

DATES: The SEDAR 92 Atlantic Blueline Tilefish LS–TWG Data Scoping Webinar is scheduled for April 8, 2024, from 10 a.m. until 12 p.m., eastern. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from or completed prior to the time established by this notice.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Registration for the webinar is available by contacting the SEDAR coordinator via email at Julie.Neer@safmc.net.

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405; www.sedarweb.org.

FOR FURTHER INFORMATION CONTACT: Julie Neer, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366; email: Julie.Neer@safmc.net.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include:

data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the scoping webinar are as follows: Discuss available data sources, points of contact, data delivery deadlines, and any known data issues.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice 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.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should contact the South Atlantic Fishery Management Council office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 18, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–06008 Filed 3–20–24; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD583]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Transco Lower New York Bay Lateral (LNYBL) Natural Gas Pipeline Maintenance in Sandy Hook Channel, NJ

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to Transcontinental Gas Pipe Line Company LLC (Transco), to incidentally harass marine mammals during construction activities associated with a natural gas pipeline stabilization project in Sandy Hook Channel, New Jersey (NJ).

DATES: This authorization is effective from June 15, 2024, through June 14, 2025.

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

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

SUPPLEMENTARY INFORMATION:

Background

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

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements

pertaining to the mitigation, monitoring and reporting of the takings are set forth. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On April 28, 2023, NMFS received a request from Transco for an IHA to take marine mammals incidental to pile driving activities associated with the LNYBL maintenance project in Sandy Hook Channel, NJ. On September 1, 2023 Transco submitted updates to the planned daily duration of pile driving and on October 27, 2023, Transco notified NMFS of changes to project timing. Following NMFS’ review of the application, discussions between NMFS and Transco, and reanalysis following the aforementioned project changes, the application was deemed adequate and complete on November 2, 2023. Transco’s request is for take of 11 species of marine mammal, by Level B harassment and, for a subset of 3 of these species, Level A harassment. Neither Transco nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate. There are no changes from the proposed IHA to the final IHA.

Description of the Specified Activity

Overview

Transco plans to stabilize the LNYBL natural gas pipeline that extends 34 miles (mi) [55 kilometers (km)] in Raritan Bay, Lower New York Bay, and the Atlantic Ocean from Morgan, NJ to Long Beach, New York (NY). During routine monitoring of the existing LNYBL, Transco identified seven discrete sections of the gas pipeline with either limited cover or exposure resulting from dynamic conditions. The LNYBL maintenance project involves the maintenance of pipeline sections with seven corresponding “work areas” that encompass all in-water temporary work spaces within NY and NJ where project-related activities may cause sediment disturbance. To stabilize the pipeline, Transco will place rock over the pipeline at seven distinct work areas. At Work Area 3, near Sandy Hook

Channel, NJ, Transco plans to install 960 sheet piles to provide additional stability and protection, and to mitigate future seabed lowering and erosion along the north flank of Sandy Hook Channel. Activities included as part of the project with potential to affect marine mammals include vibratory and impact pile driving of steel sheet piles at Work Area 3. The pile driving activities are expected to occur on 80 days between June and September 2024. Other in-water work described above will not cause take of marine mammals.

A detailed description of the planned construction project is provided in the **Federal Register** notice for the proposed IHA (88 FR 84789, December 6, 2023). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS’ proposal to issue an IHA to Transco was published in the **Federal Register** on December 6, 2023 (88 FR 84789). That notice described, in detail, Transco’s activities, the marine mammal species that may be affected by the activities, and the anticipated effects on marine mammals. In that notice, we requested public input on the request for authorization described therein, our analyses, the proposed authorization, and any other aspect of the notice of proposed IHA, and requested that interested persons submit relevant information, suggestions, and comments. This proposed notice was available for a 30-day public comment period. During the 30-day public comment period, the United States Geological Survey noted that they have “no comment at this time.” NMFS received no other public comments.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered

all of this information, and we refer the reader to these descriptions, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS’ Stock Assessment Reports (SARs; <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>) and more general information about these species (e.g., physical and behavioral descriptions) may be found on NMFS’ website (<https://www.fisheries.noaa.gov/find-species>).

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

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS’ stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS’ U.S. Atlantic and Gulf of Mexico SARs (Hayes *et al.*, 2022; Hayes *et al.*, 2023). All values presented in table 1 are available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>.

TABLE 1—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) ¹	Stock abundance (CV, N _{min} , most recent abundance survey) ²	PBR	Annual M/SI ³
Order Artiodactyla—Infraorder Cetacea—Mysticeti (baleen whales)						
<i>Family Balaenopteridae (rorquals):</i>						
Fin Whale	<i>Balaenoptera physalus</i>	Western N Atlantic	E, D, Y	6,802 (0.24, 5,573, 2016)	11	1.8
Humpback Whale	<i>Megaptera novaeangliae</i>	Gulf of Maine	-, -, N	1,396	22	12.15

TABLE 1—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) ¹	Stock abundance (CV, N _{min} , most recent abundance survey) ²	PBR	Annual M/SI ³
Minke Whale	<i>Balaenoptera acutorostrata</i>	Canadian Eastern Coastal	- , - , N	21,968 (0.31, 17,002, 2016) ..	170	10.6
Odontoceti (toothed whales, dolphins, and porpoises)						
<i>Family Delphinidae:</i>						
Atlantic White-sided Dol- phin.	<i>Lagenorhynchus acutus</i>	Western N Atlantic	- , - , N	93,233 (0.71, 54,443, 2016) ..	544	27
Bottlenose Dolphin	<i>Tursiops truncatus</i>	Northern Migratory Coastal	- , - , Y	6,639 (0.41, 4,759, 2016)	48	12.2–21.5
		Western North Atlantic Off- shore.	- , - , N	62,851 (0.23, 51,914, 2016) ..	519	28
Common Dolphin	<i>Delphinus delphis</i>	Western N Atlantic	- , - , N	172,974 (0.21, 145,216, 2016)	1,452	390
Atlantic Spotted Dolphin ...	<i>Stenella frontalis</i>	Western N Atlantic	- , - , N	39,921 (0.27, 32,032, 2016) ..	320	0
<i>Family Phocoenidae (por- poises):</i>						
Harbor Porpoise	<i>Phocoena phocoena</i>	Gulf of Maine/Bay of Fundy ...	- , - , N	95,543 (0.31, 74,034, 2016) ..	851	164
Order Carnivora—Pinnipedia						
<i>Family Phocidae (earless seals):</i>						
Harp Seal	<i>Pagophilus groenlandicus</i>	Western N Atlantic	- , - , N	7.6M (UNK, 7.1M, 2019)	426,000	178,573
Harbor Seal	<i>Phoca vitulina</i>	Western N Atlantic	- , - , N	61,336 (0.08, 57,637, 2018) ..	1,729	339
Gray Seal ⁴	<i>Halichoerus grypus</i>	Western N Atlantic	- , - , N	27,300 (0.22, 22,785, 2016) ..	1,458	4,453

¹ 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.

² NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports>. CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

³ 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, vessel strike). Annual Mortality and Serious Injury (M/SI) often cannot be determined precisely and is in some cases presented as a minimum value or range.

⁴ This stock abundance estimate is only for the U.S. portion of this stock. The actual stock abundance, including the Canadian portion of the population, is estimated to be approximately 424,300 animals. The PBR value listed here is only for the U.S. portion of the stock, while M/SI reflects both the Canadian and U.S. portions.

A detailed description of the species likely to be affected by the Transco LNYBL Maintenance project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (88 FR 84789, December 6, 2023); since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (<https://www.fisheries.noaa.gov/find-species>) for generalized species accounts.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (e.g., Richardson *et al.*, 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.*, (2007, 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges

(behavioral response data, anatomical modeling, etc.). Note that no direct measurements of hearing ability have been successfully completed for mysticetes (i.e., low-frequency cetaceans). Subsequently, NMFS (2018) 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. Marine mammal hearing groups and their associated hearing ranges are provided in table 2.

TABLE 2—MARINE MAMMAL HEARING GROUPS [NMFS, 2018]

Hearing group	Generalized hearing range*
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i>).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.

TABLE 2—MARINE MAMMAL HEARING GROUPS—Continued
[NMFS, 2018]

Hearing group	Generalized hearing range *
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

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

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 *et al.*, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from Transco's construction activities have the potential to result in behavioral harassment of marine mammals in the vicinity of the project area. The notice of the proposed IHA (88 FR 84789, December 6, 2023) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from Transco's construction on marine mammals and their habitat. That information and analysis is incorporated by reference into this final IHA determination and is not repeated here; please refer to the notice of proposed IHA (88 FR 84789, December 6, 2023).

Estimated Take of Marine Mammals

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

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 will be by Level B harassment, as use of the acoustic sources (*i.e.*, impact and vibratory pile driving) has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result for phocids because predicted auditory injury zones are relatively large, and seals are expected to be relatively common and are more difficult to detect at greater distances. The planned mitigation and monitoring measures are expected to minimize the severity of the taking to the extent practicable.

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

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

Acoustic Thresholds

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

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from

anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (*e.g.*, frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.*, bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.*, Southall *et al.*, 2007, 2021, Ellison *et al.*, 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared pressure received levels (RMS SPL) of 120 dB (referenced to 1 micropascal (re 1 µPa)) for continuous (*e.g.*, vibratory pile driving, drilling) and above RMS SPL 160 dB re 1 µPa for non-explosive impulsive (*e.g.*, seismic airguns) or intermittently (*e.g.*, scientific sonar) sources. Generally speaking, Level B harassment take estimates based on these behavioral harassment thresholds are expected to include any likely takes by Temporary Threshold Shift (TTS) as, in most cases, the likelihood of TTS occurs at distances from the source less than those at which behavioral harassment is likely. TTS of a sufficient degree can manifest as behavioral harassment, as reduced hearing sensitivity and the potential reduced opportunities to detect important signals (conspecific communication, predators, prey) may result in changes in behavior patterns that would not otherwise occur.

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

Level A Harassment—NMFS’ Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) 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). Transco’s planned activity includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving) sources. These thresholds are provided in the table below. The references, analysis,

and methodology used in the development of the thresholds are described in NMFS’ 2018 Technical Guidance, which may be accessed at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance>.

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

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

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

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μ Pa, and cumulative sound exposure level (L_E) has a reference value of 1 μ Pa²s. 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 are used in estimating the area ensonified above the acoustic thresholds, including source levels and transmission loss coefficient.

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

The project includes vibratory and impact pile driving. Source levels for

these activities are based on reviews of measurements of the same or similar types and dimensions of piles available in the literature. Source levels for each pile size and activity are presented in table 4. Source levels for vibratory installation and removal of piles of the same diameter are assumed to be the same.

TABLE 4—ESTIMATES OF MEAN UNDERWATER SOUND LEVELS GENERATED DURING VIBRATORY AND IMPACT PILE INSTALLATION OF 36-INCH STEEL SHEET PILE

Hammer type	dB rms	dB SEL	dB peak	Literature source
Vibratory*	**182	N/A	N/A	Quijano <i>et al.</i> , 2018.
Impact*	190	180	205	Caltrans, 2015.

Note: dB peak = peak sound level; rms = root mean square; SEL = sound exposure level.
 *Vibratory source levels are referenced at 1 m and the impact source levels are referenced at 10 m.
 ** Since vibratory pile installation is a continuous, non-impulsive source, it was assumed that the dB rms source levels are the same as the dB SEL source level reported in Quijano *et al.* (2018).

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

$$TL = B * \text{Log}_{10} (R1/R2), \text{ where}$$

- TL = transmission loss in dB
- B = transmission loss coefficient
- R1 = the distance of the modeled SPL from the driven pile, and
- R2 = the distance from the driven pile of the initial measurement

Absent site-specific acoustical monitoring with differing measured

transmission loss, a practical spreading value of 15 is used as the transmission loss coefficient in the above formula. Site-specific transmission loss data for the Raritan Bay is not available; therefore, the default coefficient of 15 is used to determine the distances to the harassment thresholds.

The ensonified area associated with Level A harassment is more technically challenging to predict due to the need to account for a duration component. Therefore, NMFS developed an optional User Spreadsheet tool to accompany the Technical Guidance that can be used to relatively simply predict an isopleth distance for use in conjunction with marine mammal density or occurrence to help predict potential takes. We note

that because of some of the assumptions included in the methods underlying this optional tool, we anticipate that the resulting isopleth estimates are typically going to be overestimates of some degree, which may result in an overestimate of potential take by Level A harassment. However, this optional tool offers the best way to estimate isopleth distances when more sophisticated modeling methods are not available or practical. For stationary sources such as pile driving, the optional User Spreadsheet tool predicts the distance at which, if a marine mammal remained at that distance for the duration of the activity, it will be expected to incur PTS. Inputs used in the optional User Spreadsheet tool, and

the resulting estimated isopleths, are reported below (table 5). The resulting estimated isopleths and the calculated

Level B harassment isopleths are reported in table 6.

TABLE 5—USER SPREADSHEET INPUTS

Spreadsheet tab used	A.1) Vibratory pile driving	E.1) Impact pile driving
Source level (SPL)	182 RMS	180 SEL
36-inch steel sheet piles		
Transmission Loss Coefficient	15	15
Weighting Factor Adjustment (kHz)	2.5	2
Activity Duration per pile (minutes)	10	N/A
Number of strikes per pile		520
Number of piles per day	12	12
Distance of sound pressure level measurement	1	10

TABLE 6—LEVEL A HARASSMENT AND LEVEL B HARASSMENT ISOPLETHS

Hammer type	Level A harassment isopleths (m) area of harassment zone (km ²) *				Level B harassment isopleth (m) area of harassment zone (km ²) *
	LF	MF	HF	PW	
36-inch Steel Sheet Piles					
Vibratory Pile Driving	27.2	2.4	40.3	16.6	13,594 426.13
Impact Pile Driving	2,135.6 18.99	76.0 0.30	2,543.9 25.23	1,142.9 7.72	1,000

* Harassment zone areas are clipped by viewshed.

Marine Mammal Occurrence

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

Transco applied the Duke University Marine Geospatial Ecology Laboratory marine mammal habitat-based density models (<https://seamap.env.duke.edu/models/Duke/EC/>) to estimate take from vibratory and impact pile driving (Roberts *et al.*, 2016; Roberts *et al.*, 2023). These density data incorporate aerial and shipboard line-transect data from NMFS and other organizations and incorporate data from 8 physiographic and 16 dynamic oceanographic and biological covariates, and control for the influence of sea state, group size, availability bias, and perception bias on the probability of making a sighting. These density models were originally

developed for all cetacean taxa in the U.S. Atlantic (Roberts *et al.*, 2016). Most recently, all models were updated in 2022 based on additional data as well as certain methodological improvements. More information is available online at <https://seamap.env.duke.edu/models/Duke/EC/>. Marine mammal density estimates in the project area (animals/km²) were obtained using the most recent model results for all taxa (Roberts *et al.*, 2023).

For each species, the average monthly density (June–September) near work area 3, Sandy Hook Channel, was calculated (table 7). Specifically, in a Geographic Information Systems, density rasters were clipped to polygons representing the zone of influence for Level A harassment zones for each hearing group and the largest Level B harassment zone, which applies to all hearing groups. Densities in Roberts *et al.*, (2023) are provided in individuals

per 100 square km, however they were converted to individuals per square km for ease of calculation. The monthly maximum density of individuals per square km for each zone of influence was averaged over the months of June to September near work area 3 to provide a single density estimate for each species or species group. The available density information provides densities for seals as a guild due to difficulty in distinguishing these species at sea. Similarly, density information for bottlenose dolphins does not differentiate between stocks. The resulting density values (table 7) were used to calculate take estimates of marine mammals for sheet pile installation activities. Note that other data sources were evaluated for pinnipeds (*e.g.*, Save Coastal Wildlife reports) but were found unsuitable due to data quality and applicability.

TABLE 7—AVERAGE MONTHLY DENSITY OF SPECIES IN THE PROJECT AREA [June–September]

Species	Average monthly density (individual/km ²) used in Level B take calculations at work area 3, Sandy Hook Channel (June–September)	Average monthly density (individual/km ²) used in Level A take calculations at work area 3, Sandy Hook Channel (June–September)
Fin Whale	1.41361E–04	4.53952E–06

TABLE 7—AVERAGE MONTHLY DENSITY OF SPECIES IN THE PROJECT AREA—Continued
[June–September]

Species	Average monthly density (individual/km ²) used in Level B take calculations at work area 3, Sandy Hook Channel (June–September)	Average monthly density (individual/km ²) used in Level A take calculations at work area 3, Sandy Hook Channel (June–September)
Humpback Whale	9.37889E–05	2.14387E–05
Minke Whale	2.34113E–04	3.12779E–05
Atlantic white-sided dolphin	4.97340E–05	6.98975E–07
Bottlenose dolphin	1.88295E–01	4.76450E–02
Harbor porpoise	1.64816E–04	3.27277E–05
Common dolphin	5.91282E–04	1.24663E–05
Atlantic Spotted Dolphin	2.38665E–04	8.76649E–07
Harp Seals, Gray Seals, Harbor Seals	0.11387	0.11130

Take Estimation

Here we describe how the information provided above is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and authorized.

Take estimates are the product of density, ensonified area, and number of days of pile driving work. Specifically, take estimates are calculated by multiplying the expected densities of marine mammals in the activity area(s) by the area of water likely to be ensonified above the NMFS defined threshold levels in a single day (24-hour period). Transco used the construction method that produced the largest isopleth to estimate exposure of marine mammal noise impacts (*i.e.*, the largest ensonified area estimated for vibratory pile driving was used to estimate potential takes by Level B harassment, and the hearing group-specific ensonified areas estimated for impact pile driving were used to estimate potential Level A harassment). Next, that product is multiplied by the number of days vibratory or impact pile driving is likely to occur. The exposure estimate was rounded to the nearest whole number at the end of the calculation. A summary of this method is illustrated in the following formula:

$$\text{Estimated Take} = D \times \text{ZOI} \times \# \text{ of construction days}$$

Where:

D = density estimate for each species within the ZOI

ZOI = maximum daily ensonified area (km²) to relevant thresholds

For bottlenose dolphins, the density data presented by Roberts *et al.*, (2023) does not differentiate between bottlenose dolphin stocks. Thus, the take estimate for bottlenose dolphins calculated by the method described above resulted in an estimate of the total number of bottlenose dolphins expected to be taken, from all stocks (for a total of 6,419 takes by Level B harassment). However, as described above, both the Western North Atlantic Northern Migratory Coastal stock and the Western North Atlantic Offshore stock have the potential to occur in the project area. Because approximately 95 percent of the project area occurs in waters shallower than 20 m, we assign take to stock accordingly. Thus, we assume that 95 percent of the total authorized bottlenose dolphin takes will accrue to the Western North Atlantic Offshore stock (total 6,098 takes by Level B harassment), and 5 percent to the Western North Atlantic Northern

Migratory Coastal stock (total 321 takes by Level B harassment) (table 8).

Additional data regarding average group sizes from survey effort in the region was considered to ensure adequate take estimates are evaluated. Take estimates for several species were adjusted based upon average groups sizes derived from NOAA Atlantic Marine Assessment Program for Protected Species data from 2010–2019 shipboard distance sampling surveys (Palka *et al.*, 2021). This is particularly true for uncommon or rare species with very low densities in the models. These calculated take estimates were adjusted for these species as follows:

- *Atlantic white-sided dolphin*: Only 1 take by Level B harassment was estimated but takes authorized were increased to the average number of dolphins in a group reported in Palka *et al.*, 2021 (n = 12);
- *Common dolphin*: Only 26 takes were estimated but authorized takes were increased to the average number of dolphins in a group reported in Palka *et al.*, 2021 (n = 30);
- *Atlantic spotted dolphin*: Only 9 takes were estimated but authorized takes were increased to the average number of dolphins in a group reported in Palka *et al.*, 2021 (n = 24);

TABLE 8—AUTHORIZED TAKE BY STOCK AND HARASSMENT TYPE AND AS A PERCENTAGE OF STOCK ABUNDANCE

Species	Stock	Authorized take		Take as a percentage of stock abundance
		Level B harassment	Level A harassment	
Fin Whale	Western North Atlantic	5	0	<1
Humpback Whale	Gulf of Maine	3	0	<1
Minke Whale	Canadian East Coast	8	0	<1
Atlantic White-sided Dolphin	Western North Atlantic	12	0	<1
Bottlenose Dolphin	Northern Migratory Coastal	6,098	0	92
	Western North Atlantic Offshore	321	0	<1
Harbor Porpoise	Gulf of Maine/Bay of Fundy	6	0	<1
Common Dolphin	Western North Atlantic	30	0	<1
Atlantic Spotted Dolphin	Western North Atlantic	24	0	<1
Harbor Seal	Western North Atlantic	3,813	69	6.3
Gray Seal	Western North Atlantic			<1

TABLE 8—AUTHORIZED TAKE BY STOCK AND HARASSMENT TYPE AND AS A PERCENTAGE OF STOCK ABUNDANCE—Continued

Species	Stock	Authorized take		Take as a percentage of stock abundance
		Level B harassment	Level A harassment	
Harp Seal	Western North Atlantic			<1

Mitigation

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

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood,

scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

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

Transco has indicated that pile driving will be conducted between June 15 and September 15, a time of year when North Atlantic Right Whales are unlikely to occur near the project area. Transco will implement the following mitigation requirements:

Shutdown Zones—For all pile driving activities, Transco will implement shutdowns within designated zones. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity will occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones vary based on the activity type and marine mammal hearing group (table 9). In most cases, the shutdown zones are based on the estimated Level A harassment isopleth distances for each hearing group. However, in cases where it will be challenging to detect marine mammals at the Level A harassment isopleth and frequent shutdowns are expected to create practicability

concerns (e.g., for phocids during impact pile driving), smaller shutdown zones have been established (table 9). Additionally, Transco has agreed to implement a minimum shutdown zone of 60 m during all pile driving activities.

Finally, construction supervisors and crews, Protected Species Observers (PSOs), and relevant Transco staff must avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 m of such activity, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions, as necessary to avoid direct physical interaction. If an activity is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone indicated in table 9 or 15 minutes have passed without re-detection of the animal.

Construction activities must be halted upon observation of a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met entering or within the harassment zone. In the case of North Atlantic right whale, construction activities must be halted upon observation of this species at any distance, regardless of its proximity to a harassment zone.

TABLE 9—SHUTDOWN ZONES

Activity	Pile type	Shutdown zones (m)				
		North Atlantic right whale	Low frequency	Mid-frequency	High frequency	Phocid
Vibratory Installation	36-inch sheet	Any distance	60			
Impact Installation	1,000	80	200	150

Protected Species Observers—The number and placement of PSOs during all construction activities (described in the Monitoring and Reporting section) will ensure that the entire shutdown zone is visible. Transco will employ at

least two PSOs for all pile driving activities.

Monitoring for Level A and Level B harassment—PSOs will monitor the shutdown zones and beyond to the extent that PSOs can see. Monitoring beyond the shutdown zones enables

observers to be aware of and communicate the presence of marine mammals in the project areas outside the shutdown zones and thus prepare for a potential cessation of activity should the animal enter the shutdown zone. If a marine mammal enters either

harassment zone, PSOs will document the marine mammal's presence and behavior.

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

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

Based on our evaluation of the applicant's planned measures, as well as other measures considered by NMFS, NMFS has determined that the listed mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

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

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

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.*, presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.*, source characterization, propagation, ambient noise); (2) affected species (*e.g.*, life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.*, age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.*, marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and,
- Mitigation and monitoring effectiveness.

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

- PSOs must be independent of the activity contractor (for example, employed by a subcontractor), and have

no other assigned tasks during monitoring periods;

- At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization;
- Other PSOs may substitute other relevant experience, education (degree in biological science or related field) or training for experience performing the duties of a PSO during construction activities pursuant to a NMFS-issued incidental take authorization;
- Where a team of three or more PSOs is required, a lead observer or monitoring coordinator will be designated. The lead observer will be required to have prior experience working as a marine mammal observer during construction activity pursuant to a NMFS-issued incidental take authorization; and,
- PSOs must be approved by NMFS prior to beginning any activity subject to this IHA.

PSOs should also have the following additional qualifications:

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

Visual monitoring will be conducted by a minimum of two trained PSOs positioned at suitable vantage points on or near the maintenance barge. One PSO will have an unobstructed view of all water within the shutdown zone. Remaining PSOs will observe as much as the Level A and Level B harassment zones as possible.

Monitoring will be conducted 30 minutes before, during, and 30 minutes after all inwater construction activities. In addition, PSOs will record all incidents of marine mammal occurrence, regardless of distance from activity, and will document any

behavioral reactions in concert with distance from piles being driven or removed. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

Reporting

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

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including: (1) The number and type of piles that were driven and the method (*e.g.*, impact or vibratory); and, (2) Total duration of driving time for each pile (vibratory driving) and number of strikes for each pile (impact driving);
- PSO locations during marine mammal monitoring;
- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance;
- Upon observation of a marine mammal, the following information: (1) Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting; (2) Time of sighting; (3) Identification of the animal(s) (*e.g.*, genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species; (4) Distance and location of each observed marine mammal relative to the pile being driven for each sighting; (5) Estimated number of animals (min/max/best estimate); (6) Estimated number of animals by cohort (adults, juveniles, neonates, group composition, *etc.*); (7) Animal's closest point of approach and estimated time spent within the harassment zone; (8) Description of any marine mammal behavioral observations (*e.g.*, observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from

the activity (*e.g.*, no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);

- Number of marine mammals detected within the harassment zones, by species; and,
- Detailed information about implementation of any mitigation (*e.g.*, shutdowns and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.

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

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the Holder must report the incident to the Office of Protected Resources (OPR), NMFS (PR.ITP.MonitoringReports@noaa.gov) and Greater Atlantic Region New England/Mid-Atlantic Regional Stranding Coordinator (978-282-8478 or 978-281-9291) as soon as feasible. If the death or injury was clearly caused by the specified activity, the Holder must immediately cease the activities until NMFS OPR is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of this IHA. The Holder must not resume their activities until notified by NMFS. The report must include the following information:

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

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be

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

To avoid repetition, the majority of our analysis applies to all the species listed in table 1, given that many of the anticipated effects of this project on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, they are described independently in the analysis below.

Pile driving associated with the Transco LNYBL maintenance project, as outlined previously, has the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment and, for some species, Level A harassment, from underwater sounds generated by pile driving.

No serious injury or mortality is expected, even in the absence of required mitigation measures, given the nature of the activities. Further, no take by Level A harassment is anticipated for low-frequency, mid-frequency, or high-frequency cetaceans. The potential for

harassment will be minimized through the implementation of planned mitigation measures (see Mitigation section).

Take by Level A harassment is expected for pinnipeds (harbor seal, harp seal, and gray seal). Any take by Level A harassment is expected to arise from, at most, a small degree of PTS (*i.e.*, minor degradation of hearing capabilities within regions of hearing that align most completely with the energy produced by impact pile driving such as the low-frequency region below 2 kilohertz (kHz), not severe hearing impairment or impairment within the ranges of greatest hearing sensitivity. Animals would need to be exposed to higher levels and/or longer duration than are expected to occur here in order to incur any more than a small degree of PTS.

Further, the amount of take authorized by Level A harassment is very low for all marine mammal stocks and species. For 8 species, NMFS anticipates no Level A harassment take over the duration of Transco's planned activities; for pinnipeds, NMFS expects no more than 69 takes by Level A harassment across all 3 pinniped species (harbor seal, gray seal, harp seal). If hearing impairment occurs, it is most likely that the affected animal would lose only a few decibels in its hearing sensitivity. Due to the small degree anticipated, any PTS potential incurred would not be expected to affect the reproductive success or survival of any individuals, much less result in adverse impacts on the species or stock.

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

As described above, NMFS expects that marine mammals will likely move away from an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice through use of soft start. Transco would also shut down pile driving activities if marine mammals enter the shutdown zones (table 9) further minimizing the degree of PTS that would be incurred.

Effects on individuals that are taken by Level B harassment in the form of behavioral disruption, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as avoidance, increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.*, Thorson and Reyff, 2006). Most likely, individuals will simply move away from the sound source and temporarily avoid the area where pile driving is occurring. If sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activities are occurring. We expect that any avoidance of the project areas by marine mammals will be temporary in nature and that any marine mammals that avoid the project areas during construction will not be permanently displaced. Short-term avoidance of the project areas and energetic impacts of interrupted foraging or other important behaviors is unlikely to affect the reproduction or survival of individual marine mammals, and the effects of behavioral disturbance on individuals is not likely to accrue in a manner that will affect the rates of recruitment or survival of any affected stock.

As described above, humpback whales, and gray, harbor and harp seals are experiencing ongoing Unusual Mortality Events (UMEs). With regard to humpback whales, the UME does not yet provide cause for concern regarding population-level impacts. Despite the UME, the relevant population of humpback whales (the West Indies breeding population, or Distinct Population Segment (DPS) remains healthy. The West Indies DPS, which consists of the whales whose breeding range includes the Atlantic margin of the Antilles from Cuba to northern Venezuela, and whose feeding range primarily includes the Gulf of Maine, eastern Canada, and western Greenland, was delisted. The status review identified harmful algal blooms, vessel collisions, and fishing gear entanglements as relevant threats for this DPS, but noted that all other threats are considered likely to have no or minor impact on population size or the growth rate of this DPS (Bettridge *et al.*, 2015). As described in Bettridge *et al.*, (2015), the West Indies DPS has a substantial population size (*i.e.*, approximately 10,000; Stevick *et al.*, 2003; Smith *et al.*, 1999; Bettridge *et al.*, 2015), and appears to be experiencing consistent growth.

In regards to pinnipeds (harbor seals, gray seals and harp seals), we do not expect takes that may be authorized

under this IHA to exacerbate or compound upon ongoing UMEs. Between July 2018 and March 2020, elevated seal mortalities occurred across ME, NH and MA, and as far south as VA due to phocine distemper virus (the UME is still active but pending closure). Since June 2022, a UME has been declared for Northeast pinnipeds in which elevated numbers of sick and dead harbor seals, gray seals, and harp seals have been documented along the southern and central coast of ME (NOAA Fisheries, 2022). Between June 1, 2022 and July 16, 2023, 65 grays seals, 379 harbor seals, and 6 harp seals have stranded. As noted previously, no injury, serious injury, or mortality is expected or will be authorized, and takes of harbor seal, gray seal, and harp seal will be minimized through the incorporation of the required mitigation measures. The population abundance for these species is 61,336, 27,300, and 7.6 million, respectively (Hayes *et al.*, 2022). The 3,882 takes that may be authorized across these species represent a small proportion of each population and as such we do not expect this authorization to exacerbate or compound upon these UMEs.

The project is also not expected to have significant adverse effects on affected marine mammals' habitats. No ESA-designated critical habitat or recognized Biologically Important Areas are located within the project area. The project activities are not expected to modify existing marine mammal habitat for a significant amount of time. The activities may cause a low level of turbidity in the water column and some fish may leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected (with no known particular importance to marine mammals), the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences. The closest pinniped haulout is located 2.9 km from the work area but does not intersect with the harassment zones.

For all species and stocks, take is expected to occur within a limited, relatively confined area (primarily Raritan Bay) of the stock's range, which is not of particular importance for marine mammals that may occur there. Given the availability of suitable habitat nearby, any displacement of marine mammals from the project areas is not expected to affect marine mammals' fitness, survival, and reproduction due to the limited geographic area that will

be affected in comparison to the much larger habitat for marine mammals outside the bay along the NJ and NY coasts. Additionally, NMFS anticipates that the prescribed mitigation will minimize the duration and intensity of expected harassment events.

Some individual marine mammals in the project area, such as harbor seals or bottlenose dolphins, may be present and be subject to repeated exposure to sound from pile driving activities on multiple days. However, pile driving and extraction is not expected to occur on every day, and these individuals will likely return to normal behavior during gaps in pile driving activity within each day of construction and in between work days. As discussed above, individuals could temporarily relocate during construction activities to reduce exposure to elevated sound levels from the project. Additionally, haulout habitat available for pinnipeds does not intersect with the harassment zones. Therefore, any behavioral effects of repeated or long duration exposures are not expected to negatively affect survival or reproductive success of any individuals. Thus, even repeated Level B harassment of some small subset of an overall stock is unlikely to result in any effects on rates of reproduction and survival of the stock.

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

- No serious injury or mortality is anticipated or authorized;
- The anticipated impacts of the planned activity on marine mammals will be temporary behavioral changes due to avoidance of the project area and limited instances of Level A harassment in the form of a slight PTS for pinnipeds. Potential instances of exposure above the Level A harassment threshold are expected to be relatively low for most species;
- The availability of alternate areas of similar habitat value nearby;
- Effects on species that serve as prey species for marine mammals from the planned project are expected to be short-term and are not expected to result in significant or long-term consequences for individual marine mammals, or to contribute to adverse impacts on their populations;
- There are no known important feeding, breeding, or calving areas in the project area; and,
- The established mitigation measures, including visual monitoring, shutdown zones, and soft start, are

expected to minimize potential impacts to marine mammals.

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

Small Numbers

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

We authorize incidental take of 12 marine mammal stocks. The total amount of taking authorized is well below one-third of the estimated stock abundance for all species except for the western north Atlantic northern coastal migratory stock of bottlenose dolphins (table 8).

The total number of authorized takes for bottlenose dolphins, if assumed to accrue solely to new individuals of the northern migratory coastal stock, is >90 percent of the total stock abundance, which is currently estimated as 6,639. However, these numbers represent the estimated incidents of take, not the number of individuals taken. That is, it is highly likely that a relatively small subset of these bottlenose dolphins will be harassed by project activities.

Western North Atlantic Northern Migratory Coastal bottlenose dolphins make broad scale, seasonal migrations in coastal waters of the Western north Atlantic. During the warm months, when the project is planned, their range extends from the shoreline to the 20 m isobaths between Assateague, VA to Long Island, NY (Garrison *et al.*, 2017b), an area spanning approximately 300 linear km of coastline. It is likely that

the majority of the Western North Atlantic Northern Migratory Coastal bottlenose dolphins will not occur within waters ensounded by project activities.

In summary, the Western North Atlantic Northern Migratory Coastal bottlenose dolphins are not expected to occur in a significant portion of the larger ZOI. Given that the specified activity will be stationary within an area not recognized as any special significance that would serve to attract or aggregate dolphins, we therefore believe that the estimated numbers of takes, were they to occur, likely represent repeated exposures of a much smaller number of bottlenose dolphins and that these estimated incidents of take represent small numbers of bottlenose dolphins.

Based on the analysis contained herein of the planned activity (including the required 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 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 will not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

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, in this case with the NMFS Greater Atlantic Regional Fisheries Office (GARFO).

OPR requested initiation of consultation with GARFO under section 7 of the ESA on the issuance of the IHA to Transco under section 10(a)(5)(D) of the MMPA. On March 6, 2024, GARFO concluded consultation with OPR and the U.S. Army Corps of Engineers concerning the conduct of the specified activities which concluded that the

issuance of the authorization is not likely to adversely affect any listed marine mammal species.

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 evaluate our proposed action (*i.e.*, the issuance of an IHA) and alternatives with respect to potential impacts on the human environment.

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

Authorization

NMFS has issued an IHA to Transco for the potential harassment of small numbers of 11 marine mammal species incidental to the LNYBL Maintenance project in Sandy Hook Channel, NJ, that includes the previously explained mitigation, monitoring and reporting requirements.

Dated: March 14, 2024.

Kimberly Damon-Randall,

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

[FR Doc. 2024-05998 Filed 3-20-24; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XD819]

Marine Mammals; File No. 27342

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Heidi Pearson, Ph.D., University of Alaska Southeast, 11066 Auke Lake Way, Juneau, AK 99801, has applied in due form for a permit to conduct research on marine mammals.

DATES: Written comments must be received on or before April 22, 2024.

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. 27342 from the list of available applications. These documents are also available upon written request via email to NMFS.Pr1Comments@noaa.gov.

Written comments on this application should be submitted via email to NMFS.Pr1Comments@noaa.gov. Please include File No. 27342 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to NMFS.Pr1Comments@noaa.gov. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT:

Shasta McClenahan, Ph.D., or Courtney Smith, Ph.D., (301) 427-8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 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 (ESA; 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).

The applicant requests a 5-year research permit to study marine mammal behavior, ecology, health, and movement patterns. Up to 11 species of marine mammals may be harassed including the following ESA-listed species: fin (*Balaenoptera physalus*), gray (*Eschrichtius robustus*; Western North Pacific distinct population segment [DPS]), humpback (*Megaptera novaeangliae*; Mexico DPS), and sperm (*Physeter macrocephalus*) whales, and Steller sea lions (*Eumetopias jubatus*, Western DPS). Research may occur year-round in waters off Southeast Alaska. Research may be conducted from a vessel or unmanned aircraft system for counts, photography and video recording (above and underwater), photogrammetry, passive acoustics, tracking, suction-cup tagging, and biological sampling (skin and blubber biopsy, skin swabs, sloughed skin, exhaled air, feces, and eDNA). See the application for complete numbers of animals requested by species, age-class, and procedure.

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 the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 18, 2024.

Julia M. Harrison,

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

[FR Doc. 2024-06000 Filed 3-20-24; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Military Family Readiness Council; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce the following Federal Advisory Committee meeting of the DoD Military Family Readiness Council (MFRC) will take place.

DATES: Open to the public, Wednesday, March 27, 2024, from 1 p.m. to 3:30 p.m.

ADDRESSES: The meeting will be held by videoconference. Participant access information will be provided after registering. (Pre-meeting registration is required. See guidance in **SUPPLEMENTARY INFORMATION**, "Meeting Accessibility").

FOR FURTHER INFORMATION CONTACT:

Vesen L. Thompson, (703) 571-2360 (voice), OSD Pentagon OUSD P&R Mailbox Family Readiness Council, osd.pentagon.ousd-p-r.mbx.family-readiness-council@mail.mil (Email). Mailing address: Office of the Deputy Assistant Secretary of Defense (Military Community & Family Policy), 1500 Defense Pentagon, Washington DC 20301-1500, Room 5A726. Website: <http://www.militaryonesource.mil/those-who-support-mfrc>.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of chapter 10 of title 5, United States Code (U.S.C) (commonly known as the "Federal Advisory Committee Act" or "FACA"), title 5,