

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

RIN 0648–XC362

**Takes of Marine Mammals Incidental to Specified Activities; Seabird and Pinniped Research Activities in Central California, 2012–2013**

**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 Marine Mammal Protection Act (MMPA) regulations, we hereby give notification that the National Marine Fisheries Service has issued an Incidental Harassment Authorization (IHA) to PRBO Conservation Science (PRBO), to take marine mammals, by Level B harassment, incidental to conducting seabird and pinniped research activities on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore in central California.

**DATES:** Effective December 7, 2012, through December 6, 2013.

**ADDRESSES:** To obtain an electronic copy of the authorization, application, and associated Environmental Assessment (EA) and Finding of No Significant Impact (FONSI), write to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910, telephone the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or download the files at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>.

Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Jeannine Cody, Office of Protected Resources, NMFS (301) 427–8401.

**SUPPLEMENTARY INFORMATION:****Background**

Section 101(a)(5)(D) of the MMPA (MMPA; 16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to authorize, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by United States citizens who engage in a specified activity (other than commercial fishing)

within a specified geographical region if: (1) We make certain findings; (2) the taking is limited to harassment; and (3) we provide a notice of a proposed authorization to the public for review.

Authorization shall be granted for the incidental taking of small numbers of marine mammals if we, NMFS, find 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 subsistence uses (where relevant). The authorization must set forth the permissible methods of taking; other means of effecting the least practicable adverse impact on the species or stock and its habitat; and requirements pertaining to the mitigation, monitoring and reporting of such takings.

We have 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 Marine Mammal Protection Act 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. Section 101(a)(5)(D) of the Act establishes a 45-day time limit for our 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 public comment period, we must either issue or deny the authorization and must publish a notice in the **Federal Register** within 30 days of our determination to issue or deny the authorization.

Except with respect to certain activities not applicable here, the Marine Mammal Protection Act 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].

**Summary of Request**

We received an application on April 29, 2012, from PRBO requesting the taking by harassment, of small numbers of marine mammals, incidental to conducting seabird and pinniped research activities on Southeast Farallon Island, Año Nuevo Island, and Point

Reyes National Seashore in central California. PRBO, along with partners Oikonos Ecosystem Knowledge and Point Reyes National Seashore, plan to conduct the proposed activities for one year. We determined the application complete and adequate on June 5, 2012 and made the complete application available for public comment (see **ADDRESSES**) for this IHA.

Their proposed research activities would involve monitoring and censusing seabird colonies; observing seabird nesting habitat; restoring nesting burrows; observing breeding elephant seals, and resupplying a field station. The proposed activities would occur in the vicinity of pinniped haul out sites located on Southeast Farallon Island (37° 41'54.32" N, 123° 0'8.33" W), Año Nuevo Island (37° 6'29.25" N, 122° 20'12.20" W), or within Point Reyes National Seashore (37° 59'38.61" N, 122° 58'24.90" W) in central California.

Acoustic and visual stimuli generated by: (1) Noise generated by motorboat approaches and departures; (2) noise generated during restoration activities and loading operations while resupplying the field station; and (3) human presence during seabird and pinniped research activities, may have the potential to cause California sea lions (*Zalophus californianus*), Pacific harbor seals (*Phoca vitulina*), northern elephant seals (*Mirounga angustirostris*), and Steller sea lions (*Eumetopias jubatus*) hauled out on Southeast Farallon Island, Año Nuevo Island, or Point Reyes National Seashore to flush into the surrounding water or to cause a short-term behavioral disturbance for marine mammals in the proposed areas. These types of disturbances are the principal means of marine mammal taking associated with these activities and PRBO has requested an authorization to take 5,104 California sea lions, 526 harbor seals, 190 northern elephant seals, and 20 Steller sea lions (*Eumetopias jubatus*) by Level B harassment only.

To date, we have issued four 1-year IHAs to PRBO for the conduct of the same activities from 2007 to 2012. This will be PRBO's fifth IHA for the same activities for the 2012 through 2013 season.

**Description of the Specified Geographic Region**

The proposed action area consists of the following three locations in the northeast Pacific Ocean: the South Farallon Islands, Año Nuevo Island and Point Reyes National Seashore.

### Description of the Specified Activity

We outlined the purpose of the research and the specified geographic locations of the activities in a previous notice for the proposed IHA (77 FR 59377, September 27, 2012). The activities to be conducted and their locations have not changed between the proposed IHA notice and this final notice announcing the issuance of the IHA. For a more detailed description of PRBO's seabird and pinniped research activities conducted under, the reader should refer to the notice of the proposed IHA (77 FR 59377, September 27, 2012), the application, and associated documents referenced above this section.

### Comments and Responses

We published a notice of receipt of PRBO's application and proposed IHA in the **Federal Register** on September 27, 2012 (77 FR 59377). During the 30-day public comment period, we received one comment from the Marine Mammal Commission (Commission) which recommended that we issue the requested authorization provided that PRBO carry out the required mitigation measures and monitoring as described in the notice of a proposed IHA (77 FR 59377, September 27, 2012). We have included all measures proposed in the notice of the proposed IHA (77 FR 59377, September 27, 2012) in the Authorization.

### Description of Marine Mammals in the Area of the Specified Activity

The marine mammals most likely to be harassed incidental to conducting seabird and pinniped research at the research areas on Southeast Farallon Island, Año Nuevo Island, or Point Reyes National Seashore are primarily California sea lions, northern elephant seals, Pacific harbor seals, and to a lesser extent the eastern distinct population of the Steller sea lion which is listed as endangered under the U.S. Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*). California sea lions, northern elephant seals, Pacific harbor seals are not listed as threatened or endangered under the ESA, nor are they categorized as depleted under the MMPA.

We refer the public to Carretta *et al.*, (2011) for general information on these species. We included a more detailed discussion of the status of these stocks and their occurrence in and around Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore in the notice of the proposed IHA (77 FR 59377, September 27, 2012).

### Potential Effects on Marine Mammals

Acoustic and visual stimuli generated by: (1) Motorboat operations; and (2) the appearance of researchers may have the potential to cause Level B harassment of any pinnipeds hauled out on Southeast Farallon Island, Año Nuevo Island, or Point Reyes National Seashore. This disturbance from acoustic and visual stimuli is the principal means of marine mammal taking associated with these activities.

The effects of the pinniped and seabird research activities would be limited to short-term startle responses and localized behavioral changes and have the potential to temporarily displace the animals from a haul out site. We would expect the pinnipeds to return to a haulout site within 60 minutes of the disturbance (Allen *et al.*, 1985) and do not expect that the pinnipeds would permanently abandon a haul-out site during the conduct of pinniped and seabird research operations.

Finally, no research activities would occur on pinniped rookeries and breeding animals are concentrated in areas where researchers would not visit. Therefore, we would not expect mother and pup separation or crushing of pups to occur.

For a more detailed discussion of behavioral reactions of marine mammals to loud noises or looming visual stimuli, and some specific observations of the response of marine mammals to this activity gathered during previous monitoring, we refer the reader to the notice of the proposed IHA (77 FR 59377, September 27, 2012), the application, and associated documents.

### Anticipated Effects on Habitat

We do not anticipate that the research operations would result in any temporary or permanent effects on the habitats used by the marine mammals in the research areas, including the food sources they use (i.e., fish and invertebrates). We do not anticipate that there would be any physical damage to any habitat. While we anticipate that the specified activity may result in marine mammals avoiding certain areas due to temporary ensnification and human presence, this impact to habitat is temporary and reversible which we considered in detail in the proposed IHA (77 FR 59377, September 27, 2012), as behavioral modification.

### Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(D) of the Marine Mammal Protection Act, we must set forth the permissible

methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses.

PRBO has based the mitigation measures described herein, to be implemented for the seabird and pinniped research activities, on the following:

(1) Protocols used during the previous PRBO seabird and pinniped research activities as approved by us;

(2) Recommended best practices in Richardson *et al.* (1995);

(3) The Terms and Conditions of Scientific Research Permit 17152-00 issued on November 30, 2012;

(4) The Terms and Conditions listed in the Incidental Take Statement for NMFS' 2008 Biological Opinion for these activities.

To reduce the potential for disturbance from acoustic and visual stimuli associated with the activities, PRBO and/or its designees will implement the following mitigation measures for marine mammals:

(1) Abide by all of the Terms and Conditions listed in the Incidental Take Statement for NMFS' 2008 Biological Opinion, including: monitoring for offshore predators and reporting on observed behaviors of Steller sea lions in relation to the disturbance.

(2) Abide by the Terms and Conditions of Scientific Research Permit 17152-00 issued on November 30, 2012.

(3) Postpone beach landings on Año Nuevo Island until pinnipeds that may be present on the beach have slowly entered the water.

(4) 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.

(5) Avoid visits to sites used by pinnipeds for pupping.

(6) Monitor for offshore predators and not approach hauled out Steller sea lions or other pinnipeds if great white sharks (*Carcharodon carcharias*) or killer whales (*Orcinus orca*) are seen in the area. If predators are seen, eastern U.S. stock Steller sea lions or any other pinniped must not be disturbed until the area is free of predators.

(7) Keep voices hushed and bodies low to the ground in the visual presence of pinnipeds.

(8) Conduct seabird observations at North Landing on Southeast Farallon

Island in an observation blind, shielded from the view of hauled out pinnipeds.

(9) Crawl slowly to access seabird nest boxes on Año Nuevo Island if pinnipeds are within view.

(10) Coordinate research visits to intertidal areas of Southeast Farallon Island (to reduce potential take) and to coordinate research goals for Año Nuevo Island to minimize the number of trips to the island.

(11) Coordinate monitoring schedules on Año Nuevo Island, so that areas near any pinnipeds would be accessed only once per visit.

(12) Have the lead biologist serve as an observer to evaluate incidental take.

We have carefully evaluated the applicant's proposed mitigation measures and have considered a range of other measures in the context of ensuring that we prescribe the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

(1) the manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;

(2) the proven or likely efficacy of the specific measure to minimize impacts as planned; and

(3) the practicability of the measure for applicant implementation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by us or recommended by the public for previous Authorizations, we have determined that the mitigation measures provide the means of effecting the least practicable adverse impacts on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

### Monitoring

In order to issue an ITA 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 IHAs 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 in the action area.

As part of its 2012 application, PRBO proposes to sponsor marine mammal monitoring during the present project, in order to implement the mitigation measures that require real-time monitoring, and to satisfy the monitoring requirements of the incidental harassment authorization.

The PRBO researchers will monitor the area for pinnipeds during all research activities. Monitoring activities will consist of conducting and recording observations on pinnipeds within the vicinity of the proposed research areas. The monitoring notes would provide dates, location, species, the researcher's activity, behavioral state, numbers of animals that were alert or moved greater than one meter, and numbers of pinnipeds that flushed into the water.

PRBO has complied with the monitoring requirements under the previous authorizations for the 2007 through 2012 seasons. For the 2011–2012 season, the total number of marine mammals incidentally harassed during the conduct of the research were lower than what we authorized in the 2011 IHA. This along with the results from previous PRBO monitoring reports support our original findings that the mitigation measures set forth in the 2007–2012 Authorizations effected the least practicable adverse impact on the species or stock. We have posted PRBO's 2011–2012 monitoring report at <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>.

### Reporting

PRBO will submit a final monitoring report to us no later than 90 days after the expiration of the IHA. The final report will describe the operations conducted and sightings of marine mammals near the proposed project. The report will provide full documentation of methods, results, and interpretation pertaining to all monitoring. The final report will provide:

(i) A summary and table of the dates, times, and weather during all seabird and pinniped research activities.

(ii) Species, number, location, and behavior of any marine mammals observed throughout all monitoring activities.

(iii) An estimate of the number (by species) of marine mammals that are known to have been exposed to acoustic or visual stimuli associated with the seabird and pinniped research activities.

(iv) A description of the implementation and effectiveness of the monitoring and mitigation measures of the Authorization and full documentation of methods, results, and

interpretation pertaining to all monitoring.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the authorization (if issued), such as an injury (Level A harassment), serious injury, or mortality (e.g., vessel-strike, stampede, etc.), PRBO shall immediately cease the specified activities and immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to [Jolie.Harrison@noaa.gov](mailto:Jolie.Harrison@noaa.gov) and [ITP.Cody@noaa.gov](mailto:ITP.Cody@noaa.gov) and the Southwest Regional Stranding Coordinator at (562) 980–3230 ([Sarah.Wilkin@noaa.gov](mailto:Sarah.Wilkin@noaa.gov)). The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;

- Description and location of the incident (including water depth, if applicable);

- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);

- Description of all marine mammal observations in the 24 hours preceding the incident;

- Species identification or description of the animal(s) involved;

- Fate of the animal(s); and

- Photographs or video footage of the animal(s) (if equipment is available).

PRBO shall not resume its activities until we are able to review the circumstances of the prohibited take. We shall work with PRBO to determine what is necessary to minimize the likelihood of further prohibited take and ensure Marine Mammal Protection Act compliance. PRBO may not resume their activities until notified by us via letter, email, or telephone.

In the event that PRBO discovers an injured or dead marine mammal, and the lead visual observer determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as we describe in the next paragraph), PRBO will immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301–427–8401 and/or by email to [Jolie.Harrison@noaa.gov](mailto:Jolie.Harrison@noaa.gov) and [ITP.Cody@noaa.gov](mailto:ITP.Cody@noaa.gov) and the Southwest Regional Stranding Coordinator at (562) 980–3230 ([Sarah.Wilkin@noaa.gov](mailto:Sarah.Wilkin@noaa.gov)). The report must include the same information identified in the paragraph above this section. Activities may

continue while we review the circumstances of the incident. We will work with PRBO to determine whether modifications in the activities are appropriate.

In the event that PRBO discovers an injured or dead marine mammal, and the lead visual observer determines that the injury or death is not associated with or related to the authorized activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), PRBO will report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301-427-8401 and/or by email to [Jolie.Harrison@noaa.gov](mailto:Jolie.Harrison@noaa.gov) and [ITP.Cody@noaa.gov](mailto:ITP.Cody@noaa.gov) and the Southwest Regional Stranding Coordinator at (562) 980-3230 ([Sarah.Wilkin@noaa.gov](mailto:Sarah.Wilkin@noaa.gov)), within 24 hours of the discovery. PRBO staff will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to us.

#### **Estimated Take by Incidental Harassment**

Except with respect to certain activities not pertinent here, the Marine Mammal Protection Act 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].

We anticipate take by Level B harassment only as a result of the pinniped and research operations on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore. Based on PRBO's previous research experiences, with the same activities conducted in the research areas, we estimate that approximately 5,390 California sea lions, 526 harbor seals, 190 northern elephant seals, and 20 Steller sea lions could be potentially affected by Level B behavioral harassment over the course of the effective period of the proposed Authorization. IHA. We base these estimates by multiplying three components: (1) The maximum number of animals that could be present; (2) the maximum number of disturbances; and (3) the estimated number of days that an animal could be present in the proposed area. We derived these estimates from the results of the 2007-2011 monitoring reports, anecdotal information from

PRBO scientists, and our statistical analysis of the past three years of data.

For this IHA, we have authorized the take of 5,390 California sea lions, 526 harbor seals, 190 northern elephant seals, and 20 Steller sea lions. Estimates of the numbers of marine mammals that might be affected are based on consideration of the maximum number of marine mammals that could be disturbed by approximately 1,908 visits to Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore during the course of the activity.

There is no evidence that PRBO's planned activities could result in injury, serious injury or mortality within the three areas. Because of the required mitigation measures and the likelihood that some pinnipeds will avoid the areas, we expect no injury, serious injury, or mortality to occur, and we do not authorize any takes by injury, serious injury, or mortality. We expect all potential takes to fall under the category of Level B harassment only.

#### **Negligible Impact and Small Numbers Analysis and Determination**

We have 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." In making a negligible impact determination, we consider:

- (1) The number of anticipated injuries, serious injuries, or mortalities;
- (2) The number, nature, and intensity, and duration of Level B harassment (all relatively limited); and
- (3) The context in which the takes occur (i.e., impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/ contemporaneous actions when added to baseline data);
- (4) The status of stock or species of marine mammals (i.e., depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);
- (5) Impacts on habitat affecting rates of recruitment/survival; and
- (6) The effectiveness of monitoring and mitigation measures.

As mentioned previously, we estimate that four species of marine mammals could be potentially affected by Level B harassment over the course of the IHA. For each species, these numbers are small relative to the population size. These incidental harassment numbers represent 1.8 percent of the U.S. stock of California sea lion, 0.25 percent of the

California breeding stock of the northern elephant seal; 1.97 percent of the California stock of Pacific harbor seal, and 0.04 percent of the Eastern U.S. stock of Steller sea lion. For each species, these numbers are small (each, less than or equal to two percent) relative to the population size.

PRBO's specified activities are not likely to cause long-term behavioral disturbance, abandonment of the haulout areas, serious injury, or mortality because:

(1) The effects of the research activities would be limited to short-term startle responses and localized behavioral changes. Minor and brief responses, such as short-duration startle or alert reactions, are not likely to constitute disruption of behavioral patterns, such as migration, nursing, breeding, feeding, or sheltering.

(2) The relatively slow operational speed of the small motor craft during approach to the landing areas;

(3) There is little potential for large-scale movements leading to serious injury or mortality;

(4) The specified activities do not occur near rookeries;

(5) The availability of alternate areas for pinnipeds to avoid the resultant noise and visual stimuli from the seabird and pinniped research activities. Results from previous monitoring reports that support our conclusions that the pinnipeds return to the sites after the disturbance and do not permanently abandon these sites.

We do not anticipate takes by Level A harassment, serious injury, or mortality to occur as a result of PRBO's research activities, and none are authorized. These species may exhibit behavioral modifications, including temporarily vacating the area during the seabird and pinniped research activities to avoid the resultant acoustic and visual disturbances. However, we anticipate only short-term behavioral disturbance to occur due to the brief duration of the research activities, the availability of alternate areas for marine mammals to avoid the resultant acoustic and visual disturbances; and limited access of PRBO researchers to Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore during the pupping season. Due to the nature, degree, and context of the behavioral harassment anticipated, we do not expect these activities to impact rates of recruitment or survival.

We have determined, provided that PRBO carries out the previously described mitigation and monitoring measures, that the impact of conducting seabird and pinniped research activities on Southeast Farallon Island, Año

Nuevo Island, and Point Reyes National Seashore in central California December 7, 2012, through December 6, 2013, may result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of small numbers of certain species of marine mammals.

Based on the analysis contained here of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, have determined that the total taking from the proposed activities will have a negligible impact on the affected species or stocks; and that impacts to affected species or stocks of marine mammals would be mitigated to the lowest level practicable.

#### **Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses**

Section 101(a)(5)(D) of the Marine Mammal Protection Act also requires us to determine that the authorization will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals in the study area (northeastern Pacific Ocean) that implicate section 101(a)(5)(D) of the Marine Mammal Protection Act.

#### **Endangered Species Act**

The Steller sea lion, eastern U.S. stock is listed as threatened under the ESA and occurs in the research area. NMFS Headquarters' Office of Protected Resources, Permits and Conservation on Division conducted a formal section 7 consultation under the ESA. On November 18, 2008, NMFS issued a Biological Opinion (2008 BiOp); concluded that the issuance of an IHA is likely to affect, but not likely to jeopardize the continued existence of Steller sea lions; and 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. NMFS has reviewed the 2008 BiOp and determined that there is no new information regarding effects to Steller sea lions; the action has not been modified in a manner which would cause adverse effects not previously evaluated; there has been no new listing of species or no new designation of critical habitat that could be affected by the action; and the action will not exceed the extent or amount of incidental take authorized in the 2008 BiOp. Therefore, the IHA does not

require the reinitiation of Section 7 consultation under the ESA.

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

To meet our NEPA requirements for the issuance of an Authorization to PRBO, we prepared an Environmental Assessment (EA) in 2007 that was specific to seabird research activities on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore and evaluated the impacts on the human environment of our authorization of Level B harassment resulting from seabird research in Central California. At that time, we 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) and, therefore, it was not necessary to prepare an environmental impact statement for the issuance of an Authorization to PRBO for this activity. In 2008, we prepared a supplemental EA (SEA) titled "Supplemental Environmental Assessment for the issuance of an Incidental Harassment Authorization To Take Marine Mammals by Harassment Incidental To Conducting Seabird and Pinniped Research in Central California and Environmental Assessment for the Continuation of Scientific Research on Pinnipeds in California," 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. At that time, we concluded that issuance of an Authorization would not significantly affect the quality of the human environment and issued a FONSI for the 2008 SEA regarding PRBO's activities. In conjunction with this year's application, we have again reviewed the 2007 EA and the 2008 SEA and determined that there are no new direct, indirect or cumulative impacts to the human and natural environment associated with the Authorization requiring evaluation in a supplemental EA. We, therefore, again reaffirm the 2008 FONSI. A copy of the EA, SEA, and the FONSI for this activity is available upon request (see **ADDRESSES**).

#### **Authorization**

As a result of these determinations, we have issued an IHA to PRBO to take marine mammals, by Level B harassment only, incidental to conducting seabird and pinniped research activities on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore in central

California provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: December 7, 2012.

**Helen M. Golde,**

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

[FR Doc. 2012-29952 Filed 12-11-12; 8:45 am]

**BILLING CODE 3510-22-P**

## **DEPARTMENT OF EDUCATION**

**[Docket No. ED-2012-ICCD-0068]**

### **Agency Information Collection Activities; Comment Request; Indian Education Professional Development Grants Program: GPRA and Service Payback Data Collection**

**AGENCY:** Office of Elementary and Secondary Education (OESE), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before February 11, 2013.

**ADDRESSES:** Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting Docket ID number ED-2012-ICCD-0068 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E117, Washington, DC 20202-4537.

**FOR FURTHER INFORMATION CONTACT:** Electronically mail [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov). Please do not send comments here.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the