

be authorized under section 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.

With the exception of Pacific harbor seals, the amount of take NMFS proposes to authorize is well below one-third of any stock's best population estimate (see Table 4), which NMFS considers to be small relative to stock abundance. In fact, the annual take by Level B harassment is less than 1 percent of stock abundance for both otariid species that may be encountered in the project area (*i.e.*, California sea lion and Steller sea lion), and less than 4 percent of the northern elephant seal stock's best population estimate. While the estimated take of Pacific harbor seal equates to over 33 percent of the Pacific harbor seal stock, these takes represent instances of take, not necessarily the number of individual seals that may be taken. As such, in all cases, including Pacific harbor seal, these take estimates are considered conservative because NMFS assumes all takes are of different individual animals which is likely not the case. Researchers from HSU have used tags and dye stamps to identify individual elephant seals and have verified the same individuals are hauling out at PGL. While harbor seals are not marked or otherwise clearly identifiable, HSU researchers hypothesize that the harbor seal colony at PGL is made up of the same individuals that move between Punta Gorda and other nearby haulouts. This is based on the fact that this species typically shows hauling site fidelity (Herder 1986, Yochem *et al.*, 1987, Dietz *et al.*, 2012, Waring *et al.*, 2016). Therefore, many individuals that may be taken by Level B harassment are likely to be the same across consecutive days, despite PSOs counting them as separate takes throughout the duration of the project.

Based on the analysis contained herein of the authorized activity (including 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 (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 West Coast Regional Office.

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

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs 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 will preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Authorization

NMFS has issued an IHA to BLM for the potential harassment of small numbers of four marine mammal species incidental to the Phase 2 of the PGL Stabilization Project repair in Humboldt County, California from June 1 through September 30, 2023, that includes the previously explained mitigation, monitoring, and reporting requirements.

Dated: May 10, 2023.

Kimberly Damon-Randall,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XC814]

Fisheries of the Exclusive Economic Zone Off Alaska; Prohibited Species Donation Program

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

ACTION: Notice; selection of an authorized distributor.

SUMMARY: NMFS announces the renewal of two prohibited species donation (PSD) permits to SeaShare, a non-profit and tax exempt organization, authorizing this organization to distribute Pacific salmon and Pacific halibut to hunger relief agencies, food bank networks, or food bank distributors under the PSD program. Salmon and halibut are caught incidentally during directed fishing for groundfish with trawl gear off Alaska. This action is necessary to comply with provisions of the PSD program and is intended to promote the goals and objectives of the North Pacific Fishery Management Council.

DATES: The permits are effective from May 18, 2023 through May 25, 2026.

ADDRESSES: Electronic copies of the PSD permits for salmon and halibut prepared for this action may be obtained from the Alaska Region website at <https://www.fisheries.noaa.gov/region/alaska>.

FOR FURTHER INFORMATION CONTACT: Megan Mackey, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

Fishing for groundfish by United States vessels in the exclusive economic

zone of the Bering Sea and Aleutian Islands management area (BSAI) and Gulf of Alaska (GOA) is managed by NMFS in accordance with the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP). These fishery management plans (FMPs) were prepared by the North Pacific Fishery Management Council under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). Regulations governing the Alaska groundfish fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679. Fishing for halibut in waters in and off Alaska is governed by the Convention between the U.S. and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention). The International Pacific Halibut Commission (IPHC) promulgates regulations pursuant to the Convention. The IPHC's regulations are subject to approval by the Secretary of State with concurrence from the Secretary of Commerce. After approval by the Secretary of State and the Secretary of Commerce, the IPHC regulations are published in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62.

Retention of incidentally caught prohibited species is prohibited in the groundfish fisheries except for salmon and halibut for the purposes of the PSD program. Amendments 26 and 29 to the BSAI and GOA FMPs, respectively, authorize a salmon donation program and were approved by NMFS on July 10, 1996; a final rule implementing this program was published in the **Federal Register** on July 24, 1996 (61 FR 38358). The salmon donation program was expanded to include halibut as part of the PSD program under Amendments 50 and 50 to the FMPs that were approved by NMFS on May 6, 1998. A final rule implementing Amendments 50 and 50 was published in the **Federal Register** on June 12, 1998 (63 FR 32144). Although that final rule contained a

sunset provision for the halibut PSD program of December 31, 2000, the halibut PSD program was permanently extended under a final rule published in the **Federal Register** on December 14, 2000 (65 FR 78119). A full description of, and background information on, the PSD program may be found in the preambles to the proposed rules for Amendments 26 and 29, and Amendments 50 and 50 (61 FR 24750, May 16, 1996, and 63 FR 10583, March 4, 1998, respectively).

Section 679.26 authorizes the voluntary distribution of salmon and halibut taken incidentally in the groundfish trawl fisheries off Alaska to hunger relief agencies, food bank networks, or food bank distributors by tax-exempt organizations through an authorized distributor. The Administrator, Alaska Region, NMFS (Regional Administrator), may select one or more tax-exempt organizations to be authorized distributors, as defined by § 679.2, based on the information submitted by applicants under § 679.26. After review of qualified applicants, NMFS must announce the selection of each authorized distributor in the **Federal Register** and issue one or more PSD permits to each selected distributor.

Renewal of Permits to SeaShare

Currently, SeaShare, a tax-exempt organization founded to help the seafood industry donate to U.S. hunger relief efforts, is the sole authorized distributor of salmon and halibut taken incidentally in the groundfish trawl fisheries off Alaska. SeaShare's current salmon and halibut PSD permits became effective June 2, 2020, and authorize SeaShare to participate in the PSD program through May 28, 2023 (85 FR 33633, June 2, 2020).

On April 12, 2023, the Regional Administrator received applications from SeaShare to renew its salmon and halibut PSD permits. The Regional Administrator reviewed the applications (one for salmon and one for halibut) and determined that both applications are complete and that SeaShare continues

to meet the requirements for an authorized distributor of salmon and halibut under the PSD program. As required by § 679.26(b)(2), the Regional Administrator based his selection on the following criteria:

1. *The number and qualifications of applicants for PSD permits.* SeaShare is the only applicant for PSD permits at this time. NMFS, under the Regional Administrator, has previously approved applications submitted by SeaShare. As of the date of this notice, no other applications have been approved by NMFS. SeaShare has been coordinating the distribution of salmon taken incidentally in trawl fisheries since 1993, and of halibut taken incidentally in trawl fisheries since 1998, under exempted fishing permits from 1993 to 1996 and under the PSD program since 1996. SeaShare employs independent seafood quality control experts to ensure product quality is maintained by cold storage facilities and common carriers servicing the areas where salmon and halibut donations would take place.

2. *The number of harvesters and the quantity of fish that applicants can effectively administer.* Current participants in the PSD program administered by SeaShare include 12 shoreside processors and 136 catcher vessels delivering to shoreside processors, 34 catcher processors, and 3 motherships. Two secondary processing plants that generate steaked salmon and halibut participate in the PSD program. SeaShare has the capacity to receive and distribute salmon and halibut from up to 60 processors and the associated catcher vessels. Therefore, it is anticipated that SeaShare has more than adequate capacity for any foreseeable expansion of donations.

Table 1 shows the total pounds of headed-and-gutted and steaked salmon and halibut donated to food bank organizations from 2019 through early April of 2023. NMFS does not have information to convert accurately the net weights of salmon and halibut to numbers of salmon and numbers of halibut.

TABLE 1—HEADED-AND-GUTTED (H&G) AND STEAKED SALMON AND HALIBUT DONATED TO FOOD BANK ORGANIZATIONS [Pounds]

	2019	2020	2021	2022	2023	Total
Salmon H&G	3,293	2,150	0.00	292	0.00	5,735
Salmon steaked	368,650	234,520	136,700	181,682	47,051	968,603
Halibut H&G	35,895	19,693	4,100	3,643	0.00	63,331
Halibut steaked	14,313	11,336	9,852	12,1678	1,200	49,379
Total Inventory	422,151	267,699	150,652	198,295	48,251	1,087,048

3. *The anticipated level of salmon and halibut incidental catch based on salmon and halibut incidental catch*

from previous years. The incidental catch of salmon and incidental catch mortality of halibut in the GOA and

BSAI trawl fisheries are shown in Table 2.

TABLE 2—INCIDENTAL CATCH OF SALMON AND INCIDENTAL CATCH MORTALITY OF HALIBUT IN THE GOA AND BSAI TRAWL FISHERIES

[In number of fish or metric tons (mt)]

Area fishery	2019	2020	2021	2022
BSAI Trawl Chinook Salmon Incidental Catch ¹ .	31,467 fish	34,955 fish	15,880 fish	8,336 fish
BSAI Trawl Other Salmon Incidental Catch ² .	358,804 fish	346,245 fish	550,645 fish	245,160 fish
GOA Trawl Chinook Salmon Incidental Catch ³ .	23,903 fish	11,753 fish	17,180 fish	14,565 fish
GOA Trawl Other Salmon Incidental Catch ⁴ .	6,413 fish	3,232 Fish	3,566 Fish	5,241 Fish
BSAI Trawl Halibut Mortality ⁵	2,270 mt	1,577 mt	1,426 mt	2,057 mt
GOA Trawl Halibut Mortality ⁶	1,099 mt	788 mt	367 mt	353 mt

¹ https://www.fisheries.noaa.gov/sites/default/files/akro/chinook_salmon_mortality2023.html.

² https://www.fisheries.noaa.gov/sites/default/files/akro/chum_salmon_mortality2023.html.

³ <https://www.fisheries.noaa.gov/sites/default/files/akro/goasalmonmort2023.html>.

⁴ https://www.fisheries.noaa.gov/sites/default/files/akro/chum_salmon_mortality2023.html.

⁵ <https://www.fisheries.noaa.gov/alaska/commercial-fishing/fisheries-catch-and-landings-reports#bsai-prohibited-species>.

⁶ <https://www.fisheries.noaa.gov/alaska/commercial-fishing/fisheries-catch-and-landings-reports#goa-prohibited-species>.

Halibut incidental catch amounts are constrained by an annual prohibited species catch (PSC) limit in the BSAI and GOA. Future halibut incidental catch levels likely will be similar to those experienced from 2019 through 2022.

Chinook salmon PSC limits (which are in number of fish) are established for the Bering Sea and central and western GOA pollock fisheries that, when attained, result in the closure of pollock fishing. The Chinook salmon PSC limits for the Bering Sea pollock fisheries were originally established by Amendment 91 to the BSAI FMP (75 FR 53026, August 30, 2010) and established for the central and western GOA pollock fisheries by Amendment 93 to the GOA FMP (77 FR 42629, July 20, 2012). In 2016, Amendment 110 to the BSAI FMP was implemented to improve the management of Chinook and chum salmon bycatch in the Bering Sea pollock fishery by creating a comprehensive salmon bycatch avoidance program (81 FR 37534, June 10, 2016). In 2015, Amendment 97 to the GOA FMP established annual Chinook salmon PSC limits for the groundfish trawl fisheries, except for pollock trawl fisheries, in the Western and Central GOA (79 FR 71350, December 2, 2014). While salmon incidental catch amounts tend to vary between years, making it difficult to accurately predict future incidental take amounts, the total, or maximum, amount of annual Chinook salmon incidental catch in the Bering Sea and GOA pollock fisheries is constrained by the PSC limits.

4. *The number of vessels and processors participating in the PSD program.* For the 2023 permit renewal, there will be 12 shoreside processors. Catcher processors will decrease from 34 to 31 under the 2023 permit renewal. Motherships will increase from three to four. Catcher vessels delivering to shoreside processors as well as motherships will decrease slightly from 151 to 140. Secondary processors will increase from two to three.

NMFS issues PSD permits to SeaShare for a 3-year period unless the permits are suspended or revoked under § 679.26. The permits may not be transferred; however, they may be renewed following the application procedures in § 679.26. If the authorized distributor modifies the list of participants in the PSD program or delivery locations, the authorized distributor must submit a modified list of participants or a modified list of delivery locations to the Regional Administrator within 30 days of the list modification.

These permits may be suspended, modified, or revoked under 15 CFR part 904 for violation of § 679.26 or other regulations in 50 CFR part 679.

This action is taken under § 679.26.

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108–447; Pub. L. 111–281.

Dated: May 12, 2023.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC916]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Chevron Long Wharf Maintenance and Efficiency Project in San Francisco Bay, California

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given the NMFS has issued an incidental harassment authorization (IHA) to Chevron Products Company (Chevron) to incidentally harass, by Level B harassment only, marine mammals during construction activities associated with the Long Wharf Maintenance and Efficiency Project (LWMEP) in San Francisco Bay, California.

DATES: This authorization is effective from June 1, 2023 through May 31, 2024.

FOR FURTHER INFORMATION CONTACT: Jessica Taylor, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document,