

TABLE 1—SUMMARY OF HMS EXEMPTED PERMITS ISSUED IN 2008 AND 2009. “HMS” REFERS TO MULTIPLE SPECIES BEING COLLECTED UNDER A GIVEN PERMIT TYPE—Continued

Permit type	2008 Permits issued	2009 Authorized fish (Num)	Authorized larvae (Num)	Fish kept/ discarded dead (Num)	Larvae kept (Num)	Permits issued	Authorized fish (Num)	Authorized larvae (Num)
SRP:								
HMS .....	1	685	0	66	0	0	0	0
Shark .....	0					4	454	0
Display:								
HMS .....	1	36	0	0	0	2	135	0
Shark .....	5	250	0	02	0	4	140	0
Total .....	26	4,284	1,000			25	2,326	0
LOA*								
Shark .....	6	2,625	0	815	0	5	3,025	0

\* LOAs are issued for bona fide scientific research activities involved non-ATCA managed species (e.g., most species of sharks). Collections made under a LOA are not authorized; rather this estimated harvest for research is acknowledged by NMFS. Permittees are encouraged to report all fishing activities in a timely manner.

Final decisions on the issuance of any EFPs, SRPs, Display, and Chartering Permits will depend on the submission of all required information about the proposed activities, NMFS' review of public comments received on this notice, an applicant's reporting history on past permits issued, past law enforcement violations, consistency with relevant NEPA documents, and any consultations with appropriate Regional Fishery Management Councils, States, or Federal agencies. NMFS does not anticipate any significant environmental impacts from the issuance of these EFPs as assessed in the 1999 FMP and Amendment 2 to the Consolidated HMS FMP.

**Authority:** 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

Dated: November 17, 2009.

**Alan Risenhoover,**

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

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BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-831]

#### Stainless Steel Sheet and Strip in Coils From Taiwan: Notice of Extension of Time Limit for the Final Results of the 2007-2008 Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce

**FOR FURTHER INFORMATION CONTACT:** Henry Almond at (202) 482-0049, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of

Commerce, 14th Street, and Constitution Avenue, NW., Washington, DC 20230.

### Background

On August 5, 2009, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results and partial rescission of the antidumping duty administrative review of stainless steel sheet and strip in coils from Taiwan covering the period July 1, 2007, through June 30, 2008. See *Stainless Steel Sheet and Strip in Coils From Taiwan: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 74 FR 39055 (August 5, 2009). The final results for this administrative review are currently due no later than December 3, 2009, the next business day after 120 days from the date of publication of the preliminary results of review.

### Extension of Time Limit for the Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the final results of an administrative review within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within that time period, section 751(a)(3)(A) of the Act allows the Department to extend the deadline for the final results to a maximum of 180 days after the date on which the preliminary results are published.

We determine that it is not practicable to complete this administrative review within the original time limits mandated by section 751(a)(3)(A) of the Act because we require additional time to properly consider the complex issues related to middleman dumping raised by interested parties during the briefing

process in this case. Therefore, the Department is extending the time limit for completion of the final results of this review by 60 days, in accordance with section 751(a)(3)(A) of the Act. The final results are now due no later than February 1, 2010.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 13, 2009.

**John M. Andersen,**

*Acting Deputy Assistant Secretary for  
Antidumping and Countervailing Duty  
Operations.*

[FR Doc. E9-27836 Filed 11-20-09; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XS68

#### Incidental Takes of Marine Mammals During 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; proposed incidental harassment authorization; request for comments.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA), as amended, regulations, NMFS has received an application from PRBO Conservation Science (PRBO) for an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by incidental harassment, while conducting proposed seabird and

pinniped research activities on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore in central California. Pursuant to the MMPA, NMFS requests comments on its proposal to authorize PRBO to incidentally take, by Level B harassment only, small numbers of marine mammals, at Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore for one year. Since the proposed activities would occur in the vicinity of pinniped haul out sites, marine mammals could be disturbed as a result of seabird research and human presence; therefore, PRBO has requested an IHA.

**DATES:** Comments and information must be received no later than December 23, 2009.

**ADDRESSES:** Comments on the application should be addressed 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. The mailbox address for providing email comments is PR1.0648-XS68@noaa.gov. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size.

All comments received are a part of the public record and will generally be posted to <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>.

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

**FOR FURTHER INFORMATION CONTACT:** Jeannine Cody, NMFS, Office of Protected Resources, NMFS, (301) 713-2289 or Monica DeAngelis, NMFS Southwest Regional Office, (562) 980-3232.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Section 101(a)(5)(D) of the MMPA (16 U.S.C. 1371 (a)(5)(D)) directs the Secretary of Commerce (Secretary) to

allow, upon request, the incidental, but not intentional, taking of marine mammals, for periods of not more than one year, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made, if the taking is limited to incidental harassment, and the Secretary publishes a notice of a proposed authorization in the **Federal Register** for public review.

Authorization for incidental taking of small numbers of marine mammals shall be granted if NMFS finds, based on the best available scientific evidence, that the taking will have a negligible impact on the species or stock(s), the number of marine mammals taken will be small and the taking will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. The authorization must set forth the permissible methods of taking, and other means of effecting the least practicable adverse impact on the species or stock(s) and related habitat(s) and monitoring and reporting of such takings. 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 with respect to certain 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) of the MMPA 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. Not later than 45 days after the close of the public comment period, the Secretary will either deny the request or make the findings set forth in section 101(a)(5)(D)(i) of the MMPA, and issue the final authorization with appropriate conditions to meet the requirements of section 101(a)(5)(D)(ii)

of the MMPA. The Secretary will publish a notice of the issuance or denial of the request within 30 days of making the foregoing determination.

#### **Summary of Request**

On October 13, 2009, 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, Año Nuevo Island, and Point Reyes National Seashore in central California (CA). The proposed action area consists of the following three locations:

##### *South Farallon Islands (SFI)*

SFI consists of Southeast Farallon Island (SEFI) and West End Island (WEI). These two islands are directly adjacent to each other and separated by only a 30-foot (ft) (9.1 meters (m)) channel. The SFI have a land area of approximately 120 acres (0.49 square kilometers (km)) and are part of the Farallon National Wildlife Refuge. The islands are located near the edge of the continental shelf 28 miles (mi) (45.1 km) west of San Francisco, CA, and lie within the waters of the Gulf of the Farallones National Marine Sanctuary (NMS).

##### *Año Nuevo Island (ANI)*

ANI is located one-quarter mile (402 m) offshore of Año Nuevo Point in San Mateo County, CA). This small 25-acre (0.1 square km) island is part of the Año Nuevo State Reserve, all of which is owned and operated by California State Parks. ANI lies within the Monterey Bay NMS and the newly established Año Nuevo State Marine Conservation Area.

##### *Point Reyes National Seashore (PRNS)*

PRNS is located 40 miles (64.3 km) north of San Francisco Bay and lies within close proximity (6 mi, 9.6 km) of the Cordell Bank NMS. The proposed research areas are within the headland coastal areas of this large national park.

#### **Specified Activities**

##### *Seabird Research on SEFI*

Seabird research activities involve observational and marking (i.e. netting and banding for capture-mark-recapture) studies of breeding seabirds and viewing breeding seabirds from an observation blind or censusing shorebirds. This activity usually involves one or two observers who

access the island's two landings, the North Landing and the East Landing, by 14 to 18 ft (4.3 to 5.5 m) open motorboats which are hoisted onto the island using a derrick system.

Researchers visit the sites approximately one to three times per day for a maximum of 1080 visits per year. Most visits to these areas are brief (approximately 15 minutes (min)). From early April through early August, seabird observers are present from two to five hours daily at North Landing to conduct observational studies on breeding common murrelets (*Uria aalge*).

Most intertidal areas of the island, where marine mammals are present, are rarely visited in seabird research. In both locations (North Landing and East Landing) the observers are located greater than 50 ft (15.2 m) above any pinnipeds—primarily California sea lions or northern elephant seals and to a lesser extent harbor seals—which may be hauled out. Most potential for incidental take will occur on the island's two landings. However, the likelihood of encountering the eastern stock of Steller sea lions at both sites is rare.

#### *Field Station Resupply on SEFI*

PRBO will resupply the field station once every two weeks for a maximum of 26 visits per year. These visits to either the North Landing or East Landing will last one to three hours and involve launching of the boat with one operator along with two to four researchers assisting with the operations from land. At East Landing—the primary landing site—all personnel assisting with the landing will stay on the loading platform 30 ft (9.1 m) above the water. At North Landing, loading operations occur at the water level in the intertidal. Again, the likelihood of encountering eastern Steller sea lions at this location is rare.

#### *Pinniped Research on West End Island (WEI)*

Pinniped research activities involve surveying breeding elephant seals on WEI between early December and late February. There are approximately five surveys per year, each lasting approximately two hours. These surveys involve three observers moving approximately 1500 ft (457.2 m) above pinniped colonies to census northern elephant seal areas. Any transit above eastern Steller sea lion haulout areas will last approximately 30 min in duration.

#### *Seabird Research on Año Nuevo Island (ANI)*

Seabird research activities involve monitoring seabird burrow nesting

habitat quality and habitat restoration between the seabird breeding season and the elephant seal pupping season. All work is conducted by PRBO in collaboration with Oikonos - Ecosystem Knowledge through a collaborative agreement with California State Parks.

This activity involves two to three researchers who may access the island by a 12 ft (3.7 m) Zodiac boat to conduct research once a week April through August; restoration and monitoring from September–November; and intermittent visits during the rest of the year. Landings and visits to the nest boxes are brief in duration (approximately 15 min) and the maximum number of visits to the island would be 30 per year.

Most potential for incidental take would occur at the landing beach on the north side of the island when the researchers arrive and depart to check the boxes. Non-breeding pinnipeds may occasionally be present, including California sea lions that may be hauled out near a small group of subterranean seabird nest boxes on the island terrace. In both locations researchers are located more than 50 ft (15.2 m) away from any pinnipeds which may be hauled out.

#### *Seabird Research on Point Reyes National Seashore (PRNS)*

The National Park Service in collaboration with PRBO conducts: marine mammal research (see NMFS Scientific Permit 373–1868); monitoring of seabird breeding and roosting colonies; habitat restoration; removal of non-native plants, intertidal monitoring, and maintenance of coastal dune habitat.

Seabird monitoring usually involves one or two observers conducting the survey by small boats (12 to 22 ft) along the PRNS shoreline. Observers will visit the site year round, with an emphasis during the seabird nesting season with occasional, intermittent visits during the rest of the year. The maximum number of visits per year by PRBO to the PRNS is 18.

A majority of the research occurs in areas where marine mammals are not present. However, the potential for incidental harassment will occur at the landing beaches along Point Reyes Headland, boat ramps, or parking lots where northern elephant seals, harbor seals, or California sea lions may be hauled out in the vicinity.

#### **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 SEFI, ANI, and PRNS 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 research on harbor seals and northern elephant seals (NMFS Scientific Research Permit (SRP) 373–1868–00) are primarily Steller sea lions. Incidental harassment 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 Angliss and Allen (2008) and is available at the following URLs: <http://www.nmfs.noaa.gov/pr/pdfs/sars/po2008.pdf> and <http://www.nmfs.noaa.gov/pr/pdfs/sars/ak2008.pdf>. Refer to these documents for information on these species. Additional information on these species is presented below this section.

#### *Northern Elephant Seal*

Northern elephant seals are not listed as threatened or endangered under the ESA, nor are they categorized as depleted under the MMPA. The northern elephant breeding population is distributed from central Baja California, Mexico, to the Point Reyes Peninsula in northern California. Along this coastline there are 13 major breeding colonies.

Populations of northern elephant seals in the U.S. and Mexico were all originally derived from a few tens or a few hundreds of individuals surviving in Mexico after being nearly hunted to extinction (Stewart *et al.*, 1994). Given the very recent derivation of most rookeries, no genetic differentiation would be expected. Although movement and genetic exchange continues between rookeries, most elephant seals return to their natal rookeries when they start breeding (Huber *et al.*, 1991). The California breeding population is now demographically isolated from the Baja California population. No international agreements exist for the joint management of this species by the U.S. and Mexico. The California breeding population is considered to be a separate stock (Caretta *et al.*, 2008).

A complete population count of elephant seals is not possible because all age classes are not ashore at the same time. Elephant seal population size is typically estimated by counting the number of pups produced and multiplying by the inverse of the expected ratio of pups to total animals (McCann, 1985). Stewart *et al.*, (1994) used McCann's multiplier of 4.5 to extrapolate from 28,164 pups to a population estimate of 127,000 elephant seals in the U.S. and Mexico in 1991.

The multiplier of 4.5 was based on a non-growing population. Boveng (1988) and Barlow *et al.* (1993) suggest that a multiplier of 3.5 is more appropriate for a rapidly growing population such as the California stock of elephant seals. Based on the estimated 35,549 pups born in California in 2005 and this 3.5 multiplier, the California stock was approximately 124,000 in 2005.

At Point Reyes, the population grew at 32.8 percent per year between 1988 and 1997 (Sydeman and Allen, 1999) and around 10 percent per year since 2000 (S. Allen, unpubl. data), and in 2006 around 700 pups were born at three primary breeding areas. The population on the Farallon Islands has declined by 3.4 percent per year since 1983, and in recent years numbers have fluctuated between 100 and 200 pups (W. Sydeman, D. Lee, unpubl. data).

Elephant seals congregate in central California to breed from late November to March. Females typically give birth to a single pup and attend the pup for up to six weeks. Breeding occurs after the pup is weaned by attending males. After breeding, seals migrate to the Gulf of Alaska or deeper waters in the eastern Pacific. Adult females and juveniles return to terrestrial colonies to molt in April and May, and males return in June and July to molt, remaining onshore for around three weeks.

#### *Pacific Harbor Seal*

Pacific harbor seals are not listed as threatened or endangered under the ESA, nor are they categorized as depleted under the MMPA. The animals inhabit near-shore coastal and estuarine areas from Baja California, Mexico, to the Pribilof Islands in Alaska. Pacific harbor seals are divided into two subspecies: *P. v. stejnegeri* in the western North Pacific, near Japan, and *P. v. richardsi* in the northeast Pacific Ocean. The latter subspecies, recognized as three separate stocks, inhabits the west coast of the continental United States, including: the outer coastal waters of Oregon and Washington states; Washington state inland waters; and Alaska coastal and inland waters. Two of these stocks, the California stock and Oregon/Washington coast stock, of Pacific harbor seals are identified off the coast of Oregon and California for management purposes under the MMPA. However, the stock boundary is difficult to distinguish because of the continuous distribution of harbor seals along the west coast and any rigid boundary line is (to a greater or lesser extent) arbitrary, from a biological perspective (Carretta *et al.*, 2008). Due to the location of the proposed project which is situated near the border of

Oregon and California, both stocks could be present within the proposed project area.

In 2008, the estimated population of the California of Pacific harbor seals ranged from 31,600 to 34,233 animals and the maximum population growth rate was 3.5 percent. The estimated population of the Oregon/Washington coast stocks was 22,380 animals and the maximum population growth rate was 4.0 percent. (Carretta *et al.*, 2008)

In California, over 500 harbor seal haulout sites are widely distributed along the mainland and offshore islands, and include rocky shores, beaches and intertidal sandbars (Lowry *et al.*, 2005). Harbor seals mate at sea and females give birth during the spring and summer, although, the pupping season varies with latitude. Pups are nursed for an average of 24 days and are ready to swim minutes after being born. Harbor seal pupping takes place at many locations and rookery size varies from a few pups to many hundreds of pups.

At Point Reyes, the harbor seal population is estimated to be 7,524 for the molt season based on a correction factor of 1.65 (Lowry *et al.*, 2005; Manna *et al.*, 2006).

#### *California Sea Lion*

California sea lions are not listed as threatened or endangered under the ESA, nor are they categorized as depleted under the MMPA. The California sea lion includes three subspecies: *Z. c. wolfebaeki* (on the Galapagos Islands), *Z. c. japonicus* (in Japan, but now thought to be extinct), and *Z. c. californianus* (found from southern Mexico to southwestern Canada; herein referred to as the California sea lion). The subspecies is comprised of three stocks: (1) the U.S. stock, beginning at the U.S./Mexico border extending northward into Canada; (2) the western Baja California stock, extending from the U.S./Mexico border to the southern tip of the Baja California peninsula; and (3) the Gulf of California stock, which includes the Gulf of California from the southern tip of the Baja California peninsula and across to the mainland and extends to southern Mexico (Lowry *et al.*, 1992).

In 2008, the estimated population of the U.S. stock of California sea lion ranges from 141,842 to 238,000 animals and the maximum population growth rate was 6.52 percent when pup counts from El Niño years (1983, 1984, 1992, 1993, 1998, and 2003) were removed (Carretta *et al.*, 2008).

Major rookeries for the California sea lion exist on the Channel Islands off southern California and on the islands situated along the east and west coasts

of Baja California. Males are polygamous, establishing breeding territories that may include up to fourteen females. They defend their territories with aggressive physical displays and vocalization. Sea lions reach sexual maturity at four to five years old and the breeding season lasts from May to August. Most pups are born from May through July and weaned at 10 months old.

The U.S. stock of California sea lion is the only stock present in the proposed research area and in recent years, California sea lions have begun to breed annually in small numbers at ANI and SFI, CA. On the Farallon Islands, California sea lions haul out in many intertidal areas year round, fluctuating from several hundred to several thousand animals. Breeding animals are concentrated in areas where researchers would not visit (PRBO, unpublished data).

California sea lions at PRNS haul out at only a couple locations, but will occur on human structures such as boat ramps. The annual population averages around 300 to 500 during the fall through spring months, although on occasion, several thousand sea lions can arrive depending upon local prey resources (S. Allen, unpublished data).

#### *Steller Sea Lion*

The Steller sea lion eastern stock is listed as threatened under the ESA and is categorized as depleted under the MMPA. Steller sea lions range along the North Pacific Rim from northern Japan to California (Loughlin *et al.*, 1984), with centers of abundance and distribution in the Gulf of Alaska and Aleutian Islands, respectively. Two separate stocks of Steller sea lions were recognized within U.S. waters: an eastern U.S. stock, which includes animals east of Cape Suckling, Alaska (144° W), and a western U.S. stock, which includes animals at and west of Cape Suckling (Loughlin, 1997). The species is not known to migrate, but individuals disperse widely outside of the breeding season (late May through early July), thus potentially intermixing with animals from other areas.

In 2008, the estimated population of the eastern U.S. stock ranged from 44,404 to 55,832 animals and the maximum population growth rate was 3.1 percent (Angliss and Allen, 2009).

The eastern U.S. stock of Steller sea lions breeds on rookeries located in southeast Alaska, British Columbia, Oregon, and California; there are no rookeries located in Washington state. Counts of pups on rookeries conducted near the end of the birthing season are

nearly complete counts of pup production.

Despite the wide-ranging movements of juveniles and adult males in particular, exchange between rookeries by breeding adult females and males (other than between adjoining rookeries) appears low, although males have a higher tendency to disperse than females (NMFS, 1995, Trujillo *et al.*, 2004, Hoffman *et al.*, 2006). A northward shift in the overall breeding distribution has occurred, with a contraction of the range in southern California and new rookeries established in southeastern Alaska (Pitcher *et al.*, 2007).

The current population of eastern Steller sea lions in the proposed research area is estimated to number between 50 and 750 animals. The PRBO estimates that between 50 and 150 Steller sea lions live on the Farallon Islands, and the NMFS Southwest Fisheries Science Center (SWFSC) estimates between 400 and 600 live on ANI (PRBO unpublished data, 2008; SWFSC unpublished data, 2008).

On SEFI, the abundance of females declined an average of 3.6 percent per year from 1974 to 1997 (Sydeman and Allen 1999). Pup counts at ANI declined 5 percent annually through the 1990s (NOAA Stock Assessment, 2003), and have apparently stabilized between 2001 and 2005 (M. Lowry, SWFSC unpublished data).

In 2000, the combined pup estimate for both islands was 349. In 2005, the pup estimate was 204 on ANI. Pup counts on the Farallon Islands have generally varied from five to 15 (Hastings and Sydeman, 2002; PRBO unpublished data). Pups have not been born at Point Reyes Headland since the 1970s and Steller sea lions are seen in very low numbers there currently (S. Allen, unpubl. data).

Steller sea lions give birth in May through July and breeding commences a couple of weeks after birth. Non-reproductive animals congregate at a few haul out sites, including at ANI and Point Reyes Headland. Pups are weaned during the winter and spring of the following year.

#### Potential Effects on Marine Mammals

The only anticipated impacts would be temporary disturbances caused by the appearance of researchers near the pinnipeds. The potential disturbance might alter pinniped behavior and 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 min (Allen *et al.*, 1985). Long term effects of this

disturbance are unlikely, as very few breeding animals will be present in the vicinity of the proposed seabird research areas.

It is expected that any incidental disturbance to pinnipeds from both types of research would have minimal, short-term effects and no long-term effects on the individuals. Incidental disturbance is believed to have minimal impacts because pinnipeds usually return to a site or a nearby site within 30 min upon conclusion of research activities (Allen *et al.*, 1985). Numerous IHAs and Letters of Authorizations issued under the MMPA, Incidental Take Statements issued under Section 10(a)(1)(b) of the ESA (e.g. 72 FR 124, January 3, 2007), and reports on more localized areas (e.g., Demarchi and Bentley, 2004) have analyzed the potential effects of incidental disturbance to pinnipeds from various sources. Based on these reports, the effects to pinnipeds appear, at the most, to displace the animals temporarily from their haul out sites. Based on previous monitoring reports from PRBO, maximum disturbance to Steller sea lions would result in the animals flushing into the water in response to presence of the researchers. It is not expected that pinnipeds would permanently abandon a haul-out site during PRBO's research, as precautions would be taken to not disturb the same haul-out site on frequent occasions.

No research would occur on pinniped rookeries; therefore, mother and pup separation or crushing of pups is not a concern. Incidental harassment may occur as researchers approach the haul out sites with vessels and during capture and sampling activities of harbor seals and northern elephant seals.

In PRBO's final report of activities conducted between December 12, 2007 to December 11, 2008 for the 2007 IHA, they reported disturbing three Steller sea lions on SEFI and 13 Steller sea lions on ANI during all surveys.

#### Potential Impacts on Habitat

Neither the proposed seabird research, nor the proposed pinniped research would result in the physical altering of marine mammal habitat. Further, incidental marine mammal takes will not result in the physical altering of marine mammal habitat or 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 stocks of marine mammals for subsistence uses.

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

It is estimated that approximately 5,000 California sea lions, 418 harbor seals, 253 northern elephant seals, and 20 Steller sea lions could be potentially affected by Level B behavioral harassment over the course of the proposed IHA. 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 two 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. All of the potential takes are expected to be Level B behavioral harassment only. Because of the mitigation measures that will be required and the likelihood that some pinnipeds will avoid the area, no injury or mortality to pinnipeds is expected or requested.

#### Proposed Monitoring and Mitigation Measures

To reduce the potential for disturbance from visual and acoustic stimuli associated with these activities, PRBO proposes to undertake the following marine mammal mitigation measures: (1) researchers would keep their voices hushed and bodies low in the visual presence of pinnipeds; (2) seabird observations at North Landing on Southeast Farallon Island would be conducted in an observation blind where researchers are shielded from the view of hauled out pinnipeds; (3) beach landings on Año Nuevo Island would only occur after any pinnipeds that might be present on the landing beach have entered the water; (4) Año Nuevo Island researchers accessing seabird nest boxes would crawl slowly if pinnipeds are within view; (5) visits to intertidal areas of Southeast Farallon Island during research activities would be coordinated to reduce potential take; (6) all research goals on Año Nuevo Island would be coordinated to minimize the

necessary number of trips to the island; (7) once on Año Nuevo Island, researchers would coordinate monitoring schedules so that areas near any pinnipeds would be accessed only once per visit; and (8) the lead biologist would always serve as an observer to evaluate incidental take and halt any research activities should the potential for incidental take be too great.

#### Proposed Monitoring and Reporting

Researchers would take notes of sea lions and seals observed within the proposed research area during studies. The notes would provide dates, time, tidal height, species, numbers of sea lions and seals present, and any disturbances. PRBO would submit a final report, including these notes, to NMFS within 90 days after the expiration of the Incidental Harassment Authorization (IHA), if it is issued.

#### 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 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. In 2008, NMFS 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. At that time, NMFS concluded that issuance of an IHA for the December 2008 through 2009 season 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, NMFS has again reviewed the EA and SEA and determined that there are no new direct, indirect or cumulative impacts to the human and natural environment associated with the proposed IHA requiring evaluation in a supplemental EA and NMFS therefore reaffirms the 2008 FONSI.

#### Endangered Species Act

NMFS Headquarters' Office of Protected Resources, Permits, Conservation, and Education Division conducted a formal 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 (BiOp) and concluded that the issuance of an IHA is likely to affect, but not likely to jeopardize the continued existence of Steller sea lions. The BiOp included an incidental take statement (ITS) for Steller sea lions. The ITS contains reasonable and prudent measures implemented by terms and conditions to minimize the effects of this take. NMFS has reviewed the BiOp and determined that there is no new information regarding effects to Stellar 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 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 BiOp. Therefore, the proposed IHA does not require the reinitiation of Section 7 consultation under the ESA.

#### Preliminary Conclusions

Based on the preceding information, and provided that the proposed mitigation and monitoring are incorporated, NMFS has preliminarily concluded that the impact of PRBO conducting proposed seabird and pinniped research activities on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore in central CA would incidentally take, by level B behavioral harassment only, small numbers of Steller sea lions, California sea lions, Pacific harbor seals, and northern elephant seals in the vicinity of the proposed activities.

While behavioral modifications, including temporarily vacating the area during the lighthouse restoration and maintenance period, may be made by these species to avoid the resultant visual disturbance from human presence, the availability of alternate areas within these areas and haul-out sites, and the short and sporadic duration of the restoration and maintenance activities, have led NMFS to preliminarily determine that this proposed action will have a negligible impact on affected stocks of Steller sea lions, California sea lions, Pacific harbor seals, and northern elephant seals.

There is no subsistence harvest of marine mammals on or near SEFI, ANI, and PRNS; therefore, there will be no impact of the activity on the availability of the stocks of marine mammals for subsistence uses. Harassment takes should be at the lowest level practicable due to incorporation of the mitigation measures proposed in this document. Take by Level A harassment or death is not anticipated.

#### Proposed Authorization

NMFS proposes to issue an IHA to PRBO to conduct seabird and pinniped research activities on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore during December 22, 2009, through December 23, 2009, provided that the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: November 18, 2009

**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-XT04**

##### Marine Mammals; File No. 1058-1733

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

**ACTION:** Notice; issuance of permit amendment.

**SUMMARY:** Notice is hereby given that Mark Baumgartner, Ph.D., MS 133, Woods Hole Oceanographic Institute, Woods Hole, Massachusetts, 02543, has been issued an amendment to scientific research Permit No. 1058-1733.

**ADDRESSES:** The amendment and related documents are available for review upon written request or by appointment in the following offices: See

##### SUPPLEMENTARY INFORMATION.

##### FOR FURTHER INFORMATION CONTACT:

Amy Hapeman or Kristy Beard,  
(301)713-2289.

**SUPPLEMENTARY INFORMATION:** On December 24, 2008, notice was published in the **Federal Register** (73 FR 79058) that an amendment to Permit No. 1058-1733, issued July 27, 2007 (72 FR 36429), had been requested by the above-named individual. The requested amendment has been granted under the authority of the Marine Mammal