



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910

FINDING OF NO SIGNIFICANT IMPACT

I. Purpose of Finding of No Significant Impact (FONSI): The National Environmental Policy Act (NEPA) requires the preparation of an Environmental Impact Statement (EIS) for any proposal for a major federal action significantly affecting the quality of the human environment. 42 U.S.C. § 4332(C). The Council on Environmental Quality (CEQ) Regulations direct agencies to prepare a Finding of No Significant Impact (FONSI) when an action not otherwise excluded will not have a significant impact on the human environment. 40 CFR §§ 1500.4(b), 1500.5(b), & 1501.6. To evaluate whether a significant impact on the human environment is likely, the CEQ regulations direct agencies to analyze the potentially affected environment and the degree of the effects of the proposed action. 40 CFR § 1501.3(b). In doing so, agencies should consider the geographic extent of the affected area (i.e., national, regional or local), the resources located in the affected area (40 CFR § 1501.3(b)(1)), and whether the project is considered minor or small-scale (NAO 216-6A CM, Appendix A-2). In considering the degree of effect on these resources, agencies should examine, as appropriate, short- and long-term effects, beneficial and adverse effects, and effects on public health and safety, as well as effects that would violate laws for the protection of the environment (40 CFR § 1501.3(b)(2)(i)-(iv); NAO 216-6A CM Appendix A-2 - A-3), and the magnitude of the effect (e.g., negligible, minor, moderate, major). CEQ identifies specific criteria for consideration. 40 CFR § 1501.3(b)(2)(i)-(iv). Each criterion is discussed below with respect to the proposed action and considered individually as well as in combination with the others.

In preparing this FONSI, we reviewed the Environmental Assessment for the Issuance of an Amendment to Scientific Research Permit No. 22156-04 for Cetacean Research which evaluates the affected area, the scale and geographic extent of the proposed action, and the degree of effects on those resources (including the duration of impact, and whether the impacts were adverse and/or beneficial and their magnitude). The EA is hereby incorporated by reference. 40 CFR § 1501.6(b).

II. Approach to Analysis:

The proposed action is not considered to meaningfully contribute to a significant impact based on the scale of impact, because the action is temporary and research on marine mammals is small in terms of environmental impacts and no economic impacts are anticipated.

The proposed action will not meaningfully contribute to significant impacts to specific resources. The proposed permit amendment for research on short-finned pilot whales and bottlenose dolphins may result in short-term, minor, direct adverse impacts to a small number of target animals. The permit is designed to minimize impacts to animals and while furthering research goals that aid marine mammal conservation.

The proposed amendment is not connected to other actions that have caused or may cause effects to resources in the affected area, and there is then no potential for the effects of the proposed action to add to the effects of other projects such that the effects taken together could be significant.



III. Geographic Extent and Scale of the Proposed Action:

The EA describes the extent of the area currently permitted for research, which includes U.S. and international waters from Maine to Florida as well as international waters offshore of the Caribbean and Canada in the Northwest Atlantic Ocean. The geographic extent of the proposed amendment is expected to occur mainly in a small offshore area as a pilot study and thus the environmental effects analyzed in the EA occur at a relatively small scale.

IV. Degree of Effect:

A. The potential for the proposed action to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection.

The proposed action would be consistent with provisions of the Marine Mammal Protection Act (MMPA), Endangered Species Act (ESA), and applicable regulations. In addition, as discussed in the EA, the applicant has secured the necessary approval from his Institutional Animal Care and Use Committee in compliance with the Animal Welfare Act.

Conduct of the research may require the applicant to secure additional federal, state or local permissions, e.g., access to state parks. The National Marine Fisheries Service (NMFS) did not identify any components of the research that would preclude obtaining such permissions. In addition, by signing the permit, the Permit Holder agrees that the permit does not relieve them of the responsibility to obtain any other permits, or comply with any other federal, state, local, or international laws or regulations.

B. The degree to which the proposed action is expected to affect public health or safety.

The proposed action will not have a significant impact on public health or safety. Conduct of the permitted research is not expected to affect things typically associated with impacts on public health and safety such as traffic and transportation patterns; noise levels audible to humans; risks of exposure to hazardous materials and wastes; risks of contracting disease; risks of damages from natural disasters; or food safety.

C. The degree to which the proposed action is expected to affect a sensitive biological resource, including:

a. Federal threatened or endangered species and critical habitat;

The proposed action would not adversely affect any critical habitat. While the current permit authorizes directed take of endangered marine mammal species for research, the proposed amendment would only target two non ESA-listed marine mammal species.

b. Stocks of marine mammals as defined in the Marine Mammal Protection Act;

Conduct of the research authorized by the permit amendment would result in short-term, direct, minor adverse effects on a specified number of two non ESA-listed cetaceans targeted by the research and non-target conspecific animals in the immediate vicinity of the research. Given the mitigation measures required by the permit, these adverse effects are expected to result only in transitory and recoverable changes in behavior and physiological parameters of the affected animals, and are not expected to result in measurable effects on populations, stocks, or species.

c. Essential fish habitat identified under the Magnuson–Stevens Fishery Conservation and Management Act;

Issuance of the permit amendment as described in Chapter 1 of the EA is not expected to result in impacts to ocean and coastal habitats or essential fish habitat (EFH). Conduct of the research authorized by the amended permit is not likely to result in permanent or large-scale damage to components of ocean and coastal habitat in the action area. Neither the researchers nor their equipment will come into contact with physical substrate or structures; this research will be conducted in deep, offshore waters where contact with substrate and structures is not expected.

Conduct of the research authorized by the permit is not likely to affect EFH because it does not involve, nor will it result in, activities that have been shown to affect EFH including disturbance or destruction of habitat from stationary fishing gear, dredging and filling, agricultural and urban runoff, direct discharge, or the introduction of exotic species.

d. Bird species protected under the Migratory Bird Treaty Act;

Protected bird species are an identified resource in Chapter 1 of the EA with no potential for impacts and thus were eliminated from further review.

e. National marine sanctuaries or monuments;

The full area of the permit overlaps with some National Marine Sanctuaries but impacts to these elements are not anticipated from paintball marking and the pilot study in the CHSRA would not occur within a Sanctuary. Further, National Marine Sanctuaries and Monuments have regulations governing activities within their boundaries. The proposed action does not supersede those regulations.

f. Vulnerable marine or coastal ecosystems, including, but not limited to, shallow or deep coral ecosystems;

The proposed action is not expected to affect vulnerable marine, coastal or coral ecosystems. The proposed action does not involve activities that could disturb substrate. See item C.c. above.

g. Biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)

The proposed action would not affect benthic productivity because the action would not disturb substrate as discussed above in items C.c and C.f.

The proposed action is not expected to affect biodiversity or ecosystem function. The research authorized by the amended permit is not likely to alter foraging patterns, dietary preferences, or relative distribution or abundance of species groups within the area. The research activities will not affect nutrient flux, primary productivity, or other factors related to ecosystem function in the area. Therefore, this study will not have habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations.

Conduct of the research is not expected to affect unique or ecologically critical areas. The research does not involve contact with or activities that may directly or indirectly impact physical structures or features of the environment.

D. The degree to which the proposed action is reasonably expected to affect a cultural resource: properties listed or eligible for listing on the National Register of Historic Places; archeological resources (including underwater resources); and resources important to traditional cultural and religious tribal practice.

The proposed action will not adversely affect the above mentioned places and resources, because none are present in the action area and the effects of the research are limited to the target marine mammal species within the action area.

E. The degree to which the proposed action has the potential to have a disproportionately high and adverse effect on the health or the environment of minority or low-income communities, compared to the impacts on other communities (EO 12898).

The proposed action is not expected to disproportionately affect minority or low-income communities. The proposed action would only affect marine mammals. It does not involve fisheries or other human activities, nor is it expected to have an effect on other human activities. Conduct of the permitted research will result in insignificant effects on the natural and physical environment, but there are no significant social or economic impacts interrelated with these effects. The research does not involve and is not associated with factors typically related to effects on the social and economic environment such as inequitable distributions of environmental burdens or differential access to natural or depletable resources in the action area.

F. The degree to which the proposed action is likely to result in effects that contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species.

The proposed action is not reasonably expected to result in the spread, continued existence, or introduction of noxious weeds or non-indigenous species. The research does not involve capturing animals in the wild, or transporting animals among locations. The research does not involve movement of vessels, or researchers and their equipment, among water bodies. There are no routes by which non-indigenous organisms can be transmitted or introduced by the research.

G. The potential for the proposed action to cause an effect to any other physical or biological resources where the impact is considered substantial in magnitude (e.g., irreversible loss of coastal resource such as marshland or seagrass) or over which there is substantial uncertainty or scientific disagreement.

The proposed action is not expected to have a substantial effect to any biological or physical resource, nor is there substantial uncertainty or scientific disagreement on the impacts of the proposed action. The application and draft EA were made available for public review and comment. No public comments were received. There is no known controversy regarding the project's size, nature, or effect, nor were questions raised with respect to the significance of any environmental impacts identified in the draft EA. The effects of the proposed amendment to paintball mark two species of cetaceans are not highly uncertain and the research does not involve unique or unknown risks. The proposed research does not involve techniques for which the risks to and effects on the biological and physical environment cannot reasonably be

predicted based on monitoring reports from previously permitted research involving similar methods and published literature on the effects of human activities on marine mammals and other wildlife. Further, the permit will contain requirements designed to mitigate impacts to marine mammals and closely monitor the efficacy and observed effects of the proposed research.

V. Other Actions Including Connected Actions:

The proposed action is not expected to result in cumulatively significant impacts when considered in relation to other separate actions with individually insignificant effects. The Cumulative Effects section of EA evaluated other human activities, including other permitted scientific research, which may impact the target marine mammal species. As discussed in the EA, these permits require that researchers coordinate their activities to avoid repeated take of the same animals within the course of the same day. The proposed action is not connected to other actions such that the combined effects could be significant. The proposed study area is offshore where other permit holders are not conducting dedicated studies on these species. We do not expect that the proposed action will result in any significant cumulative adverse effects on target or non-target species as a result of the proposed research methods. If this method is successful and adopted by the larger researcher community it has the potential to benefit cetaceans that are the subject of research. Because of the temporary nature of the proposed activities, along with the corresponding mitigation measures, the proposed action would not result in synergistic or cumulative effects that could have a substantial effect on any species.

VI. Mitigation and Monitoring:

Mitigation and monitoring measures that would be required for the proposed action are outlined in Chapter 2 of the EA. These measures include stopping activities if animals exhibit certain reactions, limiting activities on sensitive life stages or animals in poor health, limiting the number of attempts to conduct certain procedures, requiring aseptic practices, and requiring monitoring of animals after the encounter or research activity. Although these measures are not intended to avoid significant impacts to the species as a whole, they are designed to minimize impacts to target animals and to closely monitor those effects pursuant to Section 104 of the MMPA and its implementing regulations. These measures would be included in addition to other standard reporting requirements included in all scientific research permits for marine mammals. These reports are reviewed during the course of the research to ensure that the actual impacts of the research activities are consistent with those analyzed in this EA.

DETERMINATION

The CEQ NEPA regulations, 40 CFR § 1501.6, direct an agency to prepare a FONSI when the agency, based on the EA for the proposed action, determines not to prepare an EIS because the action will not have significant effects. In view of the information presented in this document and the analysis contained in the supporting EA prepared for issuance of a research permit amendment allowing paintball marking for two non ESA-listed cetacean species, it is hereby determined that the issuance of the amendment to Permit No. 22156-04 will not significantly impact the quality of the human environment. The Environmental Assessment for the Issuance of an Amendment to Scientific Research Permit No. 22156-04 for Cetacean Research is hereby incorporated by reference. In addition, all beneficial and adverse impacts of the proposed action as well as

mitigation measures have been evaluated to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.

Kimberly Damon-Randall
Office Director
Office of Protected Resources
National Marine Fisheries Service

Date