

operations to monitor marine mammal disturbances and to advise personnel on ways to minimize or avoid disturbances.

General restrictions during pile driving will include: no piles will be driven between the hours of 5 p.m. and 8 a.m. Based on a recommendation from NMFS, the USCG will avoid exposing pinnipeds to unsafe noise levels (190 dB re 1 microPascal-m). Given the acoustic monitoring from pile driving exercises for the Noyo River Bridge, the USCG will establish an initial safety zone of 50 m (164.0 ft) around the pile-driving site. The marine mammal monitor will scan the safety zone for 5 minutes continuously just prior to pile driving to determine whether marine mammals are present. Pile driving will not begin until the safety zone is clear. If an animal is in the safety zone before initiation of the pile driving activity on any given work day, operations will be delayed until the animal has moved a safe distance away. If an animal enters the safety zone while pile driving is occurring, operations will be stopped immediately until the animal has moved beyond the range of the safety zone. In consultation with NMFS, the safety zone may be increased if animals beyond 50 m (164.0 ft) show excessive behavioral changes in response to pile driving operations. If pile driving stops for less than 45 minutes, another 5-minute scan will not be necessary; if it stops for longer than 45 minutes, another scan will be performed.

In order to provide further protection to pinnipeds hauled out near the project area, the USCG will also "dry fire" the hammer prior to operating at full capacity. A "dry fire" occurs when the hammer is raised and dropped with no compression of the pistons, an action which produces approximately 50 percent of the maximum in-air noise level, or 45–55 dB (re 20 microPascal-m). This dry-firing should allow pinnipeds in the area to voluntarily move from the area and should expose fewer animals to loud sounds both underwater and above water.

Monitoring

NMFS will require the USCG to monitor the impact of the floating dock installation activities on California sea lions and harbor seals in Monterey Harbor. Monitoring will be conducted by one or more NMFS-approved monitors.

In general, the marine mammal monitor(s) will record the date and time of arrival and departure of the monitor and work crew. The monitor will also conduct counts of sea lions on the jetty and counts of pinnipeds in the water

near the project site every hour, commencing one hour before the start of project activity each day and ending 15 minutes after all project activities have ceased. Data on size classes and sex (when possible) of sea lions on the jetty will be collected. Counts of harbor seals will be obtained at the beginning and the end of each work day. If possible, data on size class and sex of animals will be collected. The monitor(s) will also collect information on disturbance reactions, including the number of animals disturbed and the source (including type, location, timing, and duration of disturbance). The monitor will also record environmental conditions, including date, time, cloud cover, visibility, wind direction and velocity, swell direction and height, and tides.

During pile driving operations, the monitor will monitor the 50-meter safety zone, as described above (see Mitigation). The safety zone will be marked with temporary buoys in order to facilitate monitoring efforts.

Reporting

The USCG will provide weekly reports to the Southwest Regional Administrator (Regional Administrator), NMFS, including a summary of the previous week's monitoring activities and an estimate of the number of California sea lions and harbor seals that may have been disturbed as a result of floating dock installation activities. These reports will include data collected during daily monitoring.

A draft report must be submitted to the Regional Administrator within 60 days after the conclusion of the project. A final report must be submitted to the Regional Administrator within 30 days after receiving comments from the Regional Administrator on the draft final report. If no comments are received from NMFS, the draft report will be considered to be the final report.

Endangered Species Act

Under section 7 of the Endangered Species Act, NMFS has determined that there will be no effect on listed species under NMFS jurisdiction. In addition, the USCG requested consultation with the FWS on October 19, 2001, for the southern sea otter and the brown pelican. The FWS concurred with the determination that the proposed installation of a floating dock at the U.S. Government Breakwater, Sation Monterey, is not likely to adversely affect the southern sea otter or the brown pelican.

National Environmental Policy Act

In conjunction with the promulgation of regulations implementing section 101(a)(5)(D) of the MMPA, NMFS completed an Environmental Assessment (EA) on May 9, 1995, that addressed the impacts on the human environment from the issuance of IHAs and the alternatives to that action. NMFS' analysis resulted in a Finding of No Significant Impact (FONSI). In addition, this proposed action, including pile driving, will use pile driving equipment that is less intense and will, therefore, have a lower impact on the marine environment than pile driving equipment used in other surveys for which EAs and resulting FONSI have been prepared previously. This IHA also qualifies for a categorical exclusion under NOAA Administrative Order 216–6. Therefore, a new EA is not required and a new one will not be prepared.

Conclusions

NMFS has determined that the short-term impact of the floating dock installation, as described in this document and in USCG (2002), should result, at worst, in the temporary modification in behavior by California sea lions and Pacific harbor seals. While behavioral modifications, including temporarily vacating the haulout, may be made by these species to avoid the resultant visual and acoustic disturbance, this action is expected to have a negligible impact on the animals. In addition, no take by injury or by death is anticipated, and harassment takes will be at the lowest level practicable due to the incorporation of the mitigation measures mentioned previously in this document.

Since NMFS is assured that the taking would not result in more than the incidental harassment of small numbers of California sea lions and Pacific harbor seals or would not have an unmitigatable adverse impact on the availability of these stocks for subsistence uses and would result in the least practicable impact on the stocks, NMFS has determined that the requirements of section 101(a)(5)(D) have been met and the authorization can be issued. For the above reasons, NMFS has issued an IHA for a 1-year period beginning on the date noted above (see DATES) for the incidental harassment of California sea lions and harbor seals by the installation of a floating dock in Monterey, California, provided the above mentioned monitoring and reporting requirements are incorporated.