



**BILLING CODE: 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XF697**

**Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to U.S.**

**Navy Submarine Base New London Pier Construction**

**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, by harassment, of marine mammals incidental to conducting pier construction at the Navy Submarine Base New London in Groton, Connecticut, beginning October 2018 and ending March 2022. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is announcing our receipt of the Navy's request for regulations governing the incidental taking of marine mammals and inviting 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 Jolie Harrison, 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 *ITP.guan@noaa.gov*.

*Instructions:* 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. All comments received are a part of the public record and will generally be posted to [www.nmfs.noaa.gov/pr/permits/incidental/construction.htm](http://www.nmfs.noaa.gov/pr/permits/incidental/construction.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.

**FOR FURTHER INFORMATION CONTACT:** Shane Guan, Office of Protected Resources, NMFS, (301) 427-8401.

**SUPPLEMENTARY INFORMATION:**

**Availability**

An electronic copy of the Navy's application may be obtained online at:  
[www.nmfs.noaa.gov/pr/permits/incidental/construction.htm](http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm).

**Background**

Sections 101(a)(5)(A) and (D) of the Marine Mammal Protection Act of 1972, as amended (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 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 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.

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

The use of sound sources such as those described in the application (*e.g.*, pile driving) may result in the take of marine mammals through disruption of behavioral patterns or may cause auditory injury of marine mammals. Therefore, incidental take authorization under the MMPA is warranted.

### **Summary of Request**

On March 22, 2017, NMFS received an application from the Navy requesting authorization to take a small number of harbor and gray seals, by Level A and Level B harassment, incidental to noise exposure resulting from conducting pier construction activities at the Navy Submarine Base New London in Groton, Connecticut, from October 2018 to March 2022. On August 31, 2017, NMFS deemed the application adequate and complete.

### **Description of the Specified Activity**

The proposed Submarine Base New London pier construction includes construction of the new Pier 32 and the demolishing of the existing Pier 32 and Pier 10. Structural support piles

for Pier 32 would consist of approximately 120 concrete-filled steel pipe piles measuring 36 inches in diameter. The piles would be driven between 40 feet (ft) below the mudline near the shore and 150 ft below the mudline at the end of the pier. Fender piles would also be installed and would consist of approximately 194 fiberglass-reinforced plastic piles measuring 16 inches in diameter. Demolition of existing Pier 32 would include the removal by vibratory driver-extractor (hammer) of approximately 60 steel piles from the temporary work trestle, 120 concrete-encased steel H-piles, and 70 steel H-piles. Fifty-six wood piles would be pulled with a sling. Demolition of Pier 10 would include the removal by vibratory hammer of 24 concrete-encased, steel H-piles and 166 cast-in-place, reinforced concrete piles. Eight-four steel fender piles and 41 wood piles would be pulled with a sling. A total of 440 piles would be removed by vibratory hammer for both piers and the work trestle.

The in-water construction and demolition activities are anticipated to begin in October 2018 and take approximately 35 non-consecutive months to complete. However, the rule will cover a five-year period to encompass additional time should delays occur.

A suite of proposed mitigation and monitoring measures for marine mammals that could potentially be taken during in-water construction activities includes: (1) establishing and monitoring Level A and Level B zones with protected species observers (PSOs), (2) establishing a 10-m shutdown and implementing shutdown measures with an animal is detected to approach the shutdown zone, and (3) limiting pile driving and pile removal activities during daylight hours only.

### **Information Solicited**

Interested persons may submit information, suggestions, and comments concerning the Navy's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the Navy's request and NMFS' potential development and implementation

of regulations governing the incidental taking of marine mammals by the Navy's Submarine Base New London pier construction.

Dated: September 27, 2017.

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Donna S. Wieting,  
Director,  
Office of Protected Resources,  
National Marine Fisheries Service.

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