



## Questions & Answers on Potential Deterrence of Pacific Harbor Seals, California Sea Lions & Eastern U.S. Stock Steller Sea Lions from Fishing Gear, Catch & Property

**August 2014**

*This information has been updated to reflect the recent removal of the eastern distinct population segment (DPS) of Steller sea lions from the List of Endangered and Threatened Wildlife, effective December 4, 2013. (78 FR 66140, November 4, 2013)*

### **Q. Why is NOAA Fisheries Service talking about the deterrence of Pacific harbor seals, California seal lions, and the eastern U.S. stock of Steller sea lions?**

A. Since the passage of the Marine Mammal Protection Act (MMPA) in 1972, populations of California sea lions and Pacific harbor seals have increased dramatically, and are now considered healthy and robust. The eastern DPS of Steller sea lions have also recovered to point where they have now been removed from the list of threatened species under the Endangered Species Act (ESA). The increased abundance has been accompanied by a growing number of interactions with humans, raising concerns by private citizens and government officials who are seeking ways to protect property, fishing gear, and catch from damage by sea lions and seals.

The MMPA generally prohibits the harassment, hunting, capturing, or killing of marine mammals, or any attempt to engage in such activities. However, the law does contain exceptions authorizing certain people under certain circumstances to deter marine mammals from damaging private property, including fishing gear and catch, so long as the methods used do not result in the death or serious injury of an animal. To reduce the risk of causing "serious injury" to an animal, deterrence methods should be chosen that avoid penetration or tearing of skin, or rupture of an eye.

### **Q. What deterrence methods for Pacific harbor seals, California seal lions, and eastern U.S. stock Steller sea lions are available to the public?**

A. NOAA Fisheries Service is developing formal guidelines and regulations for safely and legally deterring marine mammals. That guidance is not yet available, so in the interim, the agency is providing this advice for deterring Pacific harbor seals, California seal lions, and eastern U.S. stock Steller sealions. Download potential deterrence methods.

There is no single non-lethal deterrence method known to be universally effective in discouraging Pacific harbor seals and sea lions from engaging in problem behaviors. Nevertheless, these methods and techniques have been found useful, in some circumstances, for deterring problem animals that are damaging property, fishing gear or catch. Note: Some of the methods listed (such as loud noise or pyrotechnics) may not be appropriate for use in some areas, or are subject to prohibition under federal, state or local ordinances. The presence of ESA listed species (marine mammals or fish) in some areas may advise against the use of certain methods. Please consult with local authorities to determine if such prohibitions exist in your area, or if ESA-listed species may be encountered.



**Q. Which pinniped species may be deterred by the public?**

A. Only marine mammals that are not listed under the ESA may be deterred to protect private property, including gear and catch (read more). Non-ESA-listed species of sea lions and seals that occur in coastal and inland waterways of California, Oregon and Washington are Pacific harbor seal, California sea lion, and the eastern U.S. stock of Steller sea lions which were removed from the list of threatened species under the ESA in December 2013.

**Q. May I deter a pinniped that is hauled out on a beach or breakwater, or is swimming in an area where I want to fish?**

A. The MMPA does not allow private citizens to deter marine mammals from undeveloped property (e.g., a beach) or public property (e.g., a breakwater). Private citizens may deter non-ESA-listed seals and sea lions that are exhibiting problem behavior resulting in, or that could result in, damage to private property, fishing gear or catch.

**Q. Do the MMPA and ESA grant additional authority to government officials?**

A. Yes. The MMPA and ESA provide authority to city, county, state and federal government officials or their employees to deter “nuisance” marine mammals to prevent damage to public property or to protect the public from potential threats by a nuisance animal.

**Q. What limits or constraints apply to the public when when deterring Pacific harbor seals, California sea lions, and eastern stock Steller sea lions?**

A. Deterrence of Pacific harbor seals, California seal lions, and eastern stock Steller sea lions may not result in the following:

- **Serious Injury or Mortality** – The MMPA authorizes deterrence using non-lethal methods only. Deterrence cannot result in the death or serious injury of marine mammals. NOAA Fisheries Service has defined "serious injury" in regulations to include an injury that is likely to lead to the death of the affected marine mammal.
- **Violation of Federal or State Laws or Local Ordinances** – The use of some deterrence methods may be prohibited or restricted by federal, state or local governments. For example, a city or county may prohibit the use of, or require special permits for, pyrotechnics. It is your responsibility to check with appropriate authorities to ensure that any deterrence methods used comply with local, state and federal requirements.
- **Risk to Human Safety** – Some of these techniques may cause injury to you and/or other people. If you deter a seal or sea lion in such a manner that you cause injury to anyone, you may be liable for your actions.
- **Taking of Non-Target Marine Mammals** – Deterrence is not authorized if it will result in the death, serious injury, or harassment of non-target marine mammals (i.e., individuals other than those causing damage to private property, gear or catch).

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**Q. Who may deter sea lions or seals?**

A. In summary, certain private citizens, marina owners, government officials, and commercial and recreational fishermen may deter Pacific harbor seals, California sea lions and eastern stock Steller sea lions under certain circumstances as described below:

- **Private Citizens** – Only the owner of the private property (e.g., a dock or vessel) may deter seals and sea lions to prevent damage to their private property.
- **Marina Owners** – Only the marina owner, or an employee of the owner, or an agent of the owner may deter seals and sea lions to prevent damage to the marina.
- **Government Officials** – City, county, state or federal officials or their employees may deter listed and non-ESA-listed sea lions and seals determined to be “nuisance” animals to prevent damage to private or public property, or to protect the public from potential threats.
- **Commercial and Recreational Fishermen** – Fishermen can deter seals and sea lions from damaging gear or depredating catch, only if they are actively fishing.