, which is available online at [www.nmfs.noaa.gov/pr/permits/incidental/construction.htm](http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm).

To verify the required monitoring distance, the exclusion zones and ZOIs will be determined by using a range finder or hand-held global positioning system device.

### Reporting Measures

WSDOT is required to submit a draft monitoring report within 90 days after completion of the construction work or the expiration of the IHA (if issued), whichever comes earlier. This report would detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed. NMFS would have an opportunity to provide comments on the report, and if NMFS has comments, WSDOT would address the comments and submit a final report to NMFS within 30 days.

In addition, NMFS would require WSDOT to notify NMFS' Office of Protected Resources and NMFS' West Coast Stranding Coordinator within 48 hours of sighting an injured or dead marine mammal in the construction site. WSDOT shall provide NMFS and the Stranding Network with the species or description of the animal(s), the condition of the animal(s) (including carcass condition, if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available).

In the event that WSDOT finds an injured or dead marine mammal that is not in the construction area, WSDOT would report the same information as listed above to NMFS as soon as operationally feasible.

### 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 responses (e.g., intensity, duration), the context of any responses (e.g., critical reproductive time or location, migration), 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's 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 environmental baseline (e.g., as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, this introductory discussion of our analyses applies to all the species listed in Table 7, given that the anticipated effects of WSDOT's Chehalis Bridge repair project activities involving pile driving and pile removal on marine mammals are expected to be relatively similar in nature. There is no information about the nature or severity of the impacts, or the size, status, or structure of any species or stock that would lead to a different analysis by species for this activity, or else species-specific factors would be identified and analyzed.

For all marine mammal species, takes that are anticipated and authorized are expected to be limited to short-term Level B harassment (behavioral) because of the small scale (only a total of 100 piles to be installed and removed), lower source levels (small piles by vibratory pile driving and pile removal), and short durations (maximum five hours pile driving or pile removal per day). Marine mammals present in the vicinity of the action area and taken by Level B harassment would most likely show overt brief disturbance (startle reaction) and avoidance of the area from elevated noise levels during pile driving and pile removal. For these reasons, these behavioral impacts are not expected to affect marine mammals' growth, survival, and reproduction, especially considering the limited geographic area that would be affected in comparison to the much larger habitat for marine mammals in the Pacific Northwest.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat, as analyzed in detail in the "Anticipated Effects on Marine Mammal Habitat" section. There is no ESA designated critical area in the vicinity of the Chehalis Bridge Project area. The project activities would not permanently modify existing marine mammal habitat. The activities may kill some fish and cause other fish to leave the area temporarily, thus 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, the

impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences. Therefore, given the consideration of potential impacts to marine mammal prey species and their physical environment, WSDOT's proposed construction activity at Chehalis Bridge would not adversely affect marine mammal habitat.

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 the species or stock through effects on annual rates of recruitment or survival:

- No injury, series injury, or mortality is anticipated or authorized;
- All harassment is Level B harassment in the form of short-term behavioral modification; and
- No areas of specific importance to affected species are impacted.

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

#### Small Numbers

As noted above, only small numbers of incidental take may be authorized under section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, 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.

The estimated takes are below seven percent of the population for all marine mammals except harbor porpoise (Table 7).

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

#### Unmitigable Adverse Impact Subsistence Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action.

Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

#### Endangered Species Act (ESA)

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

#### Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to WSDOT for conducting US 101/Chehalis Bridge Repair Project between July 1, 2018, and June 30, 2019, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This Authorization is valid from July 1, 2018, through June 30, 2019.

2. This Authorization is valid only for activities associated with in-water construction work at the US 101/Chehalis Bridge Repair Project in the State of Washington.

3. (a) The species authorized taking by Level B harassment and in the numbers shown in Table 7 are: Pacific harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), Steller sea lion (*Eumetopias jubatus*), gray whale (*Eschrichtius robustus*), and harbor porpoise (*Phocoena phocoena*).

(b) The authorization for taking by harassment is limited to the following acoustic sources and from the following activities:

- Vibratory pile driving; and
- Vibratory pile removal.

4. Prohibitions.

(a) The taking, by incidental harassment only, is limited to the species listed under condition 3(a) above and by the numbers listed in Table 7 of this notice. The taking by injury, series injury, or death of these species or the taking by harassment, injury or death of any other species of marine mammal is prohibited unless separately authorized or exempted under the MMPA and may result in the modification, suspension, or revocation of this Authorization.

(b) The taking of any marine mammal is prohibited whenever the required protected species observers (PSOs), required by condition 7(a), are not present in conformance with condition 7(a) of this Authorization.

## 5. Mitigation.

(a) *Time Restriction.* In-water construction work shall occur only during daylight hours.

(b) Establishment of Level A and Level B Harassment Zones.

(A) Before the commencement of in-water pile driving/removal activities, WSDOT shall establish Level A harassment zones. The modeled Level A zones are summarized in Table 5.

(B) Before the commencement of in-water pile driving/removal activities, WSDOT shall establish Level B harassment zones. The modeled Level B zones are summarized in Table 5.

(C) Before the commencement of in-water pile driving/removal activities, WSDOT shall establish exclusion zones. The proposed exclusion zones are summarized in Table 8.

(c) Monitoring of marine mammals shall take place starting 30 minutes before pile driving begins until 30 minutes after pile driving ends.

(d) Shutdown Measures.

(i) WSDOT shall implement shutdown measures if a marine mammal is detected within or to be approaching the exclusion zones provided in Table 8 of this notice.

(ii) WSDOT shall implement shutdown measures if the number of any allotted marine mammal takes reaches the limit under the IHA, if such marine mammals are sighted within the vicinity of the project area and are approaching the Level B harassment zone during pile removal activities.

## 6. Monitoring.

(a) Protected Species Observers.

WSDOT shall employ NMFS-approved PSOs to conduct marine mammal monitoring for its construction project. NMFS-approved PSOs will meet the following qualifications.

(i) Independent observers (*i.e.*, not construction personnel) are required.

(ii) At least one observer must have prior experience working as an observer.

(iii) Other observers may substitute education (undergraduate degree in biological science or related field) or training for experience.

(iv) Where a team of three or more observers are required, one observer should be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer.

(v) NMFS will require submission and approval of observer CVs.

(b) Monitoring Protocols: PSOs shall be present on site at all times during pile removal and driving.

(i) A 30-minute pre-construction marine mammal monitoring will be required before the first pile driving or pile removal of the day. A 30-minute

post-construction marine mammal monitoring will be required after the last pile driving or pile removal of the day. If the constructors take a break between subsequent pile driving or pile removal for more than 30 minutes, then additional 30-minute pre-construction marine mammal monitoring will be required before the next start-up of pile driving or pile removal.

(iii) Marine mammal visual monitoring will be conducted for different ZOIs based on different sizes of piles being driven or removed, as shown in maps in WSDOT's Marine Mammal Monitoring Plan.

(A) For vibratory pile driving and pile removal of sheet piles, a total of four land-based PSOs will monitor the exclusion zones and Level B harassment zone.

(B) For vibratory pile driving and pile removal of H piles, a total of three land-based PSOs will monitor the exclusion zones and Level B harassment zone.

(iv) If marine mammals are observed, the following information will be documented:

(A) Species of observed marine mammals;

(B) Number of observed marine mammal individuals;

(C) Behavior of observed marine mammals; (D) Location within the ZOI; and

## 7. Reporting:

(a) WSDOT shall provide NMFS with a draft monitoring report within 90 days of the conclusion of the construction work or within 90 days of the expiration of the IHA, whichever comes first. This report shall detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed.

(b) If comments are received from NMFS Office of Protected Resources on the draft report, a final report shall be submitted to NMFS within 30 days thereafter. If no comments are received from NMFS, the draft report will be considered to be the final report.

(c) In the unanticipated event that the construction activities clearly cause the take of a marine mammal in a manner prohibited by this Authorization (if issued), such as an injury, serious injury, or mortality, WSDOT shall immediately cease all operations and immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) description of the incident;

(iii) status of all sound source use in the 24 hours preceding the incident;

(iv) environmental conditions (*e.g.*, wind speed and direction, sea state, cloud cover, visibility, and water depth);

(v) description of marine mammal observations in the 24 hours preceding the incident;

(vi) species identification or description of the animal(s) involved;

(vii) the fate of the animal(s); and

(viii) photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with WSDOT to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. WSDOT may not resume their activities until notified by NMFS via letter, email, or telephone.

(E) In the event that WSDOT discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.*, in less than a moderate state of decomposition as described in the next paragraph), WSDOT will immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators. The report must include the same information identified above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with WSDOT to determine whether modifications in the activities are appropriate.

(F) In the event that WSDOT discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), WSDOT shall report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators, within 24 hours of the discovery. WSDOT shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. WSDOT can continue its operations under such a case.

8. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

9. A copy of this Authorization must be in the possession of each contractor who performs the construction work at the US 101/Chehalis Bridge Repair Project.

#### Request for Public Comments

We request comment on our analyses, the draft authorization, and any other aspect of this Notice of Proposed IHA for the WSDOT's US 101/Chehalis Bridge Repair Project. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: August 7, 2017.

**Donna S. Wieting,**

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

[FR Doc. 2017-16881 Filed 8-9-17; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XF598**

#### New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice; public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a joint public meeting of its Whiting Committee and Advisory Panel on August 29, 2017 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** This meeting will be held on Tuesday, August 29, 2017 at 9 a.m.

**ADDRESSES:** The meeting will be held at the Radisson Airport Hotel, 2081 Post Road, Warwick, RI 02886; telephone: (401) 739-3000.

*Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465-0492.

#### SUPPLEMENTARY INFORMATION:

#### Agenda

The Committee and Advisory Panel will receive an annual monitoring report and recommended 2018-20

specifications from the Plan Development Team (PDT). The report includes a summary of 2016 landings and estimated discards, as well as assessment updates for northern and southern stocks of red and silver hake. They will also receive a summary of impact analyses and recommendations for preferred alternatives in Draft Amendment 22 from the PDT. The committee and advisors will discuss and identify management priorities for 2018 as well as discuss and identify small-mesh multispecies fishery regulations that could be consolidated or eliminated to improve regulatory efficiency. The committee and advisors may identify a process and timeline for this work. Other business will be discussed as necessary.

#### Special Accommodations

This meeting is physically accessible to people with disabilities. This meeting will be recorded. Consistent with U.S.C. 1852, a copy of the recording is available upon request. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465-0492, at least 5 days prior to the meeting date.

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

Dated: August 7, 2017.

**Tracey L. Thompson,**

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

[FR Doc. 2017-16864 Filed 8-9-17; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XF598**

#### Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of a public meeting (webinar).

**SUMMARY:** The Pacific Fishery Management Council's (Pacific Council) Salmon Technical Team (STT) and Model Evaluation Workgroup (MEW) will hold a joint meeting via webinar to discuss and make recommendations on issues on the Council's September 2017 agenda. The meeting is open to the public.

**DATES:** The webinar meeting will be held on Thursday, August 24, 2017,

from 10 a.m. until business for the day has been completed.

**ADDRESSES:** The meeting will be held via webinar. To attend the webinar (1) join the meeting by visiting this link <https://www.gotomeeting.com/webinar>, (2) enter the Webinar ID: 287-587-251, and (3) enter your name and email address (required). After logging in to the webinar, please (1) dial this TOLL number 1-213-929-4232 (not a toll-free number), (2) enter the attendee phone audio access code 612-742-547, and (3) then enter your audio phone pin (shown after joining the webinar). *Note:* We have disabled Mic/Speakers as an option and require all participants to use a telephone or cell phone to participate. Technical Information and system requirements: PC-based attendees are required to use Windows® 7, Vista, or XP; Mac®-based attendees are required to use Mac OS® X 10.5 or newer; Mobile attendees are required to use iPhone®, iPad®, Android™ phone or Android tablet (See the GoToMeeting WebinarApps). You may send an email to Mr. Kris Kleinschmidt at [Kris.Kleinschmidt@noaa.gov](mailto:Kris.Kleinschmidt@noaa.gov) or contact him at (503) 820-2280, extension 411 for technical assistance. A public listening station is available at the Pacific Council office (address below).

*Council address:* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

**FOR FURTHER INFORMATION CONTACT:** Ms. Robin Ehlke, Pacific Council; telephone: (503) 820-2410.

**SUPPLEMENTARY INFORMATION:** The STT and MEW will discuss items on the Pacific Council's September 2017 meeting agenda. Major topics include, but are not limited to, Salmon Methodology Review and the Sacramento River Winter Chinook Harvest Control Rule Update. The STT and MEW may also address one or more of the Council's scheduled Administrative Matters. Public comments during the webinar will be received from attendees at the discretion of the STT and MEW Chairs.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.