

**PORT OF BROOKINGS HARBOR
CURRY COUNTY, OREGON**

RESOLUTION NO. 2024-06

**A RESOLUTION OF THE BOARD OF PORT COMMISSIONERS TO ESTABLISH A
POLICY FOR WHEN CALIFORNIA SEA LIONS COME INTO PORT**

WHEREAS, the Port of Brookings Harbor is a port district, organized and operated under the provisions of ORS Chapter 777.

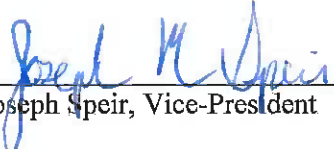
WHEREAS, the Port of Brookings Harbor Commission will establish guidelines for dealing with California Sea Lions on Port Docks.

WHEREAS, NOAA has guidelines for public entities dealing with Sea Lions (Pinnipeds).

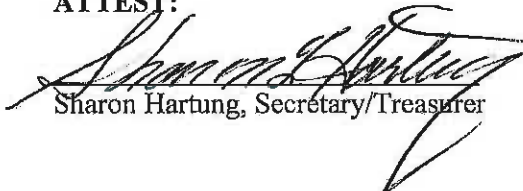
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE PORT OF BROOKINGS HARBOR THAT:

- 1) The Port of Brookings Harbor Board of Commissioners ("Commission") adopts the Sea Lion policy, which is incorporated herein by reference as Exhibit A, B & C.

APPROVED AND ADOPTED and made effective the same day by the Board of Port Commissioners of the Port of Brookings Harbor this 18th day of June 2024.



Joseph Speir, Vice-President

ATTEST:


Sharon Hartung, Secretary/Treasurer



Deterring "Nuisance" Pinnipeds

Potential deterrence of Pacific harbor seals, northern elephant seals, California sea lions, northern fur seals, and the Eastern U.S. stock Steller sea lions (collectively known as pinnipeds) from fishing gear and catch, and private property. Updated October 2018.

On August 31, 2020, NOAA Fisheries proposed a regulation for safely deterring marine mammals from damaging fishing gear or catch, damaging personal or public property, or endangering personal safety and we are soliciting public comments. Our [West Coast Region guidance](#) remains in place while this regulation is under development. The proposed rule and supporting documents include valuable information on safe use of many methods of deterrence, so we encourage you to review this information if you plan to deter marine mammals. To provide comments on the proposed rule, please visit: [Guidelines for Safely Deterring Marine Mammals](#).

Since the passage of the Marine Mammal Protection Act in 1972, populations of California sea lions, Northern elephant seals, Northern fur seals, and Pacific harbor seals have increased dramatically, and are now considered healthy and robust. The eastern distinct population segment (DPS) of Steller sea lions have also recovered to the point where they have now been removed from the list of threatened and endangered species under the Endangered Species Act. 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, and blunt force trauma that could cause broken bones or internal injuries.

Deterrence Methods

NOAA Fisheries 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, Northern elephant seals, Northern fur seals, California sea lions, and eastern U.S. stock sea lions.

[Potential Deterrence Methods](#) > (PDF, 1 page)

There is no single non-lethal deterrence method known to be universally effective in discouraging pinnipeds from engaging in problem behaviors. Nevertheless, these methods and techniques have been found useful, in some circumstances, for deterring nuisance 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, sea turtles, or fish) in some areas may warrant inhibiting 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.

Permitted Species

Only marine mammals that are not listed under the ESA may be deterred to protect private property, including fishing 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 seals, northern elephant seals, northern fur seals, California sea lions, and the eastern U.S. stock of Steller sea lions, which were removed from the list of threatened and endangered species under the ESA in December 2013. An ESA-listed marine mammal may only be deterred if it is endangering personal safety.

When to Deter

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, or are endangering personal safety.

Additional Authority for Government Officials

The MMPA provides 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.

Restrictions

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 has

defined "serious injury" in regulations to include an injury that is more likely than not 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 laws.

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 another person, 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).

Requirements

Certain private citizens, marina owners, government officials, and commercial and recreational fishermen may deter Pacific harbor seals, Northern elephant seals, Northern fur seals, California sea lions and eastern stock of Steller sea lions under certain circumstances as described below:

- Private Property Owner – 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 Owner – Only the marina owner, or an employee of the owner, or an agent or bailee 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 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.
- Any person may deter a nuisance animal from endangering personal safety.

Resources

- [Share the Shore](#) (PDF, 2 pages)
- [Pinniped Entanglements Q & A](#) (PDF, 2 pages)
- [Pinniped Branding on the West Coast Q & A](#) (PDF, 2 pages)
- [Potential Methods for Deterring Seals and Sea Lions from Private Property and Fishing Activities](#) (PDF, 2 pages)

Last updated by [West Coast Regional Office](#) on 05/12/2023



**NOAA
FISHERIES**

Potential Methods for Detering Seals and Sea Lions from Private Property and Fishing Activities

This guidance applies to the following species of seals and sea lions:

- Pacific harbor seals
- California sea lions
- Northern fur seals
- Eastern U.S. Stock of Steller sea lions
- Northern elephant seals

General Information

- The Marine Mammal Protection Act (MMPA) generally prohibits the harassment, hunting, capturing, or killing of marine mammals, or any attempt to engage in such activities. However, Section 101(a)(4) of the MMPA allows for the non-lethal deterrence of nuisance animals under certain circumstances. For more information, see [Deterring "Nuisance" Pinnipeds](#).
- When attempting to deter these animals, you are **not allowed** to seriously injure or kill them (e.g. no open wounds, avoid impact to the animals' eyes and face, avoid blunt force trauma and aiming pyrotechnics directly at animals, etc).
- These "**Potential Methods**" are **not** "approved" deterrence methods by NOAA Fisheries. They are examples of methods that are known to have been effective at deterring pinnipeds in the past.

Methods to Avoid

The following methods/devices have an increased likelihood of causing injury or death and *should be avoided*.

- **NO** firearms with "live" (lethal) ammunition (including metallic, glass, or sharp projectiles: e.g. BBs, marbles)
- **NO** devices with injurious projectiles (e.g., archery gear, crossbows, spear guns, bangsticks)
- **NO** sharp/pointed objects (e.g., harpoons, spears, gaffs, nail studded bats/poles/clubs/docks)
- **NO** entangling devices (e.g., loose webbing, snares, concertina wire)
- **NO** aggressive tactile methods (e.g., striking animals with bats, hammers, etc.; impact with vehicles or boats)
- **NO** tainted baits or poisons
- **NO** guard dogs

If you have questions about protecting your property and/or fishing gear and catch from nuisance pinnipeds, please contact our marine mammal specialists:

Seattle, WA - Lynne Barre (206) 526-4745
 Portland, OR - Robert Anderson (503) 231-2226
 Long Beach, CA - Dan Lawson (206) 526-4740

Potential Methods for *Private Property Owners*:

Barriers & Exclusion Devices:

- fencing (e.g., plastic construction/snow fence, chain link), closely spaced posts
- bull rails
- electric livestock fencing
- netting
- swim step protector

Visual Repellents:

- flags, pinwheels, or streamers
- flashing lights or strobes
- human attendants/monitors

Physical Contact:

- high or low pressure water hoses
- sprinklers, sprayers
- crowder boards
- bull poles (blunt tip), brooms
- cattle prod (these products produce only a mild electric shock designed for handling livestock and are in no way related to "stun guns" designed for self-defense)
- toy water guns (e.g., "Super Soaker[®]")
- non-toxic and water soluble paint ball or air soft guns (no metallic/glass/sharp projectiles)
- slingshot (no metallic/glass/sharp projectiles)
- chemical irritants (e.g., non-toxic pepper spray, mace) used for animal control (note: *there are municipal and state ordinances managing the use and possession of these irritants*)

Noise Makers:

- horns, whistles, bells
- music
- clapping, banging pots, pans, drums; empty aluminum cans on a string banging together
- electronic acoustic devices/ acoustic harassment devices
- pyrotechnics (e.g., bird screamers, bangers, firecrackers, propane canons) (*there are municipal and state ordinances managing the use and possession of these products*)

Additional Potential Methods for *Fishermen*:

Visual Repellents/Noise Makers:

- boat hazing, circling
- pounding on hull
- horns, bells, whistles
- pyrotechnics (e.g., bird screamers, bangers, underwater firecrackers, cracker shells)

Physical Contact:

- slingshots (no metallic/glass/sharp projectiles)
- non-toxic and water soluble paint ball guns
- non-lethal ammunition (e.g., rubber bullets)



Port of Brookings Harbor

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EXHIBIT C **Sea Lion Policy**

The Port of Brookings Harbor Commission authorizes the Port Manager to implement this policy. Certain private citizens, marina owners, government officials, and commercial and recreational fishermen may deter Pacific harbor seals, Northern elephant seals, Northern fur seals, California sea lions and eastern stock of Steller sea lions under certain circumstances as described below:

- Private Property Owner – 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 Owner – Only the marina owner, or an employee of the owner, or an agent or bailee 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 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 depleting catch, only if they are actively fishing.
- Any person may deter a nuisance animal from endangering personal safety.

The public is prohibited from harassing, harming, pursuing, wounding, killing, capturing, or collecting marine species protected by the [Endangered Species Act](#) and [Marine Mammal Protection Act](#). NOAA urges members of the public to observe marine animals from a safe and respectful distance, and do not approach or touch them. When seals and sea lions in the water, or on shore, remain at least 50 yards away – about 1/2 a football field – and only observe for 30 minutes or less. This includes people and pets.

Port of Brookings Harbor's sea lion deterring policy is following MMPA and NOAA regulations and guidelines for pinnipeds entering Port waters. coming onto private property. When pinnipeds arrive in harbor the Port of Brookings Harbor will do the following:

- Authorized individuals may deter pinnipeds while on Port property or its waters,
- Offer current moorage holders on dock to be relocated until they leave (no charge to moorage holder and Port will help relocate vessel, if need be),
- Port will turn off electricity and water to dock,
- Port will place signs at top of ramp advising the public to not go down on the docks,
- Wash and repair docks and electrical pedestals as needed,
- **Report incidents of people or pets tormenting, disturbing, or attempting to touch a marine mammal or sea turtle.** Contact NOAA's National Enforcement Hotline at (800) 853-1964.

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