

Navy's Modeled Marine Mammal Take Estimates Conflict with Real World Observations

The U.S. National Marine Fisheries Service has proposed Marine Mammal Protection Act rules authorizing Takes of Marine Mammals Incidental to the U.S. Navy's Training and Testing Activities in the Atlantic Fleet Training and Testing Study Area.

Numerous individual citizens have already filed comments on these proposed rules. Most of these comments criticize and oppose these proposed rules, in large part because they authorize a number of marine mammal takes that the commenters believe to be excessive. See, *e.g.*, comments on www.Regulations.gov with the Document ID Numbers NOAA-NMFS-2013-0029-0020; NOAA-NMFS-2013-0029-0005; NOAA-NMFS-2013-0029-0018; and NOAA-NMFS-2013-0029-0003.

CRE respects these individuals' right to comment, and we commend them for exercising that right. However, they may be misguided.

The estimated takes in the proposed rules are based on Navy computer modeling that is inconsistent with real world observations. See page 7106 of NMFS' Federal Register notice at <http://www.gpo.gov/fdsys/pkg/FR-2013-01-31/pdf/2013-01817.pdf> .

At page 7115 of its Federal Register notice of the proposed rules, NMMFS explains, "The Navy has submitted reports from more than 60 major exercises conducted in the HRC and SOCAL, and off the Atlantic Coast, that indicate no behavioral disturbance was observed." <http://www.gpo.gov/fdsys/pkg/FR-2013-01-31/pdf/2013-01817.pdf> .

At pages 148-150, the Navy's application for the proposed rules states that "no observable behavioral disturbance, injury, or mortality was noted" during Navy operations over the last few years. http://www.nmfs.noaa.gov/pr/pdfs/permits/aftt_navy_loa_application2012.pdf .

This absence of any observed harm comes after extensive Navy monitoring to determine whether Navy operations similar to the ones covered by NMFS' proposed rules harmed marine mammals and other protected species. The real world answer is **NO**.

Neither the Navy model nor any other model should be used to estimate takes until and unless it has been properly validated, which includes a reasonable correlation with real world empirical observations.

Please see CRE's website *The Regulation of Seismic Exploration in the United States*, at <http://www.thecre.com/forum13/>, for more information regarding regulation of offshore noise producing activities.