



**BILLING CODE: 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**[RTID 0648-XR068]**

**Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Seabird Research Activities in Central California**

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

**ACTION:** Notice; receipt of application for Letter of Authorization; request for comments and information.

**SUMMARY:** NMFS has received a request from Point Blue Conservation Science (Point Blue) for authorization to take small numbers of marine mammals incidental to seabird research activities in central California over the course of five years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of Point Blue's request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on Point Blue's application and request.

**DATES:** Comments and information must be received no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West

Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Fowler@noaa.gov*.

*Instructions:* NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period.

Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at

*<https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities>* without change. All personal identifying information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Amy Fowler, Office of Protected Resources, NMFS, (301) 427-8401. An electronic copy of Point Blue's application may be obtained online at: *<https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities>*. In case of problems accessing these documents, please call the contact listed above.

**SUPPLEMENTARY INFORMATION:**

**Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who

engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined *negligible impact* in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term *take* means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

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).

### **Summary of Request**

On September 17, 2019, NMFS received an application from Point Blue requesting authorization for take of marine mammals incidental to seabird research activities at three research sites in central California. We determined the application was adequate and complete on November 26, 2019. The requested regulations would be valid for five years, from July 7, 2020 through July 6, 2025. Point Blue plans to monitor and census seabird populations, observe seabird nesting habitat, restore nesting burrows, and resupply a field station. The proposed action may incidentally expose marine mammals occurring in the vicinity to human presence at pinniped haulouts, thereby resulting in incidental take, by Level B harassment only. Therefore, Point Blue requests authorization to incidentally take marine mammals.

NMFS has previously issued nine Incidental Harassment Authorizations (IHAs) to Point Blue for similar work from 2006 through 2018 (72 FR 71121, December 14, 2007; 73 FR 77011, December 18, 2008; 75 FR 8677, February 19, 2010; 77 FR 73989, December 7, 2012; 78 FR 66686, November 6, 2013; 80 FR 80321, December 24, 2015; 81 FR 34978, June 1, 2016; 82 FR 31759, July 7, 2017; 83 FR 31372, July 5, 2018). Point Blue complied with all the requirements (*e.g.*, mitigation, monitoring, and reporting) of the previous IHAs and their monitoring reports are available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities>.

### **Specified Activities**

The planned activities occur on Southeast Farallon Island (SEFI), Año Nuevo Island (ANO), and Point Reyes National Seashore (PRNS). Point Blue, along with partners Oikonos Ecosystem Knowledge and PRNS, have been conducting seabird

research activities at these locations for over 30 years. This research is conducted under cooperative agreements with the U.S. Fish and Wildlife Service (USFWS) in consultation with the Gulf of the Farallones National Marine Sanctuary. Point Blue's research activities have the potential to harass California sea lions (*Zalophus californianus*), harbor seals (*Phoca vitulina*), northern elephant seals (*Mirounga angustirostris*), northern fur seals (*Callorhinus ursinus*), Guadalupe fur seals (*Arctocephalus townsendi*), and Steller sea lions (*Eumetopias jubatus*).

Research on SEFI is conducted year round. At SEFI, seabird monitoring sites are visited ~ 1-3 times per day for a maximum of 500 visits per year. Most seabird monitoring visits are brief (~15 minutes), though seabird observers are present from 2-5 hours daily at North Landing from early April – early August each year to conduct observational studies on breeding common murre (*Uria aalge*). Boat landings to re-supply the field station, lasting 1-3 hours, are conducted once every two weeks. At ANI, research is conducted approximately once/week from April-August, with occasional intermittent visits made during the rest of the year. The maximum number of visits per year would be 20. Landings and visits to nest boxes are brief (~15 minutes). Research at PRNS is conducted year round, with an emphasis during the seabird nesting season with occasional intermittent visits the rest of the year. The maximum number of visits per year is 20. A component of the seabird research involves habitat restoration and monitoring which requires sporadic visits from September-November, between the seabird breeding season and the elephant seal pupping season.

### **Information Solicited**

Interested persons may submit information, suggestions, and comments concerning Point Blue's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by Point Blue, if appropriate.

Dated: November 27, 2019.

**Angela Somma,**

*Acting Director, Office of Protected Resources,*

*National Marine Fisheries Service.*

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