

Salmon Management Measures for 2009 Ocean Salmon Fisheries" will be mailed to the public and posted on the Council website at <http://www.pcouncil.org>.

**May 1, 2009:** Federal regulations for 2009 ocean salmon regulations will be published in the **Federal Register** and implemented.

### Meetings and Hearings

**January 20–23, 2009:** The Salmon Technical Team (STT) will meet at the Council office in a public work session to draft "Review of 2008 Ocean Salmon Fisheries" and to consider any other estimation or methodology issues pertinent to the 2009 ocean salmon fisheries.

**February 17–20, 2009:** The STT will meet at the Council office in a public work session to draft "Preseason Report I-Stock Abundance Analysis for 2009 Ocean Salmon Fisheries" and to consider any other estimation or methodology issues pertinent to the 2009 ocean salmon fisheries.

**March 30–31, 2009:** Public hearings will be held to receive comments on the proposed ocean salmon fishery management options adopted by the Council. All public hearings begin at 7 p.m. at the following locations:

**March 30, 2009:** Chateau Westport, Beach Room, 710 W Hancock, Westport, WA 98595, telephone: (360) 268–9101;

**March 30, 2009:** Red Lion Hotel, Umpqua Room, 1313 N Bayshore Drive, Coos Bay, OR 97420, telephone: (541) 269–4099; and

**March 31, 2009:** Red Lion Eureka, Evergreen Room, 1929 Fourth Street, Eureka, CA 95501, telephone: (707) 445–0844.

Although non emergency issues not contained in the STT meeting agendas may come before the STT for discussion, those issues may not be the subject of formal STT action during these meetings. STT action will be restricted to those issues specifically listed in this document and to any issues arising after publication of this document requiring emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the STT's intent to take final action to address the emergency.

### Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 (voice), or (503) 820–2299 (fax) at least 5 days prior to the meeting date.

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

Dated: December 15, 2008.

**Tracey L. Thompson,**

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

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### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

RIN 0648–XM02

#### Small Takes of Marine Mammals Incidental to Specified Activities; Seabird and Pinniped Research Activities in Central California

**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 provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to PRBO Conservation Science (PRBO) to take small numbers of marine mammals, by Level B behavioral harassment only, incidental to conducting seabird and pinniped research in central California.

**DATES:** This authorization is effective from December 12, 2008, through December 11, 2009.

**ADDRESSES:** A copy of the IHA and the application are available by writing to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by contacting one of the individuals listed here (**FOR FURTHER INFORMATION CONTACT**), or online at:

<http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address and at the Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

#### FOR FURTHER INFORMATION CONTACT:

Jeannine Cody or Jaclyn Daly, Office of Protected Resources, NMFS, (301) 713–2289, or Monica DeAngelis, Southwest Regional Office, NMFS, (562) 980–4023.

#### SUPPLEMENTARY INFORMATION:

##### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 et seq.) direct

the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States 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 issued or, if the taking is limited to harassment, notice of a proposed authorization 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 certain subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such taking are set forth.

NMFS has defined "negligible impact" in 50 CFR 216.103 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.

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except for certain categories of activities not pertinent here, 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").

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS' review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

#### Summary of Request

On July 28, 2008, NMFS received an application from PRBO requesting an authorization for the harassment of small numbers of California sea lions (*Zalophus californianus*), Pacific harbor seals (*Phoca vitulina richardsi*), northern elephant seals (*Mirounga angustirostris*), and Steller sea lions (*Eumetopias jubatus*) incidental to

conducting seabird and pinniped research operations on Southeast Farallon Island, Ano Nuevo Island, and Point Reyes National Seashore in central California. A detailed description of the activity is provided in the September 29, 2008, **Federal Register** notice (73 FR 56556), therefore, it is not repeated here.

#### Comments and Responses

A notice of receipt and request for 30-day public comment on the application and proposed authorization was published on September 29, 2008 (73 FR 56556). During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission).

**Comment:** The Commission recommends that any authorization issued specify that, if a mortality or serious injury of a marine mammal occurs that appears to be related to the research, PRBO must suspend research activities while NMFS determines whether steps can be taken to avoid further injuries or mortalities or until NMFS would potentially authorize such taking by regulations promulgated under section 101(a)(5)(A) of the MMPA.

**Response:** NMFS agrees with the Commission that research activities must be suspended immediately if a dead or injured marine mammal is found in the vicinity of the project area and the death or injury of the animal could be attributable to the applicant's activities. This requirement is a condition in the IHA.

#### Description of the Marine Mammals Potentially Affected by the Activity

The marine mammals most likely to be harassed incidental to conducting seabird research at the proposed research areas on Southeast Farallon Island, Ano Nuevo Island, and Point Reyes National Seashore are primarily California sea lions, northern elephant seals, Pacific harbor seals, and to a lesser extent Steller sea lions.

The marine mammals most likely to be harassed incidental to conducting pinniped research conducted under NMFS Scientific Research Permit (SRP) 373-1868-00 are harbor seals, northern elephant seals, California sea lions, Steller sea lions and northern fur seals. However, directed take of elephant seals, harbor seals, California sea lions, and northern fur seals is authorized by SRP 373-1868-00.

General information of these species can be found in Caretta et al. (2008) and is available at the following URL: <http://www.nmfs.noaa.gov/pr/pdfs/sars/po2007.pdf>. Additional information on these species is provided in the

September 29, 2008, **Federal Register** notice (73 FR 56556). Refer to these documents for information on these species.

#### Potential Effects on Marine Mammals

The only anticipated impacts would be temporary disturbances caused by the appearance of researchers near the pinnipeds. Incidental harassment may occur as researchers approach the haul-out sites with vessels, pedestrian approach to bird nesting sites, and during capture and sampling activities of harbor seals and northern elephant seals. The potential disturbance might alter pinniped behavior and may cause animals to flush from the area. Animals may return to the same site once researchers have left or go to an alternate haul out site, which usually occurs within 30 minutes (Allen *et al.*, 1985).

Long-term effects of this disturbance are unlikely, as the activities are not conducted in breeding areas for marine mammals and very few breeding animals will be present in the vicinity of the proposed seabird and pinniped research areas. No research would occur on pinniped rookeries; therefore, mother and pup separation or crushing of pups is not a concern.

#### Potential Impacts on Habitat

NMFS has designated critical habitat for the Steller sea lion around Southeast Farallon Island and Ano Nuevo Island, extending from these two rookeries to 3,000 feet offshore. Neither the proposed seabird research, nor the proposed pinniped research would result in the physical altering of marine mammal habitat. The proposed action will not impact any habitat on the islands and is not likely to result in the destruction or adverse modification of Steller sea lion critical habitat or to the food sources that they use. This project will have negligible impacts to any haul-out sites, rafting sites, forage sites, or food resources in the action area and therefore is not likely to adversely affect designated critical habitat.

Incidental marine mammal takes will not result in the physical altering of major breeding habitat. No survey or sampling equipment will be left in habitat areas; no toxic chemicals will be present; and all state and federal marine regulations, including those from National Marine Sanctuaries, will be followed in regards to boat emissions.

#### Potential Impacts to Subsistence Harvest of Marine Mammals

There is no subsistence harvest of marine mammals in the proposed research area; therefore, there will be no

impact of the activity on the availability of the species or stocks of marine mammals for subsistence uses.

#### Number of Marine Mammals Expected to Be Taken

It is estimated that approximately 2,242 California sea lions, 418 harbor seals, 253 northern elephant seals, and 20 Steller sea lions could be potentially affected by Level B behavioral harassment. This estimate is based on previous research experiences, with the same activities conducted in the proposed research area, and on marine mammal research activities in these areas. These incidental harassment take numbers represent approximately one percent of the U.S. stock of California sea lion, 1.2 percent of the California stock of Pacific harbor seal, less than one percent of the California breeding stock of northern elephant seal, and 0.04 percent of the eastern U.S. stock of Steller sea lion. All of the potential takes are expected to be Level B behavioral harassment only. No injury or mortality to pinnipeds is expected or requested.

#### Mitigation Measures

PRBO researchers would take all possible measures to reduce marine mammal disturbance for the activities described in the Summary of Request and in the **Federal Register** notice of receipt (73 FR 56556, September 29, 2008).

To reduce the potential for disturbance from visual and acoustic stimuli associated with seabird and pinniped research activities, PRBO proposes to undertake the following mitigation measures: (1) abide by the Terms and Conditions of the Biological Opinion's Incidental Take Statement; (2) continue to abide by the Terms and Conditions of Scientific Research Permit 373-1868-00; (3) plan to minimize the potential for disturbance (to the lowest level practicable) near known pinniped haul-outs by boat travel and pedestrian approach during pinniped and seabird research operations; (4) conduct research activities during the planned dates stated in the application; (5) to the extent possible, be careful in the route of approach during beach landings; (6) attempt beach landings on Ano Nuevo Island only after any pinnipeds that might be present on the landing beach have entered the water; (7) select a pathway of approach to research sites that minimizes the number of marine mammals harassed, with the first priority being avoiding the disturbance of Steller sea lions at haul outs; (8) monitor for offshore predators and not approach hauled out Stellar sea lions if

great white sharks or killer whales are seen in the area, and if predators are seen, eastern Steller sea lions must not be disturbed until the area is free of predators; (9) keep voices hushed and bodies low in the visual presence of pinnipeds; (10) conduct seabird observations at North Landing on Southeast Farallon Island within an observation blind to remain shielded from the view of hauled out pinnipeds; (11) crawl slowly towards seabird nesting boxes on Ano Nuevo Island if pinnipeds are within the researchers' field of vision; (12) coordinate visits for seabird and pinniped research to intertidal areas of Southeast Farallon Island to reduce potential take; (13) coordinate all research goals on Ano Nuevo Island to minimize the number of trips to the island and coordinate monitoring schedules so that areas near any pinnipeds would be accessed only once per visit; and (14) the lead biologist will serve as an observer to evaluate incidental take and halt any research activities should the potential for incidental take become too great.

#### **Monitoring**

PRBO researchers, and their designees would: (1) record the date, time, and location (or closest point of ingress) of each visit; (2) record marine mammal behavior patterns observed before, during, and after the activities; (3) record the number of Steller sea lions present at each location; (4) if applicable, note the presence of any offshore predators (date, time, number, species).

#### **Reporting**

PRBO, and its designees, will submit a draft final report to NMFS within 90 days after the expiration of the IHA and will submit a final report to NMFS within 30 days after receiving comments from NMFS on the draft final report.

#### **National Environmental Policy Act (NEPA)**

In 2007, NMFS prepared a draft Environmental Assessment (EA) on the issuance of an IHA to PRBO to take marine mammals by Level B behavioral harassment incidental to conducting seabird research in central California. The draft EA was released for public review and comment along with the application and the proposed IHA (72 FR 41294, July 27, 2007). All comments were addressed in full in the **Federal Register** Notice of Issuance of an IHA for PRBO (72 FR 71121, December 14, 2007). At that time, NMFS determined that conducting the seabird research would not have a significant impact on the quality of the human environment

and issued a Finding of No Significant Impact (FONSI).

For this proposed action, PRBO has requested to incidentally harass 20 Steller sea lions, (i.e., 4 more than what was analyzed in the 2007 EA, which expands the scope of the previously analyzed action) during the conduct of pinniped and seabird research. Thus, NMFS has prepared a supplemental EA (SEA) to address new available information regarding the effects of PRBO's seabird and pinniped research activities that may have cumulative impacts to the physical and biological environment. NMFS has issued a FONSI for the SEA regarding PRBO's activities. The analysis in the 2007 EA and 2008 SEA concluded that issuance of an IHA would not significantly affect the quality of the human environment. In addition, all beneficial and adverse impacts of the action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an Environmental Impact Statement for this action is not necessary.

#### **Endangered Species Act (ESA)**

NMFS Headquarters' Office of Protected Resources, Permits, Conservation, and Education Division conducted a section 7 consultation under the ESA with the NMFS Headquarters' Office of Protected Resources, Endangered Species Division. On November 18, 2008, NMFS issued a Biological Opinion and concluded that the issuance of an IHA is likely to affect, but not likely to jeopardize the continued existence of Steller sea lions. NMFS has also issued an incidental take statement (ITS) for Steller sea lions pursuant to section 7 of the ESA. The ITS contains reasonable and prudent measures for implementing terms and conditions to minimize the effects of this take.

#### **Determinations**

For the reasons discussed in this document and in the identified supporting documents, NMFS has determined that the impact of seabird and pinniped research operations on Southeast Farallon Island, Ano Nuevo Island, and Point Reyes National Seashore in central California would result in Level B behavioral harassment only, of small numbers of California sea lions, Pacific harbor seals, northern elephant seals, and Steller sea lions hauled out in the vicinity of the research area; and would have a negligible impact on the affected species. The provision requiring that the activities not have an unmitigable adverse impact on the availability of the

affected species or stock for subsistence uses does not apply for this proposed action.

In addition, no take by Level A harassment (injury) or death is anticipated and harassment takes should be at the lowest level practicable due to incorporation of the mitigation measures described in this document.

#### **Authorization**

NMFS has issued an IHA to PRBO, and its designees, for the potential harassment of small numbers of California sea lions, harbor seals, northern elephant seals, and Steller sea lions incidental to conducting of seabird and pinniped research on Southeast Farallon Island, Ano Nuevo Island, and Point Reyes National Seashore, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: December 15, 2008.

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

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## **DEPARTMENT OF COMMERCE**

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

**RIN 0648-AX32**

#### **Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the Port of Anchorage Marine Terminal Redevelopment Project**

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

**ACTION:** Notice; receipt of application for rulemaking and subsequent letter of authorization; request for comments and information.

**SUMMARY:** NMFS has received a request from the Port of Anchorage (Port) and the U.S. Department of Transportation Maritime Administration (MARAD) for authorization to take marine mammals incidental to the Port's Marine Terminal Redevelopment Project (Project) for the period of July 2009 through July 2014. Pursuant to Marine Mammal Protection Act (MMPA) implementing regulations, NMFS is announcing receipt of the Port's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the Port's application and request.