Sacks

[FR Doc. 2012–23832 Filed 9–26–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–810]

Solid Agricultural Grade Ammonium Nitrate from Ukraine: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order

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

DATES: *Effective Date:* September 27, 2012.

SUMMARY: On June 1, 2012, the Department of Commerce (''Department'') published in the **Federal Register** the notice of initiation of the second sunset review of the antidumping duty order on solid agricultural grade ammonium nitrate from Ukraine. The Department has conducted an expedited sunset review of this order. As a result of this sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the rates identified in the ''Final Results of Review'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Mahnaz Khan or Yasmin Nair, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–0914 and (202) 482–3813, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 2012, the Department initiated the second sunset review of the antidumping duty order on solid agricultural grade ammonium nitrate from Ukraine, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-Year (''Sunset'') Review,* 77 FR 32527 (June 1, 2012). The Department received a notice of intent to participate from domestic interested parties CF Industries, Inc. and El Dorado Chemical Company (collectively, ''Petitioners''), within the deadline specified in 19 CFR 351.218(d)(1)(i). Petitioners claimed interested party status under section 771(9)(C) of the Act as a manufacturer, producer, or wholesaler in the United States of a domestic-like product.

On July 2, 2012, the Department received a substantive response from Petitioners. In addition to meeting the other requirements of 19 CFR 351.218(d)(3), Petitioners provided information on the volume and value of Ukrainian exports of solid agricultural grade ammonium nitrate to the United States. The Department received no responses from other parties to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review.

Scope of the Order

The merchandise covered by the order are solid, fertilizer grade ammonium nitrate (''ammonium nitrate'' or ''subject merchandise'') products, whether prilled, granular or in other solid form, with or without additives or coating, and with a bulk density equal to or greater than 53 pounds per cubic foot. Specifically excluded from the scope is solid ammonium nitrate with a bulk density less than 53 pounds per cubic foot (commonly referred to as industrial or explosive grade ammonium nitrate). The merchandise subject to the order is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheading 3102.30.00.00. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum (''Decision Memorandum'') from Susan H. Kuhbach, Director, Office 1, Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, dated concurrently with this notice, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margin of dumping likely to prevail if the order were revoked. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum, which is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit in room 7046 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://ia.ita.doc.gov/ia/*. The signed Decision Memorandum and electronic versions of the Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 752(c)(1) and (3) of the Act, we determine that revocation of the antidumping duty order on solid agricultural grade ammonium nitrate from Ukraine would be likely to lead to continuation or recurrence of dumping and that the magnitude of the margin of dumping likely to prevail if the order were revoked is 156.29% for J.S.C. ''Concern Stirol'' and for all other exporters.

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: September 20, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–23828 Filed 9–26–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC128

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; proposed incidental harassment authorization; request for comments.

SUMMARY: We have received an application from PRBO Conservation Science (PRBO), for an Incidental Harassment Authorization to take marine mammals, by harassment,

incidental to conducting proposed seabird and pinniped research activities on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore in central California. PRBO is requesting an Authorization per the Marine Mammal Protection Act. We are requesting comments on our proposal to issue an Incidental Harassment Authorization to PRBO to incidentally harass, by Level B harassment only, four species of marine mammals during the specified activity from November 2012, through November 2013.

DATES: We must receive comments and information no later than October 29, 2012.

ADDRESSES: Address your comments on the application 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. The mailbox address for providing email comments is *ITP.Cody@noaa.gov.* Please include 0648–XC128 in the subject line. We are not responsible for email comments send to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

All comments received are a part of the public record and we will generally post them 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.

To obtain an electronic copy of the application containing a list of the references used in this document, write to the previously mentioned address, telephone the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) or access our Web page at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*.

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

SUPPLEMENTARY INFORMATION: 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.

We shall grant authorization for the incidental taking of small numbers of marine mammals if we 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 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].

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.

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 Incidental Harassment Authorizations to PRBO for the conduct of the same activities from 2007 to 2012 and the current Authorization expires on July 28, 2012 (76 FR 46724, August 3, 2011). This is PRBO's fifth request for an Authorization and they will submit a monitoring report to us no later than 90 days after the expiration of the current Authorization.

Description of the Specified Geographic Region

The proposed action area consists of the following three locations in the northeast Pacific Ocean:

South Farallon Islands

The South Farallon Islands consist of Southeast Farallon Island located at 37°41′54.32″ N, 123°0′8.33″ W and West

End Island. These two islands are directly adjacent to each other and separated by only a 30-foot (ft) (9.1 meter (m)) channel. The South Farallon Islands 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.

Año Nuevo Island

Año Nuevo Island located at 37°6′29.25″ N, 122°20′12.20″ W is 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. The Island lies within the Monterey Bay National Marine Sanctuary and the Año Nuevo State Marine Conservation Area.

Point Reyes National Seashore

Point Reyes National Seashore is located approximately 40 miles (64.3 km) north of San Francisco Bay and also lies within the Gulf of the Farallones National Marine Sanctuary. The proposed research areas (Life Boat Station, Drakes Beach, and Point Bonita) are within the headland coastal areas of the National Park.

Description of the Specified Activity

Seabird Research on Southeast Farallon Island

PRBO proposes to conduct: (1) Daily observations of seabird colonies at a maximum frequency of three 15-minute visits per day; and (2) conduct daily observations of breeding common murres (*Uria aalge*) at a maximum frequency of one, 5-hour visit per day between September 2012, and September 2013. These activities usually involve one or two observers conducting daily censuses of seabirds or conducting mark/recapture studies of breeding seabirds on Southeast Farallon Island. The researchers plan to access the island's two landing areas, 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 and then travel by foot to coastal areas of the island to view breeding seabirds from behind an observation blind.

The potential for incidental take related to the mark/recapture studies is very low as these activities are conducted within the interior of the island away from the intertidal areas where the pinnipeds haulout. Most potential for incidental take would occur when the researchers approach or depart the intertidal area by motorboat or when the researchers walk within 50 ft (15.2 m) of the haulout areas to enter the observation blinds to observe shorebirds.

Field Station Resupply on Southeast Farallon Island

PRBO proposes to resupply the field station once every two weeks at a maximum frequency of 26 visits. Resupply activities involve personnel approaching either the North Landing or East Landing by motorboat. At East Landing—the primary landing site—all personnel assisting with the landing would stay on the loading platform approximately 30 ft (9.1 m) above the water. At North Landing, loading operations would occur at the water level in the intertidal areas. Most potential for incidental take would occur when the researchers approach the area by motorboat or when the researchers load or unload supplies onshore.

Seabird Research on Año Nuevo Island

PRBO, in collaboration with Oikonos—Ecosystem Knowledge, proposes to monitor seabird burrow nesting habitat quality and to conduct habitat restoration at a maximum frequency of 20 visits per year. This activity involves two to three researchers accessing the north side of the island by a 12 ft (3.7 m) Zodiac boat. Once onshore, the researchers will check subterranean nest boxes and restore any nesting habitat for approximately 15 minutes.

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

The National Park Service in collaboration with PRBO monitors seabird breeding and roosting colonies; conducts habitat restoration; removes non-native plants; monitors intertidal areas; maintains coastal dune habitat. Seabird monitoring usually involves one or two observers conducting the survey by small boats (12 to 22 ft; 3.6 to 6.7 m) along the Point Reyes National Seashore shoreline. Researchers would visit the site at a maximum frequency of 20 times per year, with an emphasis on increasing monitoring during the nesting season. Researchers would conduct occasional, intermittent visits during the rest of the year.

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.

Pinniped Research on West End Island

Pinniped research activities involve surveying breeding northern elephant seals on West End Island between early December and late February. At least three researchers would visit the site at a maximum frequency of five times per year. To conduct the census, the researchers would travel by foot approximately 1,500 ft (457.2 m) above the site to conduct the census. Historically, a few juvenile Steller sea lions may haul out on a spit of rocks called Shell Beach Rocks below the transit path to the northern elephant seal haul out. Thus, the potential for incidental harassment of Steller sea lions may occur when the researchers transit above Shell Beach Rocks.

We expect that acoustic and visual stimuli resulting from the proposed motorboat operations and human presence has the potential to harass marine mammals, incidental to the conduct of the proposed activities. We also expect that these disturbances would be temporary and 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.

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

The marine mammals most likely to be harassed incidental to conducting seabird and pinniped research at the proposed research areas on Southeast Farallon Island, Año Nuevo Island, and 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.*)

We refer the public to Carretta *et al.,* (2011) for general information on these species which are presented below this section. The publication is available at:

http://www.nmfs.noaa.gov/pr/pdfs/sars/po2011.pdf.

Northern Elephant Seal

Northern elephant seals are not listed as threatened or endangered under the Endangered Species Act, nor are they categorized as depleted under the Marine Mammal Protection Act. The estimated population of the San Miguel stock is approximately 2,492 animals and the current maximum population growth rate is 12 percent (Carretta *et. al.,* 2011).

Northern elephant seals range in the eastern and central North Pacific Ocean, from as far north as Alaska and as far south as Mexico. Northern elephant seals spend much of the year, generally about nine months, in the ocean. They are usually underwater, diving to depths of about 1,000–2,500 ft (330–800 m) for 20- to 30-minute intervals with only short breaks at the surface. They are rarely seen out at sea for this reason. While on land, they prefer sandy beaches.

Northern elephant seals breed and give birth in California (U.S.) and Baja California (Mexico), primarily on offshore islands (Stewart *et al.,* 1994), from December to March (Stewart and Huber, 1993). Males feed near the eastern Aleutian Islands and in the Gulf of Alaska, and females feed further south, south of 45° N (Stewart and Huber, 1993; Le Boeuf *et al.,* 1993). Adults return to land between March and August to molt, with males returning later than females. Adults return to their feeding areas again between their spring/summer molting and their winter breeding seasons.

At Point Reyes, the population ranges from 1,500 and 2,000 animals (NPS, 2012). Adult northern elephant seals visit Point Reyes twice a year (NPS, 2012). They arrive in early winter from their feeding grounds off Alaska and the largest congregations occur in the winter, when the females arrive to deliver their pups and nurse them, and in spring when immature seals and adult females return to molt. During the time they are onshore they are fasting (NPS, 2012).

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). At Southeast Farallon, the population consists of approximately 500 animals (FNMS, 2012).

Observers first sighted elephant seals on Año Nuevo Island in 1955 and today the population ranges from 900 to 1,000 adults (M. Lowry, unpubl. data). Males began to haul out on the mainland in 1965. California State Park reports that by 1988/1989, approximately 2,000 elephant seals came ashore to Año Nuevo (CSP, 2012).

California Sea Lion

California sea lions are not listed as threatened or endangered under the Endangered Species Act, nor are they categorized as depleted under the Marine Mammal Protection Act. The California sea lion is now a full species, separated from the Galapagos sea lion (*Z. wollebaeki*) and the extinct Japanese sea lion (*Z. japonicus*) (Brunner 2003, Wolf *et al.,* 2007, Schramm *et al.,* 2009). The estimated population of the U.S. stock of California sea lion is approximately 296,750 animals and the current maximum population growth rate is 12 percent (Carretta *et al.,* 2011).

California sea lion breeding areas are on islands located in southern California, in western Baja California, Mexico, and the Gulf of California. During the breeding season, most California sea lions inhabit southern California and Mexico. Rookery sites in southern California are limited to the San Miguel Islands and the southerly Channel Islands of San Nicolas, Santa Barbara, and San Clemente (Carretta *et al.,* 2011). Males establish breeding territories during May through July on both land and in the water. Females come ashore in mid-May and June where they give birth to a single pup approximately four to five days after arrival and will nurse pups for about a week before going on their first feeding trip. Females will alternate feeding trips with nursing bouts until the pup is weaned between four and 10 months of age (NMML, 2010).

Adult and juvenile males will migrate as far north as British Columbia, Canada while females and pups remain in southern California waters in the non-breeding season. In warm water (El Niño) years, some females are found as far north as Washington and Oregon, presumably following prey.

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 Southeast Farallon and Año Nuevo Islands.

On the Farallon Islands, California sea lions haul out in many intertidal areas year round, fluctuating from several hundred to several thousand animals. California sea lions at Point Reyes National Seashore haul out at only a few 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). On Año Nuevo Island, California sea lions may haulout at one of eight beach areas on the perimeter of the island (see Figure 2 in the Application). The island's average population ranges from 4,000 to 9,500 animals (M. Lowry, unpublished data).

Pacific Harbor Seal

Pacific harbor seals are not listed as threatened or endangered under the Endangered Species Act, nor are they categorized as depleted under the Marine Mammal Protection Act. The estimated population of the California stock of Pacific harbor seals is approximately 30,196 animals (Carretta *et al.,* 2011).

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.

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.

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). On the Farallon Islands, approximately 40 to 120 Pacific harbor seals haul out in the intertidal areas (PRBO unpublished data). Harbor seals at Point Reyes National Seashore haul out at nine locations with an annual population of up to 4,000 animals (M. Lowry, unpublished data). On Año Nuevo Island, harbor seals may haulout at one of eight beach areas on the perimeter of the island (see Figure 2 in PRBO's Application) and the island's average population ranges from 100 to

150 animals (M. Lowry, unpublished data).

Steller Sea Lion

Steller sea lions consist of two distinct population segments: the western and eastern distinct population segments divided at 144° West longitude (Cape Suckling, Alaska). The eastern distinct population segment of the Steller sea lion is threatened; however NMFS is proposing to remove the eastern distinct population segment of Steller sea lions from the list of endangered wildlife, after a status review by its biologists found the species is recovering. The western distinct population segment is endangered under the Endangered Species Act. Both segments are depleted under the Marine Mammal Protection Act.

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. 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.

The western segment of Steller sea lions inhabit central and western Gulf of Alaska, Aleutian Islands, as well as coastal waters and breed in Asia (e.g., Japan and Russia). The eastern segment includes sea lions living in southeast Alaska, British Columbia, California, and Oregon.

In 2011, the estimated population of the eastern distinct population segment ranged from a minimum of 52,847 up to 72,223 animals and the maximum population growth rate is 12.1 percent (Angliss and Allen, 2011).

The eastern distinct population segment of Steller sea lions breeds on rookeries located in southeast Alaska, British Columbia, Oregon, and California. There are no rookeries located in Washington state. Steller sea lions give birth in May through July and breeding commences a couple of weeks after birth. Pups are weaned during the winter and spring of the following year.

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. Overall, counts of non-pups at trend sites in California and Oregon have been relatively stable or increasing slowly since the 1980s (Angliss and Allen, 2011).

PRBO estimates that between 50 and 150 Steller sea lions live on the Farallon Islands. On Southeast Farallon Island, the abundance of females declined an average of 3.6 percent per year from 1974 to 1997 (Sydeman and Allen, 1999).

The National Marine Fisheries Service's Southwest Fisheries Science Center estimates between 400 and 600 live on Año Nuevo Island (PRBO unpublished data, 2008; Southwest Fisheries Science Center unpublished data, 2008). At Año Nuevo Island off central California, a steady decline in ground counts started around 1970, and there was an 85 percent reduction in the breeding population by 1987 (LeBoeuf *et al.,* 1991)

Pup counts at Año Nuevo Island declined five 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).

Other Marine Mammals in the Proposed Action Area

California (southern) sea otters (*Enhydra lutris nereis*), listed as threatened under the Endangered Species Act and categorized as depleted under the Marine Mammal Protection Act, usually range in coastal waters within two km of shore. PRBO has not encountered California sea otters on Southeast Farallon Island, Año Nuevo Island, or Point Reyes National Seashore during the course of seabird or pinniped research activities over the past five years. This species is managed by the U.S. Fish and Wildlife Service and is not considered further in this notice.

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. The effects of sounds from motorboat operations and the appearance of researchers might include hearing impairment or behavioral disturbance (Southall, *et al.,* 2007).

Hearing Impairment

Marine mammals produce sounds in various important contexts—social interactions, foraging, navigating, and to responding to predators. The best available science suggests that pinnipeds have a functional aerial hearing sensitivity between 75 hertz (Hz) and 75 kilohertz (kHz) and can produce a diversity of sounds, though generally from 100 Hz to several tens of kHz (Southall, *et al.,* 2007).

Exposure to high intensity sound for a sufficient duration may result in auditory effects such as a noise-induced threshold shift—an increase in the auditory threshold after exposure to noise (Finneran, Carder, Schlundt, and Ridgway, 2005). Factors that influence the amount of threshold shift include the amplitude, duration, frequency content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of threshold shift just after exposure is called the initial threshold shift. If the threshold shift eventually returns to zero (i.e., the threshold returns to the pre-exposure value), it is called temporary threshold shift (Southall *et al.,* 2007).

Pinnipeds have the potential to be disturbed by airborne and underwater noise generated by the small boats equipped with outboard engines (Richardson, Greene, Malme, and Thomson, 1995). However, there is a dearth of information on acoustic effects of motorboats on pinniped hearing and communication and to our knowledge there has been no specific documentation of hearing impairment in free-ranging pinnipeds exposed to small motorboats during realistic field conditions.

Behavioral Disturbance

Disturbances resulting from human activity can impact short- and long-term pinniped haul out behavior (Renouf *et al.,* 1981; Schneider and Payne, 1983; Terhune and Almon, 1983; Allen *et al.,* 1984; Stewart, 1984; Suryan and Harvey, 1999; Mortenson *et al.,* 2000; and Kucey and Trites, 2006). Disturbance includes a variety of effects,

including subtle to conspicuous changes in behavior, movement, and displacement. Reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2004; Southall *et al.,* 2007; Weilgart, 2007). However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (e.g., Lusseau and Bejder, 2007; Weilgart, 2007).

Numerous studies have shown that human activity can flush harbor seals off haulout sites (Allen *et al.,* 1984; Calambokidis *et al.,* 1991; Suryan and Harvey, 1999; and Mortenson *et al.,* 2000). The Hawaiian monk seal (*Monachus schauinslandi*) has been shown to avoid beaches that have been disturbed often by humans (Kenyon, 1972). And in one case, human disturbance appeared to cause Steller sea lions to desert a breeding area at Northeast Point on St. Paul Island, Alaska (Kenyon, 1962).

In 1997, Henry and Hammil (2001) conducted a study to measure the impacts of small boats (i.e., kayaks, canoes, motorboats and sailboats) on harbor seal haulout behavior in Métis Bay, Quebec, Canada. During that study, the authors noted that the most frequent disturbances (n=73) were caused by lower speed, lingering kayaks and canoes (33.3 percent) as opposed to motorboats (27.8 percent) conducting high speed passes. The seal's flight reactions could be linked to a surprise factor by kayaks-canoes which approach slowly, quietly and low on water making them look like predators. However, the authors note that once the animals were disturbed, there did not appear to be any significant lingering effect on the recovery of numbers to their pre-disturbance levels. In conclusion, the study showed that boat traffic at current levels has only a temporary effect on the haulout behavior of harbor seals in the Métis Bay area.

In 2004, Johnson and Acevedo-Gutierrez (2007) evaluated the efficacy of buffer zones for watercraft around harbor seal haulout sites on Yellow Island, Washington state. The authors estimated the minimum distance between the vessels and the haul-out sites; categorized the vessel types; and evaluated seal responses to the disturbances. During the course of the seven-weekend study, the authors recorded 14 human-related disturbances which were associated with stopped powerboats and kayaks. During these events, hauled out seals became noticeably active and moved into the water. The flushing occurred when stopped kayaks and powerboats were at distances as far as 453 and 1,217 ft (138 and 371 m) respectively. The authors note that the seals were unaffected by passing powerboats, even those approaching as close as 128 ft (39 m), possibly indicating that the animals had become tolerant of the brief presence of the vessels and ignored them. The authors reported that on average, the seals quickly recovered from the disturbances and returned to the haulout site in less than or equal to 60 minutes. Seal numbers did not return to pre-disturbance levels within 180 minutes of the disturbance less than one quarter of the time observed. The study concluded that the return of seal numbers to pre-disturbance levels and the relatively regular seasonal cycle in abundance throughout the area counter the idea that disturbances from powerboats may result in site abandonment (Johnson and Acevedo-Gutierrez, 2007).

As a general statement from the available information, pinnipeds exposed to intense (approximately 110 to 120 decibels re: 20 μPa) non-pulse sounds often leave haulout areas and seek refuge temporarily (minutes to a few hours) in the water (Southall *et al.,* 2007). Based on the available data, previous monitoring reports from PRBO, and studies described here, any pinnipeds found in the vicinity of the proposed project are only anticipated to have short-term behavioral reactions to the noise attributed to PRBO's motorboat operations and human presence related to the seabird and pinniped research. We would expect the pinnipeds to return to a haulout site within 60 minutes of the disturbance (Allen *et al.,* 1985). The effects to pinnipeds appear at the most, to displace the animals temporarily from their haul out sites and we do not expect that the pinnipeds would permanently abandon a haul-out site during the conduct of the proposed research. The maximum disturbance to Steller sea lions would result in the animals slowly flushing into the water in response to presence of the researchers.

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

The potential effects to marine mammals described in this section of the document do not take into consideration the proposed monitoring and mitigation measures described later in this document (see the ''Proposed Mitigation'' and ''Proposed Monitoring and Reporting'' sections) which, as noted, are designed to effect the least practicable adverse impact on affected marine mammal species and stocks.

Anticipated Effects on Habitat

We do not anticipate that the proposed operations would result in any temporary or permanent effects on the habitats used by the marine mammals in the proposed area, including the food sources they use (i.e., fish and invertebrates). While it is anticipated that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and reversible and was considered in further detail earlier in this document, as behavioral modification. The main impact associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals, previously discussed in this notice.

Proposed 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 which they will implement during the proposed seismic survey, on the following: (1) Protocols used during previous PRBO seabird and pinniped research activities as required by us; (2) recommended best practices in Richardson *et al.* (1995); (3) the Terms and Conditions of Scientific Research Permit 373–1868–00; and (4) the Terms and Conditions listed in the Incidental Take Statement for the 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 has proposed to implement the following mitigation measures for marine mammals:

(1) Abide by all of the Terms and Conditions listed in the Incidental Take Statement for the 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 373–1868–00.

(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 (*Orcinas 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 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 have prescribed the means of effecting the least practicable adverse 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, we expect that the successful implementation of the measure would minimize adverse impacts to marine mammals;

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

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

Based on our evaluation of PRBO's proposed measures, as well as other measures considered by us or recommended by the public, we have preliminarily 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.

Proposed Monitoring

In order to issue an incidental take authorization for an activity, section 101(a)(5)(D) of the Marine Mammal Protection Act states that we must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The Act's implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for an authorization must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and our expectations of the level of taking or impacts on populations of marine mammals 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 2011 seasons. The results from previous PRBO monitoring reports support our original findings that the mitigation measures set forth in the 2007–2011 Authorizations effected the least practicable adverse impact on the species or stock.

PRBO will submit an annual monitoring report for the 2011–2012 Authorization (effective dates, July 29, 2011 through July 28, 2012) by November, 2012. Upon receipt, we will post this annual report on our Web site at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

Proposed Reporting

PRBO will submit a final monitoring report to us no later than 90 days after the expiration of the Incidental Harassment Authorization, if we issue it. 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* and *ITP.Cody@noaa.gov* and the Southwest Regional Stranding Coordinator at (562) 980–3230 (*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* and *ITP.Cody@noaa.gov* and the Southwest Regional Stranding Coordinator at (562) 980–3230 (*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* and *ITP.Cody@noaa.gov* and the Southwest Regional Stranding Coordinator at (562) 980–3230 (*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 propose to authorize take by Level B harassment only for the proposed pinniped and seabird research activities on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore. Acoustic (i.e., increased sound) and visual stimuli generated during these proposed activities may have the potential to cause marine mammals in the harbor area to experience temporary, short-term changes in behavior.

Based on PRBO's previous research experiences, with the same activities conducted in the proposed research area, and on marine mammal research activities in these areas, we estimate that approximately 5,104 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.

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 2007–2010 monitoring reports and anecdotal information from PRBO scientists.

TABLE 1—ESTIMATES OF THE POSSIBLE NUMBERS OF MARINE MAMMALS EXPOSED TO ACOUSTIC AND VISUAL STIMULI DURING PRBO'S PROPOSED SEABIRD AND PINNIPED RESEARCH DURING NOVEMBER, 2012–NOVEMBER, 2013

Activity	Maximum estimated number present	Maximum estimated number of disturbances	Estimated number of days with animal presence	Requested number of incidental takes
California sea lions: Requested take = 5,104				
SEFI Daily Observations	27	3	E. Landing—15 N. Landing—22 Other Areas—4	E. Landing—1,215. N. Landing—1,782. Other Areas—324.
SEFI Murre Research	26	1	Other Areas—17	Other Areas—442.
SEFI Field Station Resupply	31	1	E. Landing—13	E. Landing—403.
ANI Seabird Monitoring	68	1	Other Areas—12	Other Areas—816.
ANI Intermittent Activities	110	1	Other Areas—1	Other Areas—110.
PRNS Seabird Monitoring	3	1	Other Areas—4	Other Areas—12.
Harbor seals: Requested Take = 526				
SEFI Daily Observations	5	3	E. Landing—4 N. Landing—7 Other Areas—18	E. Landing—60. N. Landing—105. Other Areas—270.
SEFI Murre Research	2	1	N. Landing—9	N. Landing—18.
SEFI Field Station Resupply	12	1	E. Landing—2 N. Landing—2	E. Landing—24. N. Landing—24.
ANI Seabird Monitoring	2	1	Other Areas—5	Other Areas—10.
PRNS Seabird Monitoring	15	1	Other Areas—1	Other Areas—15.

TABLE 1—ESTIMATES OF THE POSSIBLE NUMBERS OF MARINE MAMMALS EXPOSED TO ACOUSTIC AND VISUAL STIMULI DURING PRBO'S PROPOSED SEABIRD AND PINNIPED RESEARCH DURING NOVEMBER, 2012–NOVEMBER, 2013—Continued

Activity	Maximum estimated number present	Maximum estimated number of disturbances	Estimated number of days with animal presence	Requested number of incidental takes
Northern elephant seals: Requested Take = 190				
SEFI Daily Observations	2	3	E. Landing—4 N. Landing—7	E. Landing—24. N. Landing—42.
SEFI Murre Research	4	1	N. Landing—5	N. Landing—20.
SEFI Field Station Resupply	2	1	E. Landing—1	E. Landing—2.
ANI Seabird Monitoring	10	1	Other Areas—10	Other Areas—100.
PRNS Seabird Monitoring	2	1	Other Areas—1	Other Areas—2.
Steller sea lions: Requested Take = 20				
SEFI Daily Observations	2	3	Other Areas—1	Other Areas—6.
SEFI Murre Research	9	1	Other Areas—1	Other Areas—9.
SEFI Field Station Resupply	1	1	E. Landing—1	E. Landing—1.
ANI Seabird Monitoring	1	1	Other Areas—2	Other Areas—2.
ANI Intermittent Activities	1	1	Other Areas—1	Other Areas—1.
PRNS Seabird Monitoring	1	1	Other Areas—1	Other Areas—1.

Other Areas: Elephant Seal Colony (SEFI), Sea Lion Cove (SEFI), Landing Cove (ANI), and Drakes Beach (PRNS).

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 proposed activity.

There is no evidence that PRBO's planned activities could result in injury, serious injury or mortality within the harbor area for the requested Authorization. The required mitigation and monitoring measures will minimize any potential risk for injury, serious injury, or mortality. Thus, we do not propose to authorize any injury, serious injury or mortality. We expect all potential takes to fall under the category of Level B harassment only.

Encouraging and Coordinating Research

PRBO will continue to coordinate monitoring of pinnipeds during the research activities occurring on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore. PRBO conducts bone fide research on marine mammals, the results of which may contribute to the basic knowledge of marine mammal biology or ecology, or are likely to identify, evaluate, or resolve conservation problems.

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 in scope); and

(3) The context in which the takes occur (e.g., 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 proposed Authorization. For each species, these numbers are small (each, less than or equal to two percent) relative to the population size. These incidental harassment numbers represent approximately two percent of the U.S. stock of California sea lion, 1.5 percent of the California stock of Pacific harbor seal, 0.15 percent of the California breeding stock of northern elephant seal, and 0.04 percent of the eastern distinct population segment of Steller sea lion.

For reasons stated previously in this document and based on the following factors, PRBO's specified activities are not likely to cause long-term behavioral disturbance, abandonment of the haulout area, injury, serious injury, or mortality because:

(1) The effects of the pinniped and seabird research activities would be limited to short-term startle responses and localized behavioral changes due to the short and sporadic duration of the research activities. 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 availability of alternate areas for pinnipeds to avoid the resultant acoustic and visual disturbances from the research operations. Results from previous monitoring reports support our conclusions that the pinnipeds returned to the various sites do not permanently abandon a haul-out site during the conduct of the pinniped and research activities.

(3) There is no potential for large-scale movements leading to injury, serious injury, or mortality because the researchers must delay ingress into the landing areas until pinnipeds present have slowly entered the water.

(4) The limited access of PRBO researchers to Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore during the pupping season.

We do not anticipate that any injuries, serious injuries, or mortalities would occur as a result of PRBO's proposed activities, and we do not propose to authorize injury, serious injury or mortality. These species may exhibit behavioral modifications, including temporarily vacating the area during the proposed seabird and pinniped research activities to avoid the resultant acoustic and visual disturbances. Due to the nature, degree, and context of the behavioral harassment anticipated, the activities are not expected to impact rates of recruitment or survival. Further, these proposed activities would not take place in areas of significance for marine mammal feeding, resting, breeding, or calving and would not adversely impact marine mammal habitat.

We have preliminarily determined, provided that PRBO carries out the previously described mitigation and monitoring measures, that the impact of conducting the proposed seabird and pinniped research activities on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore in central California, November, 2012 through November, 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 herein 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, we have preliminarily 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 Act.

Endangered Species Act

The Steller sea lion, eastern U.S. stock is listed as threatened under the Act and occurs in the research area. NMFS' Office of Protected Resources, Permits and Conservation Division conducted a formal section 7 consultation under this Act. On November 18, 2008, NMFS issued a Biological Opinion (2008 BiOp) and concluded that the issuance of an Incidental Authorization 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 Act. The ITS contains reasonable and prudent measures for implementing terms and conditions to minimize the effects of this take. We have 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 proposed Authorization does not require the reinitiation of section 7 consultation under the Act.

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 Under Scientific Research Permit 373–1868–00,'' 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 and we, therefore, preliminarily reaffirm the 2008 FONSI. A copy of the EA, SEA, and the NMFS FONSI for this activity is available upon request (see **ADDRESSES**).

Proposed Authorization

As a result of these preliminary determinations, we propose to authorize the take of marine mammals incidental to PRBO's proposed seabird and pinniped research activities in the northeast Pacific Ocean, provided they incorporate the previously mentioned mitigation, monitoring, and reporting requirements. The duration of the Incidental harassment Authorization would not exceed one year from the date of its issuance.

Information Solicited

We request interested persons to submit comments and information concerning this proposed project and our preliminary determination of issuing a take authorization (see **ADDRESSES**). Concurrent with the publication of this notice in the **Federal Register**, we will forward copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: September 19, 2012.

Matthew J. Brookhart,

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

[FR Doc. 2012–23820 Filed 9–26–12; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2012–013]

Privacy Act of 1974, as Amended

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of a Revised Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Bureau of Consumer Financial