

**FINDING OF NO SIGNIFICANT IMPACT  
FOR THE ISSUANCE OF AN INCIDENTAL HARASSMENT AUTHORIZATION  
TO THE U.S. NAVY FOR THE TAKE OF MARINE MAMMALS INCIDENTAL TO WEST  
COAST CIVILIAN PORT DEFENSE ACTIVITIES AT THE PORTS OF LOS  
ANGELES/LONG BEACH, CALIFORNIA**

**NATIONAL MARINE FISHERIES SERVICE**

**BACKGROUND**

The National Marine Fisheries Service (NMFS), a division of the National Oceanic and Atmospheric Administration (NOAA), is proposing to issue an Incidental Harassment Authorization (IHA) to the U.S. Navy (Navy) pursuant to section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. §§ 1631 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 Code of Federal Regulations (CFR) Part 216). This IHA will be valid from October 25, 2015 through December 31, 2015 and authorizes takes, by Level B harassment, of marine mammals incidental to Navy Civilian Port Defense training activities.

NMFS' proposed action is a direct outcome of the Navy's IHA request which involves the use of high frequency active sonar during a subset of training for Navy Civilian Port Defense training that will be conducted within the Ports of Los Angeles and Long Beach, San Pedro Bay, California. This type of acoustic source has the potential to cause marine mammals in the vicinity of the proposed action area to be behaviorally disturbed, and therefore, qualifies for an authorization from NMFS. An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), and, where relevant, will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, the IHA sets forth, where applicable, the permissible methods of taking, other means of effecting the least practicable adverse impact on the species or stock and its habitat, and requirements pertaining to the monitoring and reporting of such takings.

The issuance of an IHA would allow for the taking of marine mammals, consistent with provisions under MMPA, and is considered a major federal action under the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*). Thus, we prepared this Finding of No Significant Impact (FONSI) to evaluate the significance of the impacts of our selected alternative—Alternative 1 (Preferred Alternative) and we are adopting the Navy's Environmental Assessment (EA) titled "2015 West Coast Civilian Port Defense". The preparation of this FONSI and adoption of the Navy's EA was completed in accordance with NEPA, the Council on Environmental Quality (CEQ) regulations in 40 CFR §§ 1500-1508, and NOAA Administrative Order (NAO) 216-6 "*Environmental Review Procedures for Implementing the National Environmental Policy Act*". Based on the Navy's EA and their IHA application, NMFS's proposed action and alternatives include:

- Alternative 1(Proposed Action/Preferred Alternative). NMFS issues an IHA authorizing take of marine mammals incidental to a subset of the Navy Civilian Port Defense training activities (i.e., those including the use of high-frequency active sonar and expected to result in marine mammal take) described in the EA preferred alternative (Alternative 1), with the mitigation, monitoring and reporting measures presented in the EA and in the proposed IHA.

- No Action Alternative. NMFS would not issue an IHA to the Navy for the take of marine mammals incidental to activities described in the Navy's preferred alternative. The effects of NMFS' No Action Alternative are substantially the same as those of the Navy's No Action Alternative. Under the No Action Alternative, the proposed Civilian Port Defense training would not occur.

## ANALYSIS

NAO 216-6 contains criteria for determining the significance of the impacts of a proposed action. In addition, the CEQ regulations at 40 CFR §1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity." Each criterion listed below this section is relevant to making a finding of no significant impact. We have considered each criterion individually, as well as in combination with the others. We analyzed the significance of this action based on the NAO 216-6 criteria and CEQ's context and intensity criteria. These include:

### **1) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in Fishery Management Plans?**

*Response:* We do not expect that our action of issuing an Authorization to the Navy would cause substantial damage to the ocean and coastal habitats and/or essential fish habitat (EFH). Sonar transmissions would result in no changes to the physical, biological, or chemical properties of the water and substrate. Additionally, sonar transmissions would not result in a potential loss of or injury to, benthic organisms, prey species, and their habitat. As outlined in the EA, no physiological effects on fish (e.g., loss of or injury to prey species) from acoustic transmissions are expected. Acoustics may create short term (days to weeks) impacts to habitat quality through increased sound. Increased levels of sound in the water resulting from high-frequency active sonar transmission may temporarily reduce the quality of water column EFH. However, these impacts would be limited in time and space and reversible, and would result in no long-term impacts to the environment.

As described in the EA, EFH for federally-managed Pacific coast groundfish, coastal pelagic species, and highly migratory species has been identified in the project area. Effects on EFH by the training activities and issuance of the Authorization assessed here would be temporary and minor. The main effect would be short-term disturbance that might lead to temporary and localized relocation of EFH species or their food. The mitigation and monitoring measures required by the Authorization would not affect habitat or EFH. Therefore, NMFS, Office of Protected Resources, Permits and Conservation Division has determined that the issuance of an Authorization for the taking of marine mammals incidental to the Civilian Port Defense training activities would not have an adverse impact on EFH, and an EFH consultation is not required.

### **2) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?**

*Response:* We do not expect that our action of issuing an Authorization to the Navy or the Navy's proposed Civilian Port Defense training activities would have a substantial impact on biodiversity and/or ecosystem function within the affected environment. The impacts of the proposed action on marine mammals are specifically related to the sounds produced by high-

frequency active sonar transmission. Any impacts are expected to be limited to behavioral reactions (e.g., avoidance), and auditory and communication disruption (e.g., temporary threshold shift [TTS], masking), and only during times when active sonar transmission is occurring. Although some marine mammals may forage opportunistically within the project area, and this behavior may be affected, no substantial predator-prey relationships would be substantially changed. Any impacts would be temporary and highly localized in nature and not result in substantial impacts to marine mammals or to their role in the ecosystem. The Authorization would authorize the Level B harassment of seven species of marine mammals. Neither serious injury nor mortality is anticipated or would be authorized.

**3) Can the proposed action reasonably be expected to have a substantial adverse impact on public health or safety?**

*Response:* We do not expect that our action of issuing an Authorization to the Navy or the Navy's proposed Civilian Port Defense training activities would have a substantial adverse impact on public health or safety, as the taking, by harassment, of marine mammals would pose no human risk.

**4) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?**

*Response:* We have determined that our issuance of an Authorization and the Navy's proposed Civilian Port Defense training activities would likely result in limited adverse effects to long-beaked common dolphins, short-beaked common dolphins, Risso's dolphins, Pacific white-sided dolphins, bottlenose dolphins, harbor seals, and California sea lions. The EA evaluates the affected environment and potential effects of the proposed actions, indicating that the proposed activities have the potential to affect marine mammals in a way that requires authorization under the MMPA.

We have determined that the proposed activities may result in some Level B harassment, in the form of short-term and localized changes in behavior and/or temporary displacement, of limited numbers of seven species of marine mammals, none of which are listed under the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*). There would be no effects to critical habitat, as none exists in the project area. Training activities would only take place over eight days during a two-week period.

To reduce the potential for disturbance from the activities, the Navy would implement several monitoring and mitigation measures for marine mammals, which are outlined in the EA. Taking these measures into consideration, we expect that the responses of marine mammals from the Navy's Preferred Alternative would be limited to temporary displacement from the area and/or short-term behavioral changes, falling within the MMPA definition of "Level B harassment." We do not anticipate that take by injury (Level A harassment), serious injury, or mortality would occur, nor would we authorize take by injury, serious injury, or mortality. We expect that harassment takes would be at the lowest level practicable due to the incorporation of the proposed mitigation measures.

**5) Are significant social or economic impacts interrelated with natural or physical environmental effects?**

**Response:** We expect that the primary impacts to the natural and physical environment would be temporary in nature (and not significant) and not interrelated with significant social or economic impacts. Our issuance of an Authorization for the Navy's proposed Civilian Port Defense training activities would not result in inequitable distributions of environmental burdens or access to environmental goods as the action is confined to Navy personnel.

We have determined that issuance of the Authorization would not adversely affect low-income or a minority population—as our action only affects marine mammals. Further, there would be no impact of the activity on the availability of the species or stocks of marine mammals for subsistence uses, as there are no such uses of marine mammals in the project area. Therefore, we expect that no significant social or economic effects would result from our issuance of an Authorization for the Navy's proposed Civilian Port Defense training activities.

**6) Are the effects on the quality of the human environment likely to be highly controversial?**

**Response:** The effects of our issuance of an Authorization for the take of marine mammals incidental to the proposed activities or the Navy's proposed Civilian Port Defense training activities are not highly controversial. NMFS has issued numerous Authorizations authorizing harassment of marine mammals from similar Navy training activities (e.g., high-frequency sonar) which has allowed NMFS to develop relatively standard mitigation and monitoring requirements for these activities and to assess the effects with data from comprehensive monitoring reports. Furthermore, we did not receive any comments raising substantial questions or concerns about the size, nature, or effect of potential impacts from our proposed action or the Navy's proposed Civilian Port Defense training activities. The Navy did not receive any comments during the public review period for the draft EA. There is no substantial dispute over effects to marine mammals.

**7) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas?**

**Response:** Issuance of the Authorization for the Navy's proposed Civilian Port Defense training activities is not expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas as it would only authorize harassment to marine mammals. The project area does not contain, and is not adjacent to, areas of notable visual, scenic, historic, or aesthetic resources that would be substantially impacted. Moreover, the issuance of the Authorization would not impact EFH. (See responses to questions 1 and 2.)

**8) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?**

**Response:** The effects of the Navy's proposed Civilian Port Defense training activities are primarily related to the input of sound, resulting from active sonar transmission, into the environment. Although our understanding of exactly how marine mammals in the project area will respond to high-frequency active sonar is still growing, active sonar transmission is a relatively well-studied action and research on the effects of active sonar is advancing. Wildlife and the environment in the vicinity of the Ports of Los Angeles and Long Beach are relatively well understood. The implementation of mitigation and monitoring measures included in NMFS' IHA would ensure that

no marine mammals are injured or killed, and that impacts to marine mammals are limited to, at most, temporary behavioral harassment. Monitoring of marine mammals that are behaviorally harassed, as well as numerous documented accounts of marine mammal behavior before, during, and after behavioral harassment, demonstrates that behavioral harassment of limited duration would not result in any permanent changes to the manner in which marine mammals utilize the vicinity of the Navy's project. While NMFS' judgments on impact thresholds are based on limited data, enough is known for NMFS and the regulated entity (here the Navy) to develop precautionary monitoring and mitigation measures to minimize the potential for significant impacts on biological resources. As such, the effects of NMFS' issuance of an IHA are not highly uncertain, and the action does not involve unique or unknown risks. Direct effects of NMFS' proposed action - the authorization of incidental take of marine mammals - are limited to marine mammals. Indirect effects of NMFS' proposed action on other aspects of the human environment are expected to be limited to less than significant impacts to prey species.

**9) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?**

*Response:* NMFS' issuance of an IHA is not related to other actions that may have cumulatively significant impacts. NMFS' action is expected to result in effects that would be insignificant and of a temporary nature, and was fully considered in the Navy's EA. The Navy considered cumulative impacts from its proposed action and other past, present, and reasonably foreseeable projects and found that they were not significant. Specifically, the Navy found that environmental impacts of their proposed action may result in only temporary changes to the noise environment of the project area and, as such, there is limited potential for such temporary impacts to affected resources to interact in cumulatively significant ways with impacts that may arise from other actions. NMFS has no other proposed or current actions in the project area. Any future Authorizations would have to undergo the same permitting process and would take the Navy's proposed training activities into consideration when addressing cumulative effects.

**10) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?**

*Response:* We have determined that the issuance of an Authorization to the Navy or the Navy's proposed Civilian Port Defense training activities would not adversely affect entities listed in or eligible for listing in the National Register of Historic Places or cause loss or destruction of significant scientific, cultural, or historical resources. The proposed action is limited to the authorization to harass marine mammals consistent with the MMPA definition of "Level B harassment."

**11) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?**

*Response:* The issuance of an Authorization to the Navy is not expected to result in the introduction or spread of a non-indigenous species into the human environment, as equipment that could cause such effects is not proposed for use. Moreover, the Authorization does not mandate marine transits outside of the local area or have any relation to bilge water or other potential causes of the introduction or spread of a non-indigenous species.

**12) Is the proposed action likely to establish a precedent for future actions with significant effects or does it represent a decision in principle about a future consideration?**

*Response:* Our proposed action of issuing an Authorization or the Navy's proposed Civilian Port Defense training activities would not set a precedent for future actions with significant effects or represent a decision in principle. Each MMPA authorization applied for under 101(a)(5)(D) must contain information identified in our implementing regulations. We consider each activity specified in an application separately and, if we issue an Authorization to an applicant, we must determine that the impacts from the specified activity would result in a negligible impact to the affected species or stocks and would not have an unmitigable adverse impact on the availability of marine mammals for subsistence uses. Our issuance of an Authorization may inform the environmental review for future projects, but would not establish a precedent or represent a decision in principle about a future consideration.

**13) Can the proposed action reasonably be expected to violate any Federal, State, or local law or requirements imposed for the protection of the environment?**

*Response:* The proposed action - NMFS' issuance of an Authorization - is conducted in conformance with the MMPA and other relevant laws. NMFS has made all appropriate determinations under other applicable statutes, and NMFS' action would not violate any laws or requirements. The Navy's proposed Civilian Port Defense training activities require issuance of multiple permits. The Navy is pursuing all required permits; each agency will review the Navy action as appropriate to ensure that no federal, state, or local laws or requirements will be violated.

**14) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?**

*Response:* The proposed action allows for the taking, by incidental harassment, of marine mammals during the Navy's proposed Civilian Port Defense training activities. We have determined that marine mammals may exhibit behavioral changes such as avoidance of or changes in movement within the project area. However, we do not expect the authorized harassment to result in significant cumulative adverse effects on the affected species or stocks. We do not expect that the issuance of an Authorization or the Navy's proposed Civilian Port Defense training activities would result in any significant cumulative adverse effects on target or non-target species incidentally taken by harassment due to human presence.

Cumulative effects refer to the impacts on the environment that result from a combination of past, existing, and reasonably foreseeable human activities and natural processes. Because of the relatively small area of potential disturbance and the temporary nature of the potential disturbance or displacement along with the corresponding mitigation measures, the action would not result in synergistic or cumulative adverse effects that could have a substantial effect on any species.

The proposed project does not target any marine species, and we do not expect it to result in any individual, long-term, or cumulative adverse effects on the species incidentally taken by harassment due to these activities. Training activities will only take place over eight days during a two-week period. The potential temporary behavioral disturbance of marine species might result in short-term behavioral effects for these marine species within the disturbed areas, but we expect no long-term

displacement of marine mammals as a result of the proposed action conducted under the requirements of the Authorization. Thus, we do not expect any cumulative adverse effects on any species as a result of our action.

**DETERMINATION**

In view of the information presented in this document and the analysis contained in the Navy's EA and documents that it references, we have determined that issuance of an IHA to the Navy in accordance with NMFS' Alternative 1 (Preferred Alternative) would not significantly impact the quality of the human environment. In addition, we have addressed all beneficial and adverse impacts of the action to reach the conclusion of no significant impacts. Accordingly, the preparation of an Environmental Impact Statement for this action is not necessary.

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Date