



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

FINDING OF NO SIGNIFICANT IMPACT

FOR THE PROPOSED ISSUANCE OF AN INCIDENTAL HARASSMENT AUTHORIZATION TO THE US AIR FORCE, EGLIN AIR FORCE BASE TO TAKE MARINE MAMMALS INCIDENTAL TO CONDUCTING MARITIME WEAPON SYSTEMS EVALUATION PROGRAM OPERATIONAL TESTING WITHIN THE EGLIN GULF TEST AND TRAINING RANGE

NATIONAL MARINE FISHERIES SERVICE

JANUARY 4, 2017

BACKGROUND

The National Oceanic Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS) is proposing to issue an Incidental Harassment Authorization (IHA) to the U.S. Air Force, Eglin Air Force Base (Eglin AFB) 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 February 4, 2017 through February 2, 2018 and authorizes takes, by Level A and Level B harassment, of marine mammals incidental to maritime weapons system evaluation program (WSEP) testing and training activities located within a segment of the Eglin Gulf Training and Testing Range (EGTTR) in the northern Gulf of Mexico, Florida.

NMFS proposed action is a direct outcome of the Air Force request which involves the use of multiple types of live munitions (e.g., gunnery rounds, rockets, missiles, and bombs). This type of in-water military readiness activity has the potential to cause marine mammals in the vicinity of the project area to be behaviorally disturbed and potentially slightly injured. Therefore, the activities qualify for authorization for incidental harassment from NMFS. NMFS IHA issuance criteria requires that the taking of marine mammals authorized 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 must set 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 Eglin AFB Final Environmental Assessment “*Maritime Weapons System Evaluation Program*”, dated December, 2014. The preparation of this



FONSI and adoption of the U.S. Air Force Final EA was completed in accordance with NEPA and the Council on Environmental Quality (CEQ) regulations in 40 CFR §§ 1500-1508.

Based on the Eglin AFB Final EA and their application, NMFS's proposed action and alternatives include:

- A No-Action Alternative, in which no live munition would be used and NMFS would not issue an IHA, and
- The Preferred Alternative, in which Eglin AFB would use live munition (including sub-surface detonations) and NMFS would issue an IHA

ANALYSIS

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 (FMP)?

Response: No. Essential Fish Habitat (EFH) and Areas of Particular Concern for a number of invertebrate and fish species managed under Fishery Management Plans occur within the project area. The Eglin AFB has determined in its Final EA that WSEP mission activities within the EGTTTR would not have significant adverse effects to these resources. Explosions would not occur on the seafloor and, therefore, ordnance expenditures would not result in impacts to the substrate. Underwater detonations using the larger Net Explosive Weight (NEW) bombs (945 lbs) would not result in substantial sediment displacement to the seafloor. If minor displacement occurs, water currents would redistribute sediments so that habitat alteration would be short term.

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: No. Because of the small zones of impact and the short duration of the WSEP missions, NMFS believes that there will not be a substantial impact on marine life biodiversity or on the normal function of the nearshore or offshore Gulf of Mexico ecosystem.

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

Response: No. NMFS does not expect this action to have a significant impact on public health or safety. Mitigation measures incorporated by Eglin AFB will ensure that no recreational boaters or commercial shippers are within a radius of at least 9.5 nautical miles of the detonation site. The extensive monitoring that is required for detecting the presence of marine mammals in the proposed action area would alert Eglin AFB to the presence of humans in the action area as well.

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: No. No critical habitat is present within the action area, so none will be affected. The proposed action will not jeopardize the continued existence of any species listed under the Endangered Species Act (ESA). ESA-listed species that may be affected include loggerhead, green, hawksbill, Kemp's ridley, and leatherback sea turtles. However, NMFS Programmatic Biological Opinion (issued January, 2017) for EGTRR activities supports the determination that effects to ESA-listed species are not expected to be significant.

The ESA-listed West Indian manatee is under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS). However, the USFWS did not issue a Biological Opinion, as the West Indian Manatee is not expected to be present in WSEP activity area. Therefore, the species will not be affected by the issuance of an IHA to conduct these activities.

Common bottlenose and Atlantic spotted dolphins may be present in the action area. However, with mitigation and monitoring measures implemented for the proposed action, NMFS has determined that the proposed action is unlikely to result in the mortality or serious injury of marine mammals and would result in a temporary modification of behavior by marine mammals, at worst. Some non-target fish and invertebrate species may be killed or injured by the WSEP activities. However, since the proposed impact area is small, NMFS has determined the adverse effects to fish and invertebrate species would not be significant.

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

Response: No. The primary impacts to the natural and physical environment are expected to be acoustic and temporary in nature, and not interrelated with significant social or economic impacts. Additionally, this action will not have significant social or economic impacts, as the action is confined to military personnel and would be conducted in a limited geographic area. Therefore, the Eglin AFB activity will not significantly displace other resource users.

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

Response: No. The effects of the proposed activity on the quality of the human environment are not expected to be highly controversial. NMFS published a Notice in the **Federal Register** on November 21, 2016 (81 FR 83209) allowing the public to review the Eglin AFB application and NMFS proposal to issue the IHA (including preliminary determinations) and submit comment for up to 30 days from the date of the notice. The public review and comment period ended on December 21, 2016 and only two comments were received. One comment was from a private citizen and one comment was from the Marine Mammal Commission (MMC). The comment from the private citizen expressed concern for endangered species and suggested the activity take place in the Gulf of Mexico to avoid potentially impacting marine life. The activities are proposed for the Gulf of Mexico and there are no significant effects anticipated to ESA-listed species. The MMC comments recommended some additional mitigation and monitoring measures and recommended a change to the way NMFS calculates take (recommends rounding take numbers daily, then adding instead of rounding at the end). NMFS disagrees with the recommendation to change the way take numbers are calculated because it is more

mathematically accurate to round numbers at the end versus rounding at each step. NMFS has coordinated with Eglin AFB on the additional monitoring and mitigation measures recommended by the MMC. At present, there is no funding available for Eglin AFB to implement the additional monitoring and mitigation measures. However, Eglin AFB has requested additional funding and will consider adding these to future activities if funding becomes available.

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: No. The proposed action will not affect terrestrial ecosystems or nearshore and estuarine habitats. The location of the EGTTR is in the northern Gulf of Mexico. Mission areas would be located on continental shelf waters. No significant adverse impacts to EFH are anticipated as a result of implementing the proposed action or any of the alternatives. Items and materials expended into the EGTTR would not result in any adverse impacts to the chemical or biological environments that would reduce the quality and/or quantity of EFH. The proposed activities would occasionally introduce small quantities of chemical compounds into the marine waters of the northern Gulf of Mexico, but these would rapidly disperse and would be too small to adversely impact any of the EFH of the Gulf waters.

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

Response: No. The effects of underwater and surface explosions and the resultant sounds on marine mammals and other marine species are not fully known. However, enough is known for NMFS and Eglin AFB to make judgements on impact thresholds and develop precautionary measures to minimize the potential for significant impacts on biological resources. The mitigation measures and monitoring requirements required of Eglin AFB are designed to ensure the least practicable impact on the affected species or stocks of marine mammals and also to gather additional data. These measures are not likely to result in increased risk to affected marine mammal stocks. For military readiness activities (as described in the National Defense Authorization Act), a determination of least practicable adverse impact on a species or stock includes consideration, in consultation with the Department of Defense, of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity. The protected species surveys and clearance of the action area prior to missions along with sea state restrictions will help reduce highly uncertain and unique or unknown risks to human life while still effecting the least practicable adverse impact on the affected species or stocks in the proposed action area.

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

Response: No. NMFS believes that the proposed action area is not related to other actions with individually insignificant, but cumulatively significant impacts. There are other military activities in the northern Gulf of Mexico that result in detonations that may result in the harassment, injury, or mortality of marine mammals. However, these activities, which have been described in other EAs (Eglin AFB completed an EA for all activities in the EGTTR in

October, 2015), are separated both geographically and temporally and are infrequent in occurrence as well as short-term in nature. In addition, all currently use mitigation and monitoring procedures to ensure that no marine mammals or ESA-listed species are killed or seriously injured, and measures are taken to minimize impacts to the lowest level practicable.

The action area is not known for heavy commercial ship or recreational boat traffic, but some marine mammal research and geophysical seismic survey cruises operate with the Gulf of Mexico. In addition, some oil and gas exploration, development and production occur in the Gulf of Mexico which may contribute to some localized effects due to removal of offshore structures. Lastly, findings from a number of studies trying to understand the impacts of the Deepwater Horizon oil spill on dolphins in the Gulf of Mexico are presenting a picture of chronic poor health, failed pregnancies, and increased mortality of coastal bottlenose dolphins. No deaths or detectable injuries of marine species have been observed during past WSEP missions authorized in the EGTTR, and the WSEP activities are all subject to implementing mitigation and monitoring measures to reduce impacts to marine life to the greatest extent practicable.

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: No. The proposed action within the EGTTR would not take place in any areas listed or eligible for listing in the National Register of Historic Places (NRHP) and would not cause loss or destruction of any significant cultural or historic resources.

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

Response: No. The proposed action would not remove nor introduce any species out of or into the environment. Therefore, it would not result in the introduction or spread of 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: No. This action will not set a precedent for future actions with significant effects or represent a decision in principle about a future consideration. To ensure compliance with statutory and regulatory standards, NMFS' actions under section 101(a)(5)(D) of the MMPA must be considered individually and be based on the best available science, which is continuously evolving. Moreover, each action for which an incidental take authorization is sought must be considered in light of specific circumstances surrounding the action, and mitigation and monitoring may vary depending on those circumstances. Lastly, this would be the third IHA issued to Eglin AFB to conduct WSEP activities in the EGTTR. For these reasons, NMFS does not believe that issuance of an IHA to Eglin AFB to conduct military training operations within the EGTTR is precedent-setting.

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

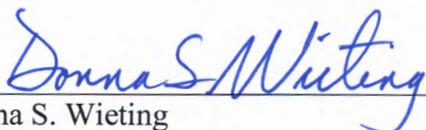
Response: No. NMFS does not expect this action to violate any Federal, State, or local laws or requirements imposed for the protection of the environment. Through the MMPA process, NMFS may only issue an Authorization for harassment from an activity that is otherwise lawful. In addition, NMFS and Eglin AFB are responsible for complying with Section 7 of the ESA. NMFS completed a Programmatic Biological Opinion for activities in the EGTTTR in January, 2017. No ESA-listed marine mammals are known to occur within the proposed WSEP action area. Therefore, there is no requirement for NMFS to consult under Section 7 of the ESA on the issuance of an IHA under section 101(a)(5)(D) of the MMPA. The proposed action itself would result in issuance of an IHA in compliance with all standards required in the MMPA.

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: No. The proposed action is not reasonably expected to result in cumulative adverse effects that could have a significant effect on target or non-target species. The proposed action will not target any species, but may affect bottlenose and Atlantic spotted dolphins (non-target species) by allowing Eglin AFB to harass individuals of this population. The proposed action may result in the following adverse impacts, as described in the proposed IHA FR Notice (81 FR 83209): Level A harassment (Slight Lung Injury and Permanent Threshold Shift [PTS]) and Level B harassment (Temporary Threshold Shift [TTS]). Animals may also avoid the area during activities, alter behavior at the time of exposure, experience masking, and/or change vocalization characteristics as a result of the WSEP activities. All impacts are expected to have a negligible impact on the affected species. Eglin AFB would implement a series of mitigation and monitoring measures to avoid serious injury and mortality to marine mammals as a result of the WSEP activities proposed within the EGTTTR. As discussed in Question/Response 9 above, Eglin AFB has identified that their proposed action is not related to other actions with individually insignificant, but cumulatively significant impacts. Although NMFS has issued IHAs to Eglin AFB for WSEP activities and provided Eglin AFB with other authorizations for other military readiness activities within the EGTTTR, NMFS does not anticipate that the proposed action (issuance of an IHA) will result in cumulative adverse effects that could have a significant impact on marine mammals.

DETERMINATION

In view of the information presented in this document and the analysis contained in the U.S. Air Force EA and documents that it references, we have determined that issuance of IHA to Eglin AFB in accordance with the 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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National Marine Fisheries Service

JAN 19 2017

Date