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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC090

Takes of Marine Mammals Incidental to Specified Activities; U.S. Navy Training and Testing Activities in the Atlantic Fleet Training and Testing Study Area

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

ACTION: Notice; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for authorization to take marine mammals incidental to the training and testing activities conducted in the Atlantic Fleet Training and Testing (AFTT) study area from January 2014 through January 2019. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS announces our receipt of the Navy's request for the development and implementation of regulations governing the incidental taking of marine mammals and invites information, suggestions, and comments on the Navy's application and request.

DATES: Comments and information must be received no later than [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Permits and Conservation 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 ITP.Hopper@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.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.nmfs.noaa.gov/pr/permits/incidental.htm> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

An electronic copy of the Navy's application may be obtained by writing to the address specified above, telephoning the contact listed below (see FOR FURTHER INFORMATION CONTACT), or visiting the internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. The Navy's Draft Environmental Impact Statement (DEIS) for AFTT was made available to the public on May 11, 2012 (77 FR 27742). NMFS is a cooperating agency in the development of the Navy's DEIS for AFTT. The dates and times of the public meetings may be viewed at: <http://www.aftteis.com>. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Brian D. Hopper, Office of Protected Resources, NMFS, (301) 427-8401.

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 to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specific geographical region if certain findings are made and either

regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have 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 (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings 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 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 April 13, 2012, NMFS received an application from the Navy requesting two letters of authorization (LOAs) for the take of 40 species of marine mammals incidental to Navy training and testing activities to be conducted in the AFTT Study Area over 5 years. The Navy requests a 5-year LOA for training activities and a 5-year LOA for testing activities, each proposed to be conducted from 2014 through 2019. The Study Area includes the following range complexes: the Northeast Range Complexes (consisting of the Boston, Narragansett Bay,

and Atlantic City Ranges Complexes); the Naval Undersea Warfare Center Division, Newport Testing Range; the Virginia Capes Range Complex (VACAPES); the Navy Cherry Point Range Complex (CHPT); the Jacksonville Range Complex (JAX), the South Florida Ocean Measurement Facility Testing Range; the Undersea Warfare Training Range; the Key West Range Complex; the Naval Surface Warfare Center, Panama City Division Testing Range; and the Gulf of Mexico Range Complex (GOMEX) (see Figure 1-1 in the Navy's LOA application for a map of the AFTT Study Area). In addition, the Study Area includes Navy pierside locations and areas on the high seas where maintenance, training, or testing may occur. These activities are classified as military readiness activities. The Navy states that these activities may expose some of the marine mammals present within the Study Area to sound from active sonar, underwater detonations, and pile driving and removal. In addition, incidental takes of marine mammals may occur from ship strikes.

Description of the Specified Activity

In the application submitted to NMFS, the Navy requests authorization to take marine mammals incidental to conducting training and testing operations that involve the use of active acoustics and underwater detonations. These non-impulsive (sonar) and impulsive (explosives) sources would be used during the following training and testing activities: amphibious warfare; anti-surface warfare; anti-submarine warfare; mine warfare; naval special warfare; Naval Air Systems Command (NAVAIR) testing; Naval Sea Systems Command (NAVSEA) testing; Space and Naval Warfare Systems Command (SPAWAR) testing; and Office of Naval Research

(ONR) and Naval Research Laboratory (NRL) testing. Detailed descriptions of these activities are included in the LOA application.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the Navy's request (see ADDRESSES). All input related to the Navy's AFTT request and NMFS' role in governing the incidental taking of marine mammals will be considered by NMFS when developing, if appropriate, the most effective regulations governing the issuance of letters of authorization.

Dated: September 27, 2012.

Helen M. Golde,
Acting Director,
Office of Protected Resources,
National Marine Fisheries Service.

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