



# MARINE MAMMAL COMMISSION

18 January 2017

Ms. Jolie Harrison, Chief  
Permits and Conservation Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, MD 20910-3225

Dear Ms. Harrison:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the U.S. Fish and Wildlife Service's (FWS) application seeking to renew its authorization under section 101(a)(5)(D) of the Marine Mammal Protection Act to take small numbers of marine mammals by harassment. The taking would be incidental to seabird, shorebird, and other monitoring and research activities within the Eastern Massachusetts National Wildlife Refuge Complex (the Complex) in Massachusetts during a one-year period. The Commission also has reviewed the National Marine Fisheries Service's (NMFS) 12 January 2017 notice (82 Fed. Reg. 3738) announcing receipt of the application and proposing to issue the authorization, subject to certain conditions.

FWS plans to conduct surveys of seabirds, shorebirds, and tiger beetles at the Monomoy, Nantucket, and Nomans Land Island National Wildlife Refuges within the Complex and various beaches on the Cape Cod National Seashore. The proposed activities would include censusing and monitoring the presence and/or productivity of breeding and migrating shorebirds and seabirds and tiger beetles. A one-day coastal shoreline survey also would be conducted to understand the rate of shoreline change and effects of sea level rise. The activities would occur from 1 April through 30 November. Vessel- and research-related sound and the increased presence of humans would be the main sources of marine mammal disturbance.

NMFS preliminarily has determined that, at most, the proposed activities temporarily would modify the behavior of small numbers of gray and harbor seals. It also anticipates that any impact on the affected species and stocks would be negligible. NMFS does not anticipate any take of marine mammals by death or serious injury and believes that the potential for disturbance will be at the least practicable level because of the proposed mitigation measures. The mitigation, monitoring, and reporting measures include—

- conducting vessel approaches in a slow and controlled manner, as far away as possible from haul-out sites to prevent or minimize flushing;
- avoiding or proceeding cautiously when operating boats in the direct path of swimming seals;
- restricting deployment of cannon nets within 100 yds of seals;

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- selecting a pathway of approach to research sites that minimizes the number of seals harassed;
- avoiding disturbance of females and pups by either rescheduling surveys, if possible, or refraining from conducting those activities that may cause high-level disturbance (e.g., flushing or long movements over land);
- avoiding making unnecessary noise and using hushed voices while near hauled-out seals;
- remaining at least 50 yds from seals, when possible;
- monitoring for offshore predators (i.e., great white sharks) and restricting approaches of hauled-out seals if predators are present;
- using qualified observers to monitor and evaluate incidental takes;
- reporting observations of tagged seals to the relevant researcher;
- reporting unusual species, numbers, and behavior of seals to NMFS's Office of Protected Resources (OPR) and Northeast Regional Stranding Coordinator (NERSC);
- reporting injured and dead marine mammals to NMFS OPR and NERSC using NMFS's phased approach and suspending activities, if appropriate; and
- submitting a final monitoring report.

The Commission concurs with NMFS's preliminary finding and recommends that NMFS issue the incidental harassment authorization, subject to the inclusion of the proposed mitigation, monitoring, and reporting measures. Please contact me if you have questions regarding the Commission's recommendation.

Sincerely,

A handwritten signature in blue ink that reads "Rebecca J. Lent". The signature is written in a cursive style.

Rebecca J. Lent, Ph.D.  
Executive Director