



## **DEPARTMENT OF COMMERCE**

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

**[RTID 0648-XE964]**

#### **Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Terminal 4 Expansion and Redevelopment Project at the Port of Grays Harbor, Washington**

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

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

**SUMMARY:** NMFS received a request from the Port of Grays Harbor (Port) for the renewal of a currently active incidental harassment authorization (IHA) to take marine mammals incidental to construction activities associated with the Terminal 4 (T4) Expansion and Redevelopment Project (Project) at the Port of Grays Harbor in Grays Harbor County, Washington. The Port's activities will not be completed prior to the IHA's expiration. Pursuant to the Marine Mammal Protection Act (MMPA), prior to issuing the currently active IHA, NMFS requested comments on both the proposed IHA and the potential for renewing the initial authorization if certain requirements were satisfied. The renewal requirements have been satisfied, and NMFS is now providing an additional 15-day comment period to allow for any additional comments on the proposed renewal not previously provided during the initial 30-day comment period.

**DATES:** Comments and information must be received no later than [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Comments should be addressed to the Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, and should

be submitted via email to [ITP.Pauline@noaa.gov](mailto:ITP.Pauline@noaa.gov). 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-ag-processing-incs-port-grays-harbor-terminal-4-expansion-and>. In case of problems accessing these documents, please call the contact listed below.

*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, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act> 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:** Robert Pauline, 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 proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as “mitigation”); and requirements pertaining to the monitoring and reporting of the takings. The definition of all applicable MMPA statutory used above are included in the relevant sections below and can be found in section 3 of the MMPA (16 U.S.C. 1362) and the NMFS’s implementing regulations at 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 one 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 of an 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); and
- 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>*. Any comments received on the potential renewal, along with relevant comments on the initial IHA, have been considered in the development of this proposed IHA renewal, and a summary of agency responses to applicable comments is included in this notice. NMFS will consider any additional public

comments prior to making any final decision on the issuance of the requested renewal, and agency responses will be summarized in the final notice of our decision.

### **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 a renewal 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 preliminarily determined that the application of this categorical exclusion remains appropriate for this renewal IHA.

### **History of Request**

On June 7, 2024, NMFS issued an IHA to Ag Processing Inc. (AGP) to take marine mammals incidental to construction activities associated with the Terminal 4 (T4) Expansion and Redevelopment Project (Project) at the Port of Grays Harbor (Port) in both the City of Aberdeen and City of Hoquiam, Grays Harbor County, Washington (89 FR 48565), effective from July 16, 2024 through July 15, 2025. Note that this Project is a joint effort between the Port and AGP. The initial IHA was issued to AGP but the Port is requesting to be the holder of the proposed renewal authorization. On April 16, 2025, NMFS received an application for the renewal of that initial IHA from the Port. As described in the application for renewal IHA, the activities for which incidental take is

requested are consistent with activities that are covered by the initial authorization but will not be completed prior to its expiration. As required, AGP also provided a preliminary monitoring report which confirms that it implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted.

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

The purpose of the project is to construct a new export facility at Terminal 4 (T4). The activity includes removal of existing piles and the installation of both temporary and permanent piles of various sizes. Takes of marine mammals by Level A and Level B harassment are expected to occur as a result of noise produced by both impact and vibratory pile driving and vibratory removal. The initial IHA authorized take incidental to in-water construction activities associated with the installation of a new fendering system at Terminal 4A and the installation of a new commodity export facility at Terminal 4B. AGP has completed the in-water construction activities for the new commodity export facility at Terminal 4B. However, a one-year renewal of the initial IHA is needed to complete the in-water construction activities associated with the new fendering system at Terminal 4A.

#### *Detailed Description of the Activity*

A detailed description of the demolition and construction activities for which take is proposed here may be found in the Notices of the Proposed (89 FR 24436, April 8, 2024) and Final (89 FR 48565, June 7, 2024) IHAs for the initial authorization. The location, timing, and nature of the activities, including the types of equipment planned for use, are similar to those described in the previous notices. The proposed renewal would be effective for a period not exceeding 1 year from the date of expiration of the initial IHA.

The existing IHA authorizes take incidental to the in-water pile driving/removal activities shown in tables 1 and 2. The activities in table 1 are proposed to be completed under this renewal IHA and the activities in table 2 were completed under the initial IHA. The previously planned impact proofing of 24-inch (60.96 centimeter (cm)) steel pipe piles was not required at Terminal 4B. Since the impact proofing of 24-inch (60.96 cm) steel pipe piles planned for the Terminal 4B commodity export facility portion of the Project was not required, the Port intends to conduct similar impact proofing for the fendering system construction at Terminal 4A under the proposed renewal IHA. With the exception of impact proofing for the new fendering system, the Port did not propose any new activities or modifications from the originally proposed actions. Pile removal and installation activities are anticipated to occur during the in-water work window (July 16 through February 15). The most conservative estimate of time required to complete pile installation and removal activities under this renewal is 36 days of intermittent vibratory pile driving/removal and an additional 8 days of impact proofing.

**Table 1 -- In-water Pile Removal and Installation Activities Proposed for the Renewal IHA for the Terminal 4A New Fendering System**

| Pile Type and Size                            | Activity     | Removal/Installation Method   | Number of Piles | Total Days of Operation | Piles Per day | Hours Vibratory per day | Impact Strikes per day |
|---|--------------|-------------------------------|-----------------|-------------------------|---------------|-------------------------|------------------------|
| 18-inch (45.72 cm) timber piles               | Removal      | Vibratory hammer, direct pull | Up to 50        | Up to 12                | Up to 10      | Up to 5.0               | --                     |
| 18-inch (45.72 cm) steel pipe pile            | Installation | Vibratory hammer              | Up to 15        | Up to 6                 | Up to 6       | Up to 3.0               | --                     |
| 24-to-30-inch (60.96-76.2 cm) steel pipe pile | Installation | Vibratory hammer              | Up to 24        | Up to 18                | Up to 6       | Up to 6.0               | --                     |
| 24-inch (60.96 cm) steel pipe pile            | Installation | Impact proof                  | Up to 24        | Up to 8                 | Up to 4       | --                      | 2,000                  |

**Table 2 -- In-water Pile Removal and Installation Completed for New AGP Commodity Export Facility at Terminal 4B Under Initial IHA.**

| Pile Type and Size | Activity | Installation/Removal Method | Number of Piles | Total Days of Operation | Piles per day | Hours Vibratory per day | Impact Strikes per day |
|--------------------|----------|-----------------------------|-----------------|-------------------------|---------------|-------------------------|------------------------|
|--------------------|----------|-----------------------------|-----------------|-------------------------|---------------|-------------------------|------------------------|

|  |              |                                 |          |          |         |           |             |
|--|--------------|---------------------------------|----------|----------|---------|-----------|-------------|
| 12-inch (30.48 cm) steel H sections          | Removal      | Vibratory hammer or direct pull | Up to 6  | Up to 3  | Up to 3 | Up to 1.5 | --          |
| 16.5-inch (41.91 cm) concrete octagonal pile | Removal      | Vibratory hammer, direct pull   | Up to 27 | Up to 9  | Up to 8 | Up to 8   | --          |
| 36-inch (91.44 cm) steel pipe pile           | Installation | Vibratory                       | Up to 50 | Up to 24 | Up to 4 | Up to 8   | --          |
|  |              | *Impact proof                   |          | Up to 6  |         | --        | Up to 2,400 |
| 24-inch (60.96 cm) steel pipe pile           | Installation | Vibratory and impact hammer     | Up to 24 | Up to 10 | Up to 4 | Up to 6   | --          |
|  |              | *Impact proof                   |          | Up to 2  |         | --        | Up to 2,000 |
| 12-inch (30.48 cm) steel H-piles             | Installation | Vibratory hammer                | Up to 6  | Up to 3  | Up to 3 | Up to 1.5 | --          |
| 24-inch (60.96 cm) steel pipe pile           | Installation | Vibratory hammer                | Up to 24 | Up to 6  | Up to 8 | Up to 4   | --          |
| 24-inch (60.96 cm) steel pipe pile           | Removal      | Vibratory hammer                | Up to 24 | Up to 6  | Up to 8 | Up to 4   | --          |

\* The planned impact proofing of 36-in and 24-in steel pipe pile was not required. Impact proofing of 24-inch steel piles has been added to work under the proposed renewal and has been applied to pile installation activities in table 1.

### *Description of Marine Mammals*

A description of the marine mammals in the area of the activities for which authorization of take is proposed here, including information on abundance, status, distribution, and hearing, may be found in the Notices of the Proposed IHA for the initial authorization (89 FR 24436, April 8, 2024). NMFS has reviewed the monitoring data from the initial IHA, recent 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 (89 FR 24436, April 8, 2024). Note that the abundance estimate for the Oregon/Washington coastal stock of

harbor seal has been updated to 22,549 from 24,731 animals based on more recent best available information (Pearson *et al.* 2024), but this does not impact estimated take numbers under the proposed renewal 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 an authorization of incidental take is proposed here may be found in the notices of the proposed IHA for the initial authorization (89 FR 24436, April 8, 2024). NMFS has reviewed the monitoring data from the initial IHA, 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 used to estimate take for the specified activity are found in the notices of the proposed and final IHAs for the initial authorization (89 FR 24436, April 8, 2024; 89 FR 48565, June 7, 2024). Specifically, the action area and marine mammal density and occurrence data applicable to this authorization remain unchanged from the initial and modified IHA. Similarly, source levels, type of activity, methods of take, and types of take remain unchanged from the initial IHA. However, there are changes to the estimated Level A harassment zones based on the 2024 Updated Technical Guidance, further discussed below. The estimated number of takes proposed for authorization is based on the subset of activities to be completed under this renewal IHA, and therefore represents a proportion of the initial authorized takes. These takes reflect the estimated remaining number of days of work and number of piles to be driven. Estimated take by Level A and Level B harassment for the

proposed renewal was calculated using the same methodology as in the initial proposed and final IHAs (89 FR 24436, April 8, 2024; 89 FR 48565, June 7, 2024).

On October 24, 2024 NMFS published (89 FR 84872) its final Updated Technical Guidance (<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance-other-acoustic-tools>) which includes updated thresholds and weighting functions to inform auditory injury estimates and is replacing the 2018 Technical Guidance referenced in the notices of the proposed and final IHAs for the initial authorization (89 FR 24436, April 8, 2024; 89 FR 48565, June 7, 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 (89 FR 24436, April 8, 2024; 89 FR 48565, June 7, 2024), for the purpose of understanding how Level A harassment (auditory injury) zones might change from the initial IHA. 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<br>(baleen whales)   | 7 Hz to 36 kHz             |
| High-frequency (HF) cetaceans<br>(dolphins, toothed whales, beaked whales, bottlenose whales)   | 150 Hz to 160 kHz          |
| Very High-frequency (VHF) cetaceans<br>(true porpoises, <i>Kogia</i> , river dolphins, Cephalorhynchid,<br><i>Lagenorhynchus cruciger</i> & <i>L. australis</i> )   | 200 Hz to 165 kHz          |
| Phocid pinnipeds (PW) (underwater)<br>(true seals)  | 40 Hz to 90 kHz            |
| Otariid pinnipeds (OW) (underwater)<br>(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 <i>et al.</i> , 2007; Southall <i>et al.</i> , 2019. Additionally, animals are able to detect very loud sounds above and below that "generalized" hearing range. Hz = Hertz. kHz = kilohertz. |                            |

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

| AUD INJ Onset Thresholds* |  |
|---------------------------|--|
|---------------------------|--|



|   |              |                  |     |     |    |    |     |     |
|---|--------------|------------------|-----|-----|----|----|-----|-----|
| Up to 18-inch (45.72 cm) timber piles         | Removal      | Vibratory hammer | 41  | 15  | 14 | 1  | 26  | 35  |
| Up to 18-inch (45.72 cm) steel pipe pile      | Installation | Vibratory hammer | 16  | 6   | 5  | 1  | 10  | 13  |
| 24-to-30-inch (60.96-76.2 cm) steel pipe pile | Installation | Vibratory hammer | 29  | 10  | 10 | 1  | 18  | 25  |
| Up to 24-inch (60.96 cm) steel pipe pile      | Installation | Impact Proof     | 259 | 157 | 97 | 12 | 452 | 349 |

A detailed description of the methods and inputs used to estimate take for the specified activity are found in the Notices of the Proposed and/or Final IHAs (89 FR 24436, April 8, 2024; 89 FR 48565, June 7, 2024) for the initial authorization. Specifically, the source levels, days of operation, and marine mammal density/occurrence data applicable to this authorization remain unchanged from the previously issued IHA. The sizes of the estimated Level A harassment zones have changed in some cases as shown in table 5 and these are reflected in tables 6-11. The stocks taken, methods of take, and types of take remain unchanged from the previously issued IHA. The estimated number of takes for the proposed renewal were calculated by adding the individual takes associated with each of the activities listed in table 5. Tables 6-11 show calculated take numbers by Level A (where authorized) and Level B harassment.

**Table 6 -- Calculated Take of Harbor Porpoise by Level B Harassment**

| Pile Type   | Harbor Porpoise Density per km <sup>2</sup> | Days of Pile Driving | Level B Area (km <sup>2</sup> ) | Shutdown Area (km <sup>2</sup> ) | Level B Take Estimate |
|---|---|----------------------|---------------------------------|----------------------------------|-----------------------|
| 24-to-30-inch (60.96-76.2 cm) steel pipe piles-vibratory (installation) | 0.467                                       | 18                   | 4.95                            | 0.023                            | 41.42                 |
| 24-inch (60.96 cm) steel piles, permanent - impact (installation)       | 0.467                                       | 8                    | 0.46                            | 0.05                             | 1.53                  |
| 18-inch (45.72 cm) steel pipe piles (installation) vibratory            | 0.467                                       | 6                    | 4.3                             | 0.014                            | 12.01                 |
| 18-inch (45.72 cm) creosote timber                                      | 0.467                                       | 12                   | 7.4                             | 0.034                            | 41.28                 |

|                             |  |  |  |  |      |
|-----------------------------|--|--|--|--|------|
| piles - Vibratory (removal) |  |  |  |  |      |
| Total                       |  |  |  |  | 96.2 |

**Table 7 -- Calculated Take of Harbor Porpoise by Level A Harassment**

| Pile Type   | Harbor Porpoise Density per km <sup>2</sup> | Days of Pile Driving | Level A Area (km <sup>2</sup> ) | Shutdown Area (km <sup>2</sup> ) | Level A Take Estimate |
|---|---|----------------------|---------------------------------|----------------------------------|-----------------------|
| 24-to-30-inch (60.96-76.2 cm) steel pipe piles-vibratory (installation) | 0.467                                       | 18                   | 0.008                           | 0.023                            | 0.00                  |
| 24-inch (60.96 cm) steel piles, permanent - impact (installation)       | 0.467                                       | 8                    | 0.44                            | 0.047                            | 1.47                  |
| 18-inch (45.72 cm) steel pipe piles (installation) vibratory            | 0.467                                       | 6                    | 0.009                           | 0.014                            | 0.00                  |
| 18-inch (45.72 cm) creosote timber piles - Vibratory (removal)          | 0.467                                       | 12                   | 0.025                           | 0.034                            | 0.00                  |
| Total   |   |                      |                                 |                                  | 1.5                   |

The Port requested and NMFS is proposing to authorize 2 Level A harassment and 94 Level B harassment takes of harbor porpoise.

**Table 8 -- Calculated Take of Steller Sea Lion by Level B Harassment**

| Pile Type   | Stellar Sea lion Density per km <sup>2</sup> | Days of Pile Driving | Level B Area (km <sup>2</sup> ) | Shutdown Area (km <sup>2</sup> ) | Level B Take Estimate |
|---|--|----------------------|---------------------------------|----------------------------------|-----------------------|
| 24-to-30-inch (60.96-76.2 cm) steel pipe piles-vibratory (installation) | 0.1993                                       | 18                   | 4.95                            | 0.009                            | 17.73                 |
| 24-inch (60.96 cm) steel piles, permanent - impact (installation)       | 0.1993                                       | 8                    | 0.46                            | 0.047                            | 0.66                  |
| 18-inch (45.72 cm) steel pipe piles (installation) vibratory            | 0.1993                                       | 6                    | 4.3                             | 0.009                            | 5.13                  |

|  |        |    |     |       |       |
|--|--------|----|-----|-------|-------|
| 18-inch (45.72 cm) creosote timber piles - Vibratory (removal) | 0.1993 | 12 | 7.4 | 0.009 | 17.68 |
| Total  |        |    |     |       | 41.2  |

The Port requested and NMFS is proposing to authorize 42 takes of Steller sea lion by Level B harassment. No take by Level A harassment is anticipated or proposed for authorization.

**Table 9 -- Calculated Take of California Sea Lion by Level B Harassment**

| Pile Type   | California Sea lion Density per km <sup>2</sup> | Days of Pile Driving | Level B Area (km <sup>2</sup> ) | Shutdown Area (km <sup>2</sup> ) | Level B Take Estimate |
|---|---|----------------------|---------------------------------|----------------------------------|-----------------------|
| 24-to-30-inch (60.96-76.2 cm) steel pipe piles-vibratory (installation) | 0.6493  | 18                   | 4.95                            | 0.009                            | 57.75                 |
| 24-inch (60.96 cm) steel piles, permanent - impact (installation)       | 0.6493  | 8                    | 0.46                            | 0.047                            | 2.15                  |
| 18-inch (45.72 cm) steel pipe piles (installation) vibratory            | 0.6493  | 6                    | 4.3                             | 0.009                            | 16.72                 |
| 18-inch (45.72 cm) creosote timber piles - Vibratory (removal)          | 0.6493  | 12                   | 7.4                             | 0.009                            | 57.59                 |
| Total   |   |                      |                                 |                                  | 134.2                 |

The Port requested and NMFS is proposing to authorize 134 takes of California sea lion by Level B harassment. No take by Level A harassment is anticipated or proposed for authorization.

**Table 10 -- Calculated Take of Harbor Seal by Level B Harassment**

| Pile Type   | Harbor Seal Density per km <sup>2</sup> | Days of Pile Driving | Level B Area (km <sup>2</sup> ) | Shutdown Area (km <sup>2</sup> ) | Level B Take Estimate |
|---|---|----------------------|---------------------------------|----------------------------------|-----------------------|
| 24-to-30-inch (60.96-76.2 cm) steel pipe piles-vibratory (installation) | 30.8                                    | 18                   | 4.95                            | 0.009                            | 2,739.29              |

|   |       |    |      |       |          |
|---|-------|----|------|-------|----------|
| 24-inch (60.96 cm) steel piles, permanent - impact (installation) | 30.85 | 8  | 0.46 | 0.05  | 101.19   |
| 18-inch (45.72 cm) steel pipe piles (installation) vibratory      | 30.85 | 6  | 4.3  | 0.009 | 794.26   |
| 18-inch (45.72 cm) creosote timber piles - Vibratory (removal)    | 30.85 | 12 | 7.4  | 0.014 | 2,734.30 |
| Total   |       |    |      |       | 6,369.0  |

**Table 11 -- Calculated Take of Harbor Seal by Level A Harassment**

| Pile Type   | Harbor Seal Density per km <sup>2</sup> | Days of Pile Driving | Level A Area (km <sup>2</sup> ) | Shutdown Area (km <sup>2</sup> ) | Level A Take Estimate |
|---|---|----------------------|---------------------------------|----------------------------------|-----------------------|
| 24-to-30-inch (60.96-76.2 cm) steel pipe piles-vibratory (installation) | 30.85                                   | 18                   | 0.013                           | 0.009                            | 2.22                  |
| 24-inch (60.96 cm) steel piles, permanent - impact (installation)       | 30.85                                   | 8                    | 0.174                           | 0.05                             | 30.60                 |
| 18-inch (45.72 cm) steel pipe piles (installation) vibratory            | 30.85                                   | 6                    | 0.015                           | 0.009                            | 1.11                  |
| 18-inch (45.72 cm) creosote timber piles - Vibratory (removal)          | 30.85                                   | 12                   | 0.041                           | 0.014                            | 10.00                 |
| Total   |   |                      |                                 |                                  | 43.9                  |

The Port requested and NMFS is proposing to authorize 44 Level A harassment takes and 6,325 Level B harassment takes of harbor seal.

The total number of takes proposed for authorization under the renewal for all species by Level A and Level B harassment as well as the percentage of each stock are shown in table 12.

**Table 12 -- Summary of Proposed Marine Mammal Takes by Species and Percentage of Stock Taken**

| Common name         | Scientific name               | Stock                            | Proposed Level A harassment | Proposed Level B harassment | Stock Abundance | Percent of Stock (%) |
|---------------------|-------------------------------|----------------------------------|-----------------------------|-----------------------------|-----------------|----------------------|
| Harbor porpoise     | <i>Phocoena phocoena</i>      | Northern Oregon/Washington Coast | 2                           | 94                          | 22,074          | <0.01                |
| Steller sea lion    | <i>Eumetopias jubatus</i>     | Eastern U.S.                     | --                          | 42                          | 36,308          | <0.01                |
| California sea lion | <i>Zalophus californianus</i> | U.S.                             | --                          | 135                         | 257,606         | <0.01                |
| Harbor seal         | <i>Phoca vitulina</i>         | OR/WA coast stock                | 44                          | 6,325                       | 22,549*         | 28.2                 |

\* This is unlikely an underestimate of total abundance since it only includes data for the Washington portion of the Oregon-Washington Coastal Stock (Pearson *et al.*, 2024).

*Description of Proposed Mitigation, Monitoring and Reporting Measures*

The proposed mitigation, monitoring, and reporting measures included as requirements in this renewal authorization are similar to those included in the **Federal Register** notice announcing the issuance of the initial IHA (89 FR 48565, June 7, 2024), and the discussion of the least practicable adverse impact included in that document and the Notice of the Proposed IHA (89 FR 24436, April 8, 2024) remain accurate. The following measures are proposed for this renewal:

- The Port must employ NMFS-approved protected Species Observers (PSOs) and establish monitoring locations to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions;
- Monitoring must take place from 30 minutes prior to initiation of pile driving activity (*i.e.*, pre-start clearance monitoring) through 30 minutes post-completion of pile driving activity;
- Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine that the shutdown zones are clear of marine mammals;
- If a marine mammal is observed entering or within the shutdown zones pile driving activity must be delayed or halted;

- If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown;

- Soft start techniques must be used when impact pile driving;
- A bubble curtain must be used during impact pile driving;
- Pile driving activity must be halted upon observation of either a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met, entering or within the harassment zone;

- The Port must shut down construction operations if a marine mammal comes within 10 m of construction activity to avoid direct physical interaction with marine mammals;

- The Port 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; and

- All injured or dead marine mammals must be reported to the Office of Protected Resources and to the West Coast regional stranding network.

Consistent with the mitigation required through the initial IHA, shutdown zones proposed for the renewal IHA will be based on the largest Level A harassment zone for each pile size/type and driving method, as updated using the draft 2024 Technical Guidance rather than the 2018 Technical Guidance. Proposed zones are shown in table 13.

**Table 13 -- Proposed Shutdown and Monitoring Zones (Meters).**

| Pile Type   | Shutdown Zone                  |                  |                   | Monitoring Zone |
|---|--------------------------------|------------------|-------------------|-----------------|
|   | Very High-Frequency Cetaceans* | Phocid Pinnipeds | Otariid Pinnipeds |                 |
| Impact  |                                |                  |                   |                 |
| 24-inch (60.96 cm) steel piles, permanent (installation)      | 100                            | 100              | 100 (10)**        | 465             |
| Vibratory   |                                |                  |                   |                 |
| 24-to-30-inch (60.96-76.2 cm) steel pipe piles (installation) | 25                             | 10               | 10                | 3,985           |
| 18-inch (45.72 cm) steel pipe piles (installation)            | 15                             | 10               | 10                | 3,415           |
| 18-inch (45.72 cm) creosote timber piles (removal)            | 35                             | 15               | 15 (10)**         | 6,310           |

\*In the 2018 guidance and initial IHA, VHF cetaceans were referred to as HF (high-frequency) cetaceans.

\*\*Represents change from Initial 2024-2025 IHA. Initial zones in parentheses.

The monitoring zones in the proposed renewal are identical to those found in the initial proposed and final IHAs (89 FR 24436, April 8, 2024; 89 FR 48565, June 7, 2024). Most of the Level A harassment zones remain unchanged from the initial proposed and final IHAs. However, the Level A harassment zone for Otariids during impact installation of 24-inch (60.96 cm) steel piles increased from 12 m to 97 m so the shutdown zone was increased to 100 m. Vibratory removal of 18-in creosote timber piles for Otariids increased from 1 m to 14 m so the shutdown zone was increased to 15 m from the previous 10 m minimum.

### Comments and Responses

As noted previously, NMFS published a notice of a proposed IHA (89 FR 24436; May 8, 2024) and solicited public comments on both our proposal to issue the initial IHA for construction activities associated with the Project and on the potential for a renewal IHA, should certain requirements be met.

All public comments were addressed in the notice announcing the issuance of the initial IHA (89 FR 48565; June 7, 2024) and none of the comments specifically pertained to the renewal of the 2024 IHA.

### **Preliminary Determinations**

The Port's action will require completing a subset of pile driving activities that were not completed under the initial IHA. Work at Terminal 4B has been completed while work at Terminal 4A has yet to begin. The method of taking and effects of the work on Terminal 4A were analyzed in the initial IHA along with Terminal B. Work on both terminals was expected to take 105 days under the initial IHA. The Port estimates that only 44 days of work remain. The take estimate for the renewal IHA is based on the activities proposed to occur during these remaining days. The proposed renewal take numbers represent a subset of the total take authorized under the initial IHA. In analyzing the effects of the activities for the initial IHA, NMFS determined that the Port's activities would have a negligible impact on the affected species or stocks and that authorized take numbers of each species or stock were small relative to the relevant stocks (*e.g.*, less than one-third the abundance of all stocks). The mitigation measures and monitoring and reporting requirements as described above are substantially similar to those required through the initial IHA, although some shutdown zones for Otariids have undergone slight revisions due to the Updated 2024 Technical Guidance. The abundance of a single species (OR/WA coast stock of harbor seals) has also changed since the initial IHA, but none of this new information affects NMFS' determinations supporting issuance of the initial IHA. The piles to be driven in the proposed subset of work and any minor changes described above do not affect the least practicable adverse impact determinations.

NMFS has preliminarily concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. 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) the Port'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.

### **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 ensure 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 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 proposed action.

### **Proposed Renewal IHA and Request for Public Comment**

As a result of these preliminary determinations, NMFS proposes to issue a renewal IHA to the Port for conducting construction activities as part of the T4 Expansion and Redevelopment Project at the Port of Grays Harbor in both the City of Aberdeen and City of Hoquiam, Grays Harbor County, Washington from July 16, 2025 through July 15, 2026, provided the previously described mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed and final initial IHA can be found at <https://www.fisheries.noaa.gov/action/incidental-take-authorization-ag->

*processing-incs-port-grays-harbor-terminal-4-expansion-and*. We request comment on our analyses, the proposed renewal IHA, and any other aspect of this notice. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for this renewal IHA.

**Dated:** June 25, 2025.

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**Shannon Bettridge,**

*Acting Director, Office of Protected Resources,*

*National Marine Fisheries Service.*

[FR Doc. 2025-12228 Filed: 6/27/2025 4:15 pm; Publication Date: 7/1/2025]