



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XE451]

#### **Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Pacific Gas & Electric Sediment Remediation Project, San Francisco Bay**

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

**ACTION:** Notice; issuance of renewal 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 a renewal incidental harassment authorization (IHA) to Pacific Gas & Electric (PG&E) to incidentally harass marine mammals incidental to construction associated with a sediment remediation project in San Francisco Bay, CA.

**DATES:** This renewal IHA is valid from May 1, 2025 through April 30, 2026.

**ADDRESSES:** Electronic copies of the original application, Renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at:

*<https://www.fisheries.noaa.gov/action/incidental-take-authorization-pacific-gas-electric-sediment-remediation-project-san>*. In case of problems accessing these documents, please call the contact listed below.

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

**SUPPLEMENTARY INFORMATION:**

## **Background**

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

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 such species or stocks for taking for certain subsistence uses (referred to here as “mitigation measures”). NMFS must also prescribe requirements pertaining to monitoring and reporting of such takings. The definition of key terms such as “take,” “harassment,” and “negligible impact” can be found in the MMPA and NMFS’s implementing regulations (see 16 U.S.C. 1362; 50 CFR 216.103).

NMFS’ regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed 1 year for each reauthorization. In the notice of proposed IHA for the initial IHA, NMFS described the circumstances under which we would consider issuing a renewal for this activity, and requested public comment on a potential renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-time 1-year renewal IHA

following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical, or nearly identical, activities as described in the Detailed Description of Specified Activities section of the initial IHA issuance notice is planned or (2) the activities as described in the Description of the Specified Activities and Anticipated Impacts section of the initial IHA issuance notice would not be completed by the time the initial IHA expires and a renewal would allow for completion of the activities beyond that described in the **DATES** section of the notice of issuance of the initial IHA, provided all of the following conditions are met:

1. A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA).

2. The request for renewal must include the following:

- An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

- A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

3. Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is

provided to allow for any additional comments on the proposed renewal. A description of the renewal process may be found on our website at:

*<https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals>.*

### **History of Request**

On January 22, 2024, NMFS issued an IHA to PG&E to take marine mammals incidental to construction associated with sediment remediation in San Francisco Bay, CA (89 FR 5865, January 30, 2024), effective from May 1, 2024, through April 30, 2025. On September 26, 2024, NMFS received an application for the renewal of that initial IHA. As described in the application for renewal IHA, the activities for which incidental take is requested are nearly identical to those covered in the initial IHA. Although PG&E anticipates that construction will begin during the timeframe of the initial IHA, no work has yet commenced and therefore no preliminary monitoring data are available. The notice of the proposed renewal incidental harassment authorization was published on October 16, 2024 (89 FR 83459). There are no changes from the proposed renewal IHA to the final renewal IHA.

### **Description of the Specified Activities and Anticipated Impacts**

The planned activities are nearly identical to those analyzed in the initial IHA. As the first phase of a 5- to 7-year project to remediate sediments impacted with polycyclic aromatic hydrocarbons (PAHs) in San Francisco Bay, PG&E is planning to install hydroacoustic data collection piles, piles to attach a turbidity curtain, sediment pins to promote slope stability, and install and remove piles to relocate the Red and White Fleet (RWF). A detailed description of these activities can be found in the Notice of the initial Proposed IHA (88 FR 82836, November 27, 2023). Under the initial IHA, eight 24-inch steel shell piles and eight 36-inch steel shell piles were to be installed and removed for the RWF Relocation. Under the renewal IHA, PG&E plans to install and remove 10 24-

inch piles and 10 36-inch steel shell piles for the RWF Relocation. No more than four of each of these piles would be installed or removed per day. As analyzed in the initial IHA, installation of these piles would be done through primarily vibratory pile driving with impact pile driving only as needed to seat the piles. Removal would be through vibratory methods. The remainder of the work would be identical to that of the initial IHA, and the total proposed number of days of in-water work would be the same.

Under the initial IHA, take by Level B harassment from pile driving was authorized for harbor seal (*Phoca vitulina*), northern elephant seal (*Mirounga angustirostris*), California sea lion (*Zalophus californianus*), northern fur seal (*Callorhinus ursinus*), Steller sea lion (*Eumetopias jubatus*), bottlenose dolphin (*Tursiops truncatus*), and harbor porpoise (*Phocoena phocoena*). Under the renewal IHA, NMFS is authorizing take, by Level B harassment only, of the same number of these species as were authorized under the initial IHA.

Documents related to the initial IHA including the **Federal Register** notices for the proposed IHA (88 FR 82836, November 27, 2023) and final IHA (89 FR 5865, January 30, 2024) and PG&E's application can be found at <https://www.fisheries.noaa.gov/action/incidental-take-authorization-pacific-gas-electric-sediment-remediation-project-san>.

#### *Detailed Description of the Activity*

A detailed description of the pile driving activities for which take is authorized here may be found in the Notices of the Proposed and Final IHAs (88 FR 82836, November 27, 2023; 89 FR 5865, January 30, 2024) for the initial authorization. The location, timing, and nature of the activities, including the types of equipment planned for use, are identical to those described in the previous notices.

The only minor change for this renewal IHA is the addition of two 24-inch and two 36-inch steel shell piles in the RWF relocation, which would be installed with

vibratory pile driving and impact pile driving only as needed to seat the piles. The piles would be removed with vibratory methods. The addition of these piles would not change the number of in-water work days (50 days; see table 1). The renewal would be effective for a period not exceeding 1 year from the date of expiration of the initial IHA. The effective dates would be from May 1, 2025, to April 30, 2026.

**Table 1 – Schedule of in-water Construction**

Type of Pile	Total Number of Pile Installation/Removal	Number of Piles Installed/Removed per Day	Days of Pile Driving or Removal
Turbidity Curtain (Steel H-Piles or Steel Shell Pile ≤ 24 inches)	40 (20 installed, 20 removed)	4	10
RWF Temporary Relocation (24-inch and 36-inch Steel Shell Piles)	40 (20 installed, 20 removed)	4	10
Sediment Pin Installation (14- to 16-inch timber or plastic)	120 (installation only)	8	15
Hydroacoustic Data Collection Piles (18-inch composite)	20 (10 installed, 10 removed)	2	10
Total	180		45
Total (+10% buffer)			50*

\*Rounded to maximum number of full days

*Description of Marine Mammals*

A description of the marine mammals in the area of the activities, including information on abundance, status, distribution, and hearing, may be found in the Notice of the Proposed IHA (88 FR 82836, November 27, 2023) for the initial authorization. NMFS has reviewed the 2023 draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined there is no new information that affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the initial IHA. The abundance estimate for the eastern stock of the Steller sea lion has decreased from 43,201 to 36,308

according to the 2023 draft SAR (Young *et al.*, 2024), but this does not change estimated take numbers or influence the findings made in support of the initial IHA.

*Potential Effects on Marine Mammals and their Habitat*

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which take is authorized here may be found in the Notice of the Proposed IHA (88 FR 82836, November 27, 2023) for the initial authorization. NMFS has reviewed recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that there is no new information that affects our initial analysis of impacts on marine mammals and their habitat.

*Estimated Take*

A detailed description of the methods and inputs used to estimate take for the specified activity is found in the Notices of the Proposed and Final IHAs (88 FR 82836, November 27, 2023; 89 FR 5865, January 30, 2024) for the initial authorization. The only changes PG&E would make for the renewal IHA is to add 2 24-inch steel shell piles and 2 36-inch steel shell piles, resulting in a total of 10 of each piles, for installation and removal in the RWF Relocation portion of the project. The source levels, days of operation, and marine mammal occurrence data applicable to this authorization remain unchanged from the previously issued IHA. Similarly, the stocks taken, methods of take, and types of take remain unchanged from the previously issued IHA, as do the number of takes, which are indicated below in table 2.

**Table 2 – Summary of Marine Mammal Takes by Species**

Species	Stock	Proposed Level B Harassment Takes	Stock Abundance	Percent of Stock (%)
Harbor seal	California	1,000	30,968	3.2
Northern elephant seal	California breeding	25	187,386	0.01
California sea lion	United States	9,550	257,606	3.7

Northern fur seal	California; Eastern North Pacific	5	14,050; 626,618	0.04; 0.001
Steller sea lion	Eastern	5	36,308	0.01
Bottlenose dolphin	Coastal California	25	453	5.5
Harbor porpoise	San Francisco-Russian River	100	7,777	1.3

On October 24, 2024 NMFS published (89 FR 84872) its final Updated Technical Guidance (<https://www.fisheries.noaa.gov/s3/2024-10/Tech-Memo-Guidance-3.0-OCT2024-508-OPR1.pdf>), which includes updated thresholds and weighting functions to inform auditory injury estimates, and is replacing the 2018 Technical Guidance referenced in the Notices for the Proposed and Final IHA (88 FR 82836, November 27, 2023; 89 FR 5865, January 30, 2024). In consideration of the best available science, NMFS conducted calculations using the Updated Technical Guidance and NMFS optional user spreadsheet, using the source levels and spreadsheet inputs provided in the Notices for the Proposed and Final IHAs (88 FR 82836, November 27, 2023; 89 FR 5865, January 30, 2024), for the purpose of understanding how Level A harassment (auditory injury) zones would change from the initial IHA. The relevant updated weighting functions may be found in the executive summary of the Updated Technical Guidance, on page 3. The updated marine mammal hearing groups and updated thresholds can be found in tables 3 and 4.

**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, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i> )	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>i.e.</i> , 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.

**Table 4 – Onset of Auditory Injury (AUD INJ) (NMFS, 2024)**

Hearing Group	AUD INJ Onset Thresholds* (Received Level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	<i>Cell 1</i> $L_{p,0-pk,flat}$ : 222 dB $L_{E,p,LF,24h}$ : 183 dB	<i>Cell 2</i> $L_{E,p,LF,24h}$ : 197 dB
High-Frequency (HF) Cetaceans	<i>Cell 3</i> $L_{p,0-pk,flat}$ : 230 dB $L_{E,p,HF,24h}$ : 193 dB	<i>Cell 4</i> $L_{E,p,HF,24h}$ : 201 dB
Very High-Frequency (VHF) Cetaceans	<i>Cell 5</i> $L_{p,0-pk,flat}$ : 202 dB $L_{E,p,VHF,24h}$ : 159 dB	<i>Cell 6</i> $L_{E,p,VHF,24h}$ : 181 dB
Phocid Pinnipeds (PW) (Underwater)	<i>Cell 7</i> $L_{p,0-pk,flat}$ : 223 dB $L_{E,p,PW,24h}$ : 183 dB	<i>Cell 8</i> $L_{E,p,PW,24h}$ : 195 dB
Otariid Pinnipeds (OW) (Underwater)	<i>Cell 9</i> $L_{p,0-pk,flat}$ : 230 dB $L_{E,p,OW,24h}$ : 185 dB	<i>Cell 10</i> $L_{E,p,OW,24h}$ : 199 dB
<p>* 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.</p> <p>Note: Peak sound pressure level (<math>L_{p,0-pk}</math>) has a reference value of 1 <math>\mu</math>Pa, and weighted cumulative sound exposure level (<math>L_{E,p}</math>) has a reference value of 1 <math>\mu</math>Pa<sup>2</sup>s. 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>i.e.</i>, 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>i.e.</i>, 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.</p>		

NMFS has also considered whether modifications to mitigation requirements, *i.e.*, shutdown zones, would be appropriate in light of the Updated Technical Guidance. Based on the outcome of these analyses using the Updated Technical Guidance, alternate Level A harassment zones are presented in table 5, as well as the Level A harassment zones from the initial IHA, based on the 2018 Technical Guidance, for comparison. Mitigation zones, in consideration of the Updated Technical Guidance where appropriate, are discussed in the *Description of Proposed Mitigation, Monitoring and Reporting Measures* section.

Although some estimated Level A harassment zones have increased using the 2024 guidance, consistent with the initial IHA, no Level A harassment takes are anticipated, because PG&E will change the shutdown zones accordingly and consistent with the intent of the measures prescribed through the initial IHA, as discussed in *Description of Proposed Mitigation, Monitoring and Reporting Measures* section.

**Table 5 – Level A Harassment Zones Using 2018 Technical Guidance and Updated 2024 Technical Guidance**

Pile Type and Method	Level A Harassment Zones Using 2018 Technical Guidance (m)				Level A Harassment Zones Using Updated 2024 Technical Guidance (m)			
	HF Cetacean <sup>a</sup>	VHF Cetacean <sup>b</sup>	Phocids	Otariids	HF Cetacean	VHF Cetacean	Phocids	Otariids
Hydroacoustic Data Collection								
18-inch Composite, Impact	<1	19	9	<1	2	25	14	5
18-inch Composite, Vibratory	<1	6	3	1	1	2	3	1
Turbidity Curtain								
Steel H-Pile, Vibratory	0	<1	<1	<1	<1	<1	<1	<1
Steel Shell Pile ≤24-inch, Vibratory	<1	4	2	1	<1	2	3	1
RWF Temporary Relocation Piles								
Steel Shell Pile 24-inch, Vibratory	<1	4	2	<1	<1	2	3	1
Steel Shell Pile 24-inch, Impact, Attenuated <sup>c</sup>	11	351	158	12	37	454	261	97
Steel Shell Pile ≤36 inch, Vibratory	3	28	14	2	13	27	42	14
Sediment Pins								
14 to 16-inch Timber, Vibratory	2	23	10	1	8	17	27	9
14 to 16-inch Timber, Impact	<1	14	6	<1	2	18	10	4
14 to 16-inch Composite, Vibratory	<1	6	3	<1	2	4	7	2

14 to 16-inch Composite, Impact	<1	9	4	<1	1	11	7	2
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<sup>a</sup>In the 2018 guidance and initial IHA, HF cetaceans were referred to as MF (mid-frequency) cetaceans

<sup>b</sup>In the 2018 guidance and initial IHA, VHF cetaceans were referred to as HF (high-frequency) cetaceans.

<sup>c</sup>5-dB reduction in sound due to use of bubble curtain assumed.

### *Description of Mitigation, Monitoring and Reporting Measures*

The mitigation, monitoring, and reporting measures included as requirements in this authorization are nearly identical to those included in the **Federal Register** notice announcing the issuance of the initial IHA (89 FR 5865, January 30, 2024), and the discussion of the least practicable adverse impact included in that document and the Notice of the Proposed IHA (88 FR 782836, November 27, 2023) remain accurate. Consistent with the mitigation required through the initial IHA, shutdown zones proposed for the renewal IHA are based on the largest Level A harassment zone for each pile size/type and driving method, as updated using the Updated 2024 Technical Guidance rather than the 2018 Technical Guidance. The zones are calculated identically to those presented in the Notice of the Proposed IHA (88 FR 82836, November 27, 2023), with reference to the updated Technical Guidance. The following mitigation, monitoring, and reporting measures for this renewal include:

- PG&E must shut down construction operations if a marine mammal comes within 10 m of construction activity to avoid direct physical interaction with marine mammals;
- PG&E must establish shutdown zones for all pile driving activities. Shutdown zones are based on the largest Level A harassment zone for each pile size/type and driving method;
- PG&E must shut down during active pile driving if marine mammals approach shutdown zones (see table 6);
- NMFS-approved protected species observers (PSOs) must be used to monitor the full shutdown zones and as much of the Level B harassment zone as possible;

- PSOs must monitor the shutdown zones for at least 30 minutes prior to pile driving, throughout pile driving, and 30 minutes after;
- If marine mammals are found within the shutdown zone, pile driving must be delayed until the animal has moved out of the shutdown zone;
- PG&E must shut down if any species for which take has not been authorized, or a species for which take has been authorized but the authorized take numbers have been met, approaches or enters the Level B harassment zones;
- Should environmental conditions deteriorate such that marine mammals within the entire shutdown zone would not be visible (*e.g.*, fog, heavy rain), pile driving must be delayed until observers are confident marine mammals within the shutdown zone could be detected;
- PG&E must implement impact pile driving soft starts whereby hammer energy is gradually ramped up;
- A bubble curtain must be used during impact pile driving of steel piles;
- PG&E must submit a draft marine mammal monitoring report to NMFS within 90 days after the completion of pile driving activities or 60 calendar days prior to the requested issuance of any subsequent IHA for construction activity at the same location, whichever comes first. A final report must be prepared and submitted within 30 calendar days following receipt of any NMFS comments on the draft report;
- All injured or dead marine mammals must be reported to the Office of Protected Resources and to the West Coast regional stranding network.

**Table 6 – Renewal IHA Shutdown Zones**

Pile Type and Method	Shutdown Zone for All Species (m)	Change From Initial IHA
Hydroacoustic Data Collection		
18-inch Composite, Impact	30	Increased 10 m
18-inch Composite, Vibratory Removal	10	No change

Turbidity Curtain		
Steel H-Pile, Vibratory Installation and Removal	10	No change
Steel Shell Pile ≤24 inch, Vibratory Installation and Removal	10	No change
RWF Relocation Piles		
Steel Shell Pile 24 inch, Vibratory Installation and Removal	10	No change
Steel Shell Pile 24 inch, Impact, Attenuated	450	Increased 90 m
Steel Shell Pile 36 inch, Vibratory	40	Increased 10 m
Sediment Pins		
14- to 16-inch Timber, Vibratory	30	No change
14- to 16-inch Timber, Impact	20	No change
14- to 16-inch Composite, Vibratory	10	No change
14- to 16-inch Composite, Impact	20	No change

### Comments and Responses

A notice of NMFS' proposal to issue a renewal IHA to PG&E was published in the **Federal Register** on October 16, 2024 (89 FR 83459). That notice either described, or referenced descriptions of, PG&E's activity, the marine mammal species that may be affected by the activity, the anticipated effects on marine mammals and their habitat, estimated amount and manner of take, and proposed mitigation, monitoring and reporting measures. NMFS received one comment letter from an individual. The comments and our responses are summarized below.

*Comment 1:* A member of the public asserted that the addition of two 24-inch piles and two 36-inch piles and associated pile driving would cumulatively increase stress on the local marine mammal populations. Although expressing support for the mitigation measures, the commenter asserts that the mitigation measures are not adequate to address the impacts of the small amount of increased pile driving. The commenter also asserts that NMFS should reconsider its qualification of Categorical Exclusion under the National Environmental Policy Act (NEPA) for this project and that an environmental impact statement would be necessary.

*Response:* NMFS acknowledges that pile driving noise is a stressor to marine mammals but disagrees that the addition of two 24-inch and two 36-inch steel piles would cumulatively increase stress on the local marine mammal population to a meaningful degree. As discussed in the notice of proposed IHA for the initial IHA (88 FR 82836, November 27, 2023), pile driving can result in auditory impacts, behavioral harassment, and disruption in foraging. However, NMFS expects that any negative effects from pile driving will be temporary and localized to a small area within San Francisco Bay. The addition of four piles would result in lengthening the project on the scale of hours and would not result in larger isopleths. NMFS expects that this small increase in time of pile driving would result in negligible impacts to the marine mammals in the vicinity of the project and would not result in a cumulative increase in stress to the overall population of marine mammals in San Francisco Bay.

NMFS disagrees that the mitigation is not adequate to address the increased pile driving activities. As previously mentioned, the addition of the four piles would increase the time frame of the project on the scale of hours and would not increase harassment distances. NMFS expects that the required mitigation measures, which include implementation of shutdown zones, monitoring of zones using PSOs, soft start procedures for impact pile driving, and use of a bubble curtain for impact pile driving of steel piles, is sufficient to effect the least practicable adverse impact.

NMFS disagrees that the application of Categorical Exclusion B4 from further analysis under NEPA is inappropriate, and the commenter provides no rational basis for this assertion. The issuance of a renewal IHA to PG&E for take of marine mammals incidental to pile driving activities is consistent with activities identified in categorical exclusion B4. The addition of four steel piles, of the same size and type as analyzed under the initial IHA, does not result in any changes to the anticipated environmental impacts and, therefore, application of CE B4 remains appropriate.

## **Determinations**

NMFS has concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. This includes consideration of the estimated abundance of the eastern stock of the Steller sea lion decreasing, updated analysis reflecting the 2024 Technical Guidance, and corresponding updates to required shutdown zones. Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following: (1) the required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) PG&E's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and; (5) appropriate monitoring and reporting requirements are included.

## **National Environmental Policy Act**

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our 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 (incidental take authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 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 determined that the issuance of the initial IHA qualified to be categorically excluded

from further NEPA review. NMFS has determined that the application of this categorical exclusion remains appropriate for this renewal IHA.

### **Endangered Species Act**

Section 7(a)(2) of the Endangered Species Act 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.

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

### **Renewal**

NMFS has issued a renewal IHA to PG&E for the take of marine mammals incidental to conducting pile driving activities associated with the Sediment Remediation Project in San Francisco Bay, CA effective from May 1, 2025 to April 30, 2026.

Dated: November 18, 2024.

**Kimberly Damon-Randall,**

*Director, Office of Protected Resources,*

*National Marine Fisheries Service.*

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