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NOAA seeks comment on regulations to protect marine mammals during Navy training and testing in waters off California and Hawaii

NOAA's Fisheries Service is seeking comments for a proposed rule requiring the United States Navy to implement protective measures during training and testing activities off the coasts of California and Hawaii and on the high seas of the Pacific Ocean to reduce the chances of harming marine mammals.

The Navy has requested an authorization under the Marine Mammal Protection Act, because the mid-frequency sound generated by active sonar, the sound and pressure generated by detonating explosives, and other associated activities may affect the behavior of some marine mammals, cause a temporary loss of their hearing sensitivity or other injury.

NOAA's Fisheries Service recently made a preliminary determination that these effects would have a negligible effect on the species or stocks involved. Based on that preliminary determination, it does not necessarily expect the exercises to result in serious injury or death to marine mammals, and proposes that the Navy use mitigation measures to avoid injury or death.

However, exposure to sonar in certain circumstances has been associated with the stranding of some marine mammals, and some injury or death may occur despite the best efforts of the Navy. Therefore, the proposed authorization allows for a small number of incidental mortalities to marine mammals from sonar, as well as vessel strikes and explosions.

Under the authorization, the Navy would have to follow mitigation measures to minimize effects on marine mammals, including:

- establishing marine mammal mitigation zones around each vessel using sonar;
- using Navy observers to shut down sonar operations if marine mammals are seen within designated mitigation zones;
- using mitigation zones to ensure that explosives are not detonated when animals are detected within a certain distance;
- implementing a stranding response plan that includes a training shutdown provision in certain circumstances, and allows for the Navy to contribute in-kind services to NOAA's Fisheries Service if the agency has to conduct a stranding response and investigation; and,
- designating a Humpback Whale Cautionary Area to protect high concentrations of humpback whales around Hawaii during winter months.

These measures should minimize the potential for injury or death and significantly reduce the number of marine mammals exposed to levels of sound likely to cause temporary loss of hearing. Additionally, the proposed rule includes an adaptive management component that requires that the Navy and NOAA's Fisheries Service meet yearly to discuss new science,

Navy research and development, and Navy monitoring results to determine if modifications to mitigation or monitoring measures are appropriate.

NOAA's Fisheries Service and the Navy have worked to develop a robust monitoring plan to use independent, experienced vessel-based marine mammal observers (as well as Navy observers), and passive acoustic monitoring to help better understand how marine mammals respond to various levels of sound and to assess the effectiveness of mitigation measures. Additionally, an Integrated Comprehensive Monitoring Plan being developed by the Navy (with input from NOAA's Fisheries Service) will better prioritize monitoring goals and standardize data collection methods across all U.S. range complexes.

The proposed rule is posted on our website:

<http://www.nmfs.noaa.gov/pr/permits/incidental.htm#hstt>

NOAA Fisheries will accept comments through March 11, 2013. Comments should be addressed to:

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

Electronic comments can be sent via the Federal eRulemaking Portal:
<http://www.regulations.gov>, using the identifier 0648-BC52.

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