

### *Mitigation Measures for Sonar Operations*

For sonar operations, in general, the Navy will operate sonar at the lowest practicable level, not to exceed source level of 235 dB re 1 microPa, except as required to meet RDT&E objectives.

Prior to start up or restart of active sonar, operators will check that the safety zone radii around the sound system are clear of marine mammals. Helicopters will observe/survey the vicinity of an NSWC PCD RDT&E activity for 10 minutes before the first deployment of active (dipping) sonar in the water.

During operations involving mid-frequency active (MFA) sonar, personnel would use all available sensor and optical systems (such as night vision goggles to aid in the detection of marine mammals). Navy aircraft participating would conduct and maintain, when operationally feasible, required, and safe, surveillance for marine mammal species as long as it does not violate safety constraints or interfere with the accomplishment of primary operational duties.

Marine mammal detections by aircraft will be immediately reported to the Test Director. This action will occur when it is reasonable to conclude that the course of the ship will likely approach marine mammals within the safety radii.

When marine mammals are detected by any means (aircraft, shipboard lookout, or acoustically) within 914 m (1,000 yd) of the sonar system, the platform will limit active transmission levels to at least 6 decibels (dB) below normal operating levels. Vessels will continue to limit maximum transmission levels by this 6-dB factor until the animal has been seen to leave the area, has not been detected for 30 minutes, or the vessel has transited more than 914 m (1,000 yd) beyond the location of the last detection.

Should a marine mammal be detected within or closing to inside 457 m (500 yd) of the sonar dome, active sonar transmissions will be limited to at least 10 dB below the equipment's normal operating level. Platforms will continue to limit maximum ping levels by this 10-dB factor until the animal has been seen to leave the area, has not been detected for 30 minutes, or the vessel has transited more than 914 m (1,000 yd) beyond the location of the last detection.

Should the marine mammal be detected within or closing to inside 183 m (200 yd) of the sonar dome, active sonar transmissions will cease. Sonar will not resume until the animal has been seen to leave the area, has not been

detected for 30 minutes, or the vessel has transited more than 914 m (1,000 yd) beyond the location of the last detection.

If the need for power-down should arise, Navy staff will follow the requirements as though they were operating at 235 dB, the normal operating level (i.e., the first power-down will be to 229 dB, regardless of the level above 235 dB the sonar was being operated).

### *Mitigation Measures for Detonations and Projectiles*

No detonations over 34 kg (75 lb) of NEW would be conducted in territorial waters. However, this does not apply to the line charge detonation, which is a 107 m (350 ft) detonation cord with explosives lined from one end to the other end in 2 kg (5 lb) increments and total 794 kg (1,750 lb) of NEW. This charge is considered one explosive source that has multiple increments that detonate at one time.

The number of live mine detonations would be minimized and the smallest amount of explosive material possible to achieve test objectives will be used.

Visual surveys and aerial surveys will be conducted for all test operations that involve detonation events with large NEW. Any protected species sighted would be avoided.

Line charge tests would not be conducted during the nighttime.

### **Information Solicited**

Interested persons may submit information, suggestions, and comments concerning the Navy's request (see **ADDRESSES**). All information, suggestions, and comments related to the Naval Surface Warfare Center Panama City Division's request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by the Navy's mission activities will be considered by NMFS in developing, if appropriate, the most effective regulations governing the issuance of letters of authorization.

Dated: April 8, 2008.

**James H. Lecky,**

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

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

**RIN 0648-XG77**

### **Taking of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Navy Training Operations Conducted within the Virginia Capes and Jacksonville Range Complexes**

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

**ACTION:** Notice; receipt of applications for letters of authorization; request for comments and information.

**SUMMARY:** NMFS has received requests from the U.S. Navy (Navy) for authorizations for the take of marine mammals incidental to training operations conducted within the Virginia Capes (VACAPES) Range Complex and the Jacksonville (JAX) Range Complex for the period beginning April 28, 2009 and ending April 27, 2014. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is announcing our receipt of the Navy's requests for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the Navy's applications and requests.

**DATES:** Comments and information must be received no later than May 14, 2008.

**ADDRESSES:** Comments on the applications should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. The mailbox address for providing email comments is *PR1.0648-XG77@noaa.gov*. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size. Copies of the Navy's applications may be obtained by writing to the address specified above (See **ADDRESSES**), telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

**FOR FURTHER INFORMATION CONTACT:** Shane Guan, Office of Protected

Resources, NMFS, (301) 713-2289, ext. 137.

#### 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 (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have no more than 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, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking 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.

With respect to military readiness activities, the MMPA defines "harassment" as:

(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

##### Summary of Request

On March 17, 2008, NMFS received applications from the Navy requesting authorization for the take of 13 species of cetacean incidental to the proposed training activities in VACAPES and 6 species in JAX Range Complexes, respectively, over the course of 5 years. These training activities are classified as military readiness activities. The Navy states that these training activities may cause various impacts to marine mammal species in the proposed VACAPES and JAX Range Complex areas. The Navy requests authorizations to take individuals of these cetacean species by Level B Harassment. Further, the Navy requests authorization to take 1 individual Atlantic spotted, 25

common, 1 pantropical spotted, and 9 striped dolphins per year by injury, and 1 individual common dolphin per year by mortality, as a result of the proposed training activities at VACAPES Range Complex. Please refer to Table 30 of the VACAPES Range Complex LOA application for detailed information of the potential exposures from explosive ordnance (per year) for marine mammals in the VACAPES Range Complex. Furthermore, the Navy requests authorization to take 2 individual Atlantic spotted dolphins per year by injury as a result of the proposed training activities at JAX Range Complex. Please refer to Table 27 of the JAX Range Complex LOA application for detailed information of the potential exposures from explosive ordnance (per year) for marine mammals in the JAX Range Complex.

##### Specified Activities

In the applications submitted to NMFS, the Navy requests authorizations for take of marine mammals incidental to conducting training operations within the VACAPES and JAX Range Complexes. These training activities consist of surface warfare, mine warfare, amphibious warfare, strike warfare, and vessel movement. The locations of these activities are described in Figures 1 of these applications. A description of each of these training activities within each of the range complexes is provided below:

##### Surface Warfare

Surface Warfare (SUW) supports defense of a geographical area (e.g., a zone or barrier) in cooperation with surface, subsurface, and air forces. SUW operations detect, localize, and track surface targets, primarily ships. Detected ships are monitored visually and with radar. Operations include identifying surface contacts, engaging with weapons, disengaging, evasion and avoiding attack, including implementation of radio silence and deceptive measures.

For the proposed VACAPES Range Complex training operations, SUW involving the use of explosive ordnance includes air-to-surface Missile Exercises and surface-to-surface Bombing Exercises that occur at sea. For the proposed JAX Range Complexes training operations, SUW involving the use of explosive ordnance includes air-to-surface Missile Exercises that occur at sea.

(1) Missile Exercise (Air-to-Surface) (MISSILEX (A-S)): This exercise would involve fixed winged aircraft crews and helicopter crews launch missiles at at-sea surface targets with the goal of

destroying or disabling the target. MISSILEX (A-S) training in both VACAPES and JAX Range Complexes can occur during the day or at night in locations described in Figures 1 of the LOA applications.

(2) Bombing Exercise (BOMBEX) (A-S): This exercise would involve strike fighter aircraft (F/A-18s) deliver explosive bombs against at-sea surface targets with the goal of destroying the target. BOMBEX (A-S) training in the VACAPES Study Area occurs only during daylight hours in the locations described in Figure 1 of the LOA application.

##### Mine Warfare/Mine Exercises

Mine Warfare (MIW) includes the strategic, operational, and tactical use of mines and mine countermeasure measures (MCM). MIW training events are also collectively referred to as Mine Exercises (MINEX). MIW training/MINEX utilizes shapes to simulate mines. These shapes are either concrete-filled shapes or metal shapes. No actual explosive mines are used during MIW training in the VACAPES and JAX Range Complexes study areas. MIW training or MINEX is divided into the following:

(1) Mine laying: Crews practice the laying of mine shapes in simulated enemy areas;

(2) Mine countermeasures: Crews practice "countering" simulated enemy mines to permit the maneuver of friendly vessels and troops. "Countering" refers to both the detection and identification of enemy mines, the marking and maneuver of vessels and troops around identified enemy mines and mine fields, and the disabling of enemy mines. A subset of mine countermeasures is mine neutralization. Mine neutralization refers to the disabling of enemy mines by causing them to self-detonate either by setting a small explosive charge in the vicinity of the enemy mine, or by using various types of equipment that emit a sound, pressure, or a magnetic field that causes the mine to trip and self-detonate. In all cases, actual explosive (live) mines would not be used during training events. Rather, mine shapes are used to simulate real enemy mines.

In the VACAPES and JAX Range Complexes study areas, MIW training/MINEX events include the use of explosive charges for two and one types of mine countermeasures and neutralization training, respectively. In the VACAPES Range Complex, this training would use the Airborne Mine Neutralization System (AMNS) and underwater detonations of mine shapes

by Explosive Ordnance Disposal (EOD) divers. In the JAX Range Complex, this training would only use underwater detonations of mine shapes by EOD divers. In both range complexes, MIW training/MINEX would occur only during daylight hours in the locations described in Figures 1 of the LOA applications.

#### *Amphibious Warfare*

Amphibious Warfare (AMW) involves the utilization of naval firepower and logistics in combination with U.S. Marine Corps landing forces to project military power ashore. AMW encompasses a broad spectrum of operations involving maneuver from the sea to objectives ashore, ranging from shore assaults, boat raids, ship-to-shore maneuver, shore bombardment and other naval fire support, and air strike and close air support training. In both range complexes, AMW that involve the use of explosive ordnance is limited to Firing Exercises (FIREX).

During an FIREX, surface ships use their main battery guns to fire from sea at land targets in support of military forces ashore. On the east coast, the land ranges where FIREX training can take place are limited. Therefore, land masses are simulated during east coast FIREX training using the Integrated Maritime Portable Acoustic Scoring and Simulation System (IMPASS) system, a system of buoys that simulate a land mass. FIREX training using IMPASS in the VACAPES and JAX Range Complex study areas occurs only during daylight hours in the locations described in Figures 1 of the LOA applications.

#### *Strike Warfare*

Strike Warfare (STW) operations are the applications of offensive military power at any chosen time and place to help carry out national goals. The systems required to conduct STW include: weapons, launch platforms, and command and control systems, intelligence, surveillance, reconnaissance, and targeting systems, and pilots or crews to operate the systems. STW would only occur in the VACAPES Range Complex study area. STW involves the use of explosive ordnance includes air-to-surface Missile Exercises (MISSILEX (A-S)).

Strike fighter and electronic attack aircraft use sensors to detect radar signals from a simulated threat radar site and either simulate or actually launch an explosive or non-explosive high-speed anti-radiation missile (HARM) with the goal of destroying or disabling the threat radar site. HARM training events are conducted in the daytime and at night in locations

described Figure 1 of the VACAPE LOA application.

#### *Vessel Movement*

Vessel movements are associated with most activities under the training operations in both VACAPES and JAX Range Complexes. Currently, the number of Navy vessels operating in the VACAPES and JAX Range Complex study areas varies based on training schedules and can range from 0 to about 10 vessels at any given time. Ship sizes range from 362 ft (110 m) for a SSN to 1,092 ft (333 m) for a CVN and speeds generally range from 10 to 14 knots. Operations involving vessel movements occur intermittently and are variable in duration, ranging from a few hours up to 2 weeks. These operations are widely dispersed throughout the operation areas, which is a vast area encompassing 27,661 nm<sup>2</sup> (an area approximately the size of Indiana) for the VACAPES Range Complex and 50,090 nm<sup>2</sup> for the JAX Range Complex. The Navy logs about 1,400 total vessel days within the VACAPES Range Complex and about 1,000 total vessel days within the JAX Range Complex during a typical year. Consequently, the density of ships within the

Study Area at any given time is extremely low (i.e., less than 0.0004 ships/nm<sup>2</sup> and 0.00005 ship/nm<sup>2</sup>, for VACAPES and JAX Range Complexes, respectively).

Table 1 in both applications provide descriptions of the locations of the VACAPES and JAX Range Complexes.

Tables 2 through 5 in both applications provide summaries of the proposed training operations involving explosions and the types and frequencies of explosives that would be used.

#### **Proposed Monitoring and Mitigation Measures**

The Navy is developing an Integrated Comprehensive Monitoring Program (ICMP) for marine species to assess the effects of training activities on marine species and investigate population trends in marine species distribution and abundance in various range complexes and geographic locations where Navy training occurs. The primary tools available for monitoring include visual observations, acoustic monitoring, photo identification and tagging, and oceanographic and environmental data collection.

A list of proposed mitigation measures and standard operating procedures are described in the applications for the proposed training operations. These mitigation measures include personnel training for

watchstanders and lookouts in marine mammal monitoring, operating procedures for collision avoidance, specific measures applicable to the mid-Atlantic during North Atlantic right whale migration, and a series of measures for specific at-sea training events including surface-to-surface gunnery, etc. A detailed description of the monitoring and mitigation measures are provided in the applications.

#### **Information Solicited**

Interested persons may submit information, suggestions, and comments concerning the Navy's request (see **ADDRESSES**). All information, suggestions, and comments related to the Navy's VACAPES and JAX Range Complexes request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by the Navy's training activities will be considered by NMFS in developing, if appropriate, the most effective regulations governing the issuance of letters of authorizations.

Dated: April 8, 2008.

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National Marine Fisheries Service.*

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

**RIN 0648-XH06**

#### **U.S. Climate Change Science Program Synthesis and Assessment Product Draft Report 1.3 "Re-analyses of Historical Climate Data for Key Atmospheric Features. Implications for Attribution of Causes of Observed Change"**

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Notice of availability and request for public comments.

**SUMMARY:** The National Oceanic and Atmospheric Administration publishes this notice to announce a 45-day public comment period for the draft report titled, U.S. Climate Change Science Program Synthesis and Assessment Product 1.3 "Re-analyses of historical climate data for key atmospheric features. Implications for attribution of causes of observed change."

This draft report is being released solely for the purpose of pre-dissemination peer review under