

Washington state officials slam Navy's changes to military testing program that would harm more orcas

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A Navy military testing program that appeared headed to routine approval has hit a wall of opposition from Washington's governor,

attorney general and state agencies because of potential harm to endangered orcas in Washington waters.

The program is being assessed by the National Oceanic and Atmospheric Administration, which has determined impacts from the Navy's proposed testing to be 'negligible' and is drafting a final rule for implementation of the program.

The Navy is working with its regulators to make changes in the program—though what those may be is far from clear.

Planned military exercises range from testing torpedoes to firing projectiles from a gun into the sea at seven times the speed of sound, to piloting mine-detecting undersea drones, deploying underwater sonar and exploding up to 1,000 pound bombs at sea. The seven-year program would begin in November, and would be carried on across a vast area from northern California to Alaska, including Puget Sound and the outer coast of Washington.

No southern resident orcas are proposed to be allowed to be killed under the program. But thousands of other marine mammals would be subjected to so-called Level A harassment, which covers a wide range of disturbance and harm up to and including death.

Southern residents would be affected by Level B disturbance, which could interfere with their hunting, feeding, socializing and breeding. The Navy increased its estimate in a revised filing last December of the number of times [southern residents](#) would be subjected to level B disturbance by the program, from two times a year to 51 times a year.

All sorts of marine mammals in Washington, from seals to humpbacks, [gray whales](#) and more would also be affected nearly 2 million times to Level B disturbance during the life of the program, according to Navy

estimates.

The governor and agencies want NOAA to take back its assessment of negligible impact, and to incorporate new limits on the program intended to significantly reduce likely harm to orcas and other marine mammals.

Approving the testing program as written would be "gross neglect" of NOAA's management duties, state agency directors said in a joint letter sent July 16 to NOAA from the Washington Department of Fish and Wildlife, the Department of Natural Resources, The Puget Sound Partnership, State Office of Recreation and Conservation, Governor's Office of Salmon Recovery, and Commissioner of Public Lands Hilary Franz.

In his own letter sent July 17, Gov. Jay Inslee stated the Navy needs a "more robust avoidance and mitigation strategy" for the testing program to protect marine mammals, and in particular southern residents to "dramatically reduce the number of incidental takes."

A 'take' is a harm to an animal that occurs in the course of activities approved by federal officials charged under the Marine Mammal Protection Act and the Endangered Species Act with protecting marine mammals and threatened wildlife.

Kate Goggin, spokesperson for NOAA, said in an email that the Navy's program is largely a continuation of activities under rules adopted in 2015—with addition of some new training and testing activities.

Mitigation and monitoring by the Navy is "expected to reduce adverse impacts to marine mammals," Goggin added. The agency will be considering the comments received during the now concluded public comment period, including from state officials, as it writes the final rule, she said.

The Navy is having "active discussions" with the regulators to determine if anything can be done to reduce further potential effects to southern residents, said Julianne Stanford, environmental public affairs specialist for the Navy Region Northwest.

"The Navy is keenly aware of the challenges faced by the southern resident killer whales resulting from a multitude of human activities, and focuses considerable effort on avoiding or minimizing potential effects on the species in planning for its at-sea activities throughout the region," Stanford said in an email.

During at-sea activities, the Navy employs a variety of measures to reduce potential effects on all marine species, Stanford said.

Those include posting lookouts to watch for marine mammals, using acoustic detection devices to listen for their presence, powering down or shutting down sonar if marine mammals are seen and being careful when traveling to avoid ship strikes, she said.

That's not good enough, Inslee and the state agencies stated.

The Navy's proposed exclusion zone around southern residents for naval operations is smaller than what state law requires even for whale watching.

The governor wants a bigger exclusion zone around the whales, as well as seasonal limits on use of sonar in prime orca feeding areas, and better methods in place to detect when orcas are present.

The governor already expressed concern over the program in its earlier versions considered during an environmental review last year, including the possibility of vessel strikes and exposure of marine mammals to sonar.

Southern resident orcas are struggling for survival. Lack of adequate salmon, disturbance by boats and vessel noise and pollution are the three main threats scientists have identified to orca survival.

In addition to the issues Inslee raised, state agency directors stated the underwater equipment the Navy intends to use in anti-submarine exercises is much louder and more potentially damaging over a longer range than acceptable, and needs closer consideration of its effects.

The cumulative damage of military exercises also is inadequately considered, the agency directors said.

The program is estimated to inflict disturbance and varying levels of low-level harm on 68% of the southern resident population, according to Navy estimates. The cumulative effects on so many whales for so many years could cause the whales to abandon their home waters and key foraging areas, and even permanently damage the orcas' hearing, agency directors said.

The Navy's proposal to use lookouts to detect the presence of whales also is inadequate, agency directors stated, because orcas and other marine mammals are so rarely at the surface. Instead, the officials said, the Navy should rely on real-time alert systems to detect the presence of whales, such as those used by Washington State Ferries.

Even that is far from perfect, as the collision of a state ferry with a humpback whale showed earlier this month.

Attorney General Bob Ferguson blasted the testing program in his own letter to NOAA last week. While some of the program is a continuation of past activities, undersea warfare and sonar testing didn't get the hard look it should have from NOAA, Ferguson said, who contended the agency's finding of negligible impact was arbitrary and capricious and

violates the Administrative Procedure Act.

The agency also didn't adequately consider the effects of noise from Growler overflights, Ferguson said, which the Navy recently authorized under a separate action to increase by 33%.

Some orca scientists said they were appalled at the military testing program, particularly given how small and fragile the southern resident population already is, at only 72 animals, the lowest population in 40 years.

Deborah Giles, science director and research director for the nonprofit Wild Orca, said it makes no sense to her that the harassment committed by the Navy with sonar and underwater explosives is rated the same as the takes she is permitted scooping poop while quietly drifting far from the whales, for analysis under research she conducts for the UW Center for Conservation Biology.

"The potential for harm is too great to wager on such a small population of animals," Giles said. "The thing that is just crazy is NOAA has designated these one of the most critically endangered animals, and for them to say these activities have negligible impact, something is not right and the public needs to know that."

A post about the testing [program](#) on the nonprofit's website has drawn outrage, she said.

Ken Balcomb, the director of the Center for Whale Research who tracks southern resident births and deaths for NOAA, said the Navy has not adequately addressed the level of proposed disturbance.

"The whole thing is just shaky and make believe that they have any idea how much damage they are going to do," Balcomb said.

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