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

INCIDENTAL HARASSMENT AUTHORIZATION

The U.S. Navy (Navy) is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1371(a)(5)(D)), to harass marine mammals incidental to the South Quay Wall Recapitalization Project at Naval Station Mayport, Florida.

1. This Incidental Harassment Authorization (IHA) is valid from February 15, 2020 through February 14, 2021.

2. This IHA is valid only for pile driving activities associated with the South Quay Wall Recapitalization Project at Naval Station Mayport, Florida.

3. General Conditions

   (a) A copy of this IHA must be in the possession of the Navy, its designees, and work crew personnel operating under the authority of this IHA.

   (b) The taking, by Level B harassment only, is limited to 70 bottlenose dolphins (*Tursiops truncatus*).

   (c) The taking by injury (Level A harassment), serious injury, or death of the species listed in condition 3(b) of the Authorization or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

   (d) The Navy must conduct briefings between construction supervisors and crews, marine mammal monitoring team, and Navy staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

4. Mitigation Measures

   The holder of this Authorization is required to implement the following mitigation measures:

   (a) For all pile driving, the Navy must implement a minimum shutdown zone of 15 meters (m) around the pile being driven and 10 m from heavy in-water construction equipment. If a marine mammal comes within or approaches the shutdown zones, such operations must cease.

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(b) The Navy must establish monitoring locations as described below and as described in the South Quay Wall Recapitalization Project Marine Mammal Monitoring Plan, dated April 8, 2019.

(i) For all pile driving activities, a minimum of two observers must be deployed, with one positioned to achieve optimal monitoring of the 15-m shutdown zone and the second positioned to achieve optimal monitoring of the monitoring zones (2,512 m for vibratory pile driving, 1,000 m for impact driving). If practicable, the second observer should be deployed to an elevated position and with clear sight lines into the turning basin.

(ii) These observers, equipped with binoculars and means of communicating with the appropriate construction personnel, must record all observations of marine mammals, regardless of distance from the pile being driven, as well as behavior and potential behavioral reactions of the animals. Observations within the turning basin must be distinguished from those in the entrance channel and nearshore waters of the Atlantic Ocean.

(iii) All observers must be equipped for communication of marine mammal observations amongst themselves and to other relevant personnel (*e.g.*, those necessary to effect activity delay or shutdown).

(c) Monitoring must take place from thirty minutes prior to initiation of pile driving activity through thirty minutes post-completion of pile driving activity. Pre-activity monitoring must be conducted for thirty minutes to ensure that the shutdown zone is clear of marine mammals, and pile driving may commence when observers have declared the shutdown zone clear of marine mammals. In the event of a delay or shutdown of activity resulting from marine mammals in the shutdown zone, animals must be allowed to remain in the shutdown zone (*i.e.*, must leave of their own volition) and their behavior must be monitored and documented. Monitoring must occur throughout the time required to drive a pile. The shutdown zone must be determined to be clear during periods of good visibility (*i.e.*, the entire shutdown zone and surrounding waters must be visible to the naked eye);

(d) If a marine mammal approaches or enters the shutdown zone, all pile driving activities at that location must be halted. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal.

(e) If a species for which authorization has not been granted or for which authorization has been granted but for which the authorized take numbers identified in condition 3(c) of this IHA are exceeded, construction activity must cease and the Navy must contact the Office of Protected Resources, NMFS.

(f) Monitoring must be conducted by qualified observers, as described in the Monitoring Plan. Trained observers must be placed from the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator. Observer training must be provided prior to project start and in accordance with the Monitoring Plan, and must include instruction on species identification (sufficient to distinguish the species listed in 3(b)), description and categorization of observed behaviors and interpretation of behaviors that may be construed as being reactions to the specified activity, proper completion of data forms, and other basic components of biological monitoring, including tracking of observed animals or groups of animals such that repeat sound exposures may be attributed to individuals (to the extent possible).

(g) The Navy must use soft start techniques for impact pile driving. Soft start requires contractors to provide an initial set of strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets. Soft start must be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer.

(h) Pile driving must only be conducted during daylight hours.

5. Monitoring

The holder of this Authorization is required to conduct marine mammal monitoring during pile driving activity. Marine mammal monitoring must be conducted in accordance with the Marine Mammal Monitoring Plan dated April 8, 2019.

(a) The Navy must collect sighting data and behavioral responses to pile driving for marine mammal species observed in the region of activity during the period of activity. All observers must be trained in marine mammal identification and behaviors, and must have no other construction-related tasks while conducting monitoring.

(b) For all marine mammal monitoring, the information must be recorded as described in the Marine Mammal Monitoring Plan and 6(a) of this IHA.

6. Reporting

The holder of this Authorization is required to:

(a) Submit a draft report on all monitoring conducted under the IHA within ninety days of the completion of marine mammal monitoring, or sixty days prior to the issuance of any subsequent IHA for projects at NSM, whichever comes first. A final report must be prepared and submitted within thirty days following resolution of comments on the draft report from NMFS. This report must contain the informational elements described in the Monitoring Plan, at minimum (attached), and must also include: Dates and times (begin and end) of all marine mammal monitoring.

i. Construction activities occurring during each daily observation period, including how many and what type of piles were driven and by what method (*i.e.*, impact or vibratory).

ii. Weather parameters and water conditions during each monitoring period (*e.g.,* wind speed, percent cover, visibility, sea state).

iii. The number of marine mammals observed, by species, relative to the pile location and if pile driving was occurring at time of sighting.

iv. Age and sex class, if possible, of all marine mammals observed.

v. PSO locations during marine mammal monitoring.

vi. Distances and bearings of each marine mammal observed to the pile being driven or removed for each sighting (if pile driving or removal was occurring at time of sighting).

vii. Description of any marine mammal behavior patterns during observation, including direction of travel.

viii. Number of individuals of each species (differentiated by month as appropriate) detected within the monitoring zone, and estimates of number of marine mammals taken, by species (a correction factor may be applied to total take numbers, as appropriate).

ix. Detailed information about any implementation of any mitigation triggered (e.g., shutdowns and delays), a description of specific actions that ensued, and resulting behavior of the animal, if any.

x. Description of attempts to distinguish between the number of individual animals taken and the number of incidences of take, such as ability to track groups or individuals.

(b) Reporting injured or dead marine mammals:

(i) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality, Navy must immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS (301-427-8401) and the Southeast Fisheries Science Center Stranding Coordinator, NMFS (877-433-8299). The report must include the following information:

1. Time and date of the incident;

2. Description of the incident;

3. Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, and visibility);

4. Description of all marine mammal observations in the 24 hours preceding the incident;

5. Species identification or description of the animal(s) involved;

6. Fate of the animal(s); and

7. Photographs or video footage of the animal(s).

Activities must not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with Navy to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Navy may not resume their activities until notified by NMFS.

(ii) In the event that Navy discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition), Navy must immediately report the incident to the Office of Protected Resources, NMFS, and the Southeast Fisheries Science Center Stranding Coordinator, NMFS.

The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Navy to determine whether additional mitigation measures or modifications to the activities are appropriate.

(iii) In the event that Navy discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), Navy must report the incident to the Office of Protected Resources, NMFS, and the Southeast Fisheries Science Center Stranding Coordinator, NMFS, within 24 hours of the discovery. Navy must provide photographs or video footage or other documentation of the stranded animal sighting to NMFS. The Navy can continue its operations under such a case.

7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

8. Renewals - On a case-by-case basis, NMFS may issue a one-year IHA renewal with an additional 15 days for public comments when (1) another year of identical or nearly identical activities as described in the Specified Activities section of this notice is planned or (2) the activities as described in the Specified Activities section of this notice would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section of this notice, provided all of the following conditions are met:

(a) A request for renewal is received no later than 60 days prior to expiration of the current IHA.

(b) The request for renewal must include:

i. An explanation that the activities to be conducted under the requested Renewal are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (e.g., reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take because only a subset of the initially analyzed activities remain to be completed under the Renewal).

ii. A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

(c) Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

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

JUL 26 2019
Date