

**DATES:** DoD will consider all comments received by March 24, 2008.

**ADDRESSES:** You may submit comments, identified by OMB Control Number 0704-0341, using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* [dfars@osd.mil](mailto:dfars@osd.mil). Include OMB Control Number 0704-0341 in the subject line of the message.

- *Fax:* 703-602-7887.

- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Felisha Hitt, OUSD(AT&L)DPAP(DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062.

- *Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Felisha Hitt, 703-602-0310. The information collection requirements addressed in this notice are available on the World Wide Web at: <http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>. Paper copies are available from Ms. Felisha Hitt, OUSD(AT&L)DPAP(DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062.

**SUPPLEMENTARY INFORMATION:**

*Title and OMB Number:* Defense Federal Acquisition Regulation Supplement (DFARS) Part 239, Acquisition of Information Technology, and the associated clauses at DFARS 252.239-7000 and 252.239-7006; OMB Control Number 0704-0341.

*Needs and Uses:* This requirement provides for the collection of information from contractors regarding security of information technology; tariffs pertaining to telecommunications services; and proposals from common carriers to perform special construction under contracts for telecommunications services. Contracting officers and other DoD personnel use the information to ensure that information systems are protected; to participate in the establishment of tariffs for telecommunications services; and to establish reasonable prices for special construction by common carriers.

*Affected Public:* Businesses or other for-profit and not-for-profit institutions.

*Annual Burden Hours:* 1,622.

*Number of Respondents:* 521.

*Responses Per Respondent:* Approximately 4.

*Annual Responses:* 1,959.

*Average Burden Per Response:*

Approximately 1 hour.

*Frequency:* On occasion.

**Summary of Information Collection**

The clause at DFARS 252.239-7000, Protection Against Compromising Emanations, requires that the contractor provide, upon request of the contracting officer, documentation that information technology used or provided under the contract meets appropriate information assurance requirements.

The clause at DFARS 252.239-7006, Tariff Information, requires that the contractor provide to the contracting officer: (1) Upon request, a copy of the contractor's existing tariffs; (2) before filing any application to a Federal, State, or other regulatory agency for new rates, charges, services, or regulations relating to any tariff or any of the facilities or services to be furnished solely or primarily to the Government, and, upon request, a copy of all information, material, and data developed or prepared in support of or in connection with such an application; and (3) a notification to the contracting officer of any application filed by anyone other than the contractor that may affect the rate or conditions of services under the agreement or contract.

DFARS 239.7408-1 requires the contracting officer to obtain a detailed special construction proposal from a common carrier that submits a proposal or quotation with special construction requirements related to the performance of basic telecommunications services.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

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**BILLING CODE 5001-08-P**

**DEPARTMENT OF DEFENSE**

**Department of the Navy**

**Decision Memorandum Accepting Alternative Arrangements for the U.S. Navy's Southern California Operating Area Composite Training Unit Exercises (COMPTUEXs) and Joint Task Force Exercises (JTFEXs) Scheduled To Occur Between Today and January 2009**

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice of Decision Memorandum.

**SUMMARY:** The Department of the Navy announces its decision to accept alternative arrangements approved by the Council on Environmental Quality (CEQ) pursuant to 40 CFR 1506.11 for

implementing the procedural provisions of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, for the Navy's Southern California (SOCAL) Operating Area Composite Training Unit Exercises (COMPTUEXs) and Joint Task Force Exercises (JTFEXs) scheduled to occur between today and January 2009.

**SUPPLEMENTARY INFORMATION:** The text of the entire Decision Memorandum is provided as follows:

On January 10, 2008, the Department of the Navy (Navy) sought Council on Environmental Quality (CEQ) approval of alternative arrangements pursuant to 40 CFR 1506.11 for implementing the procedural provisions of the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* (NEPA), for MFA sonar training during the remaining five COMPTUEXs and four JTFEXs scheduled to occur between today and January 23, 2009, in the Southern California (SOCAL) Operating Area. On January 11, 2008, the Navy reaffirmed its request. On January 15 CEQ concluded consultation and approved alternative arrangements pursuant to 40 CFR 1506.11 for implementing the procedural provisions of (NEPA). This memorandum documents the Navy's decision to accept the alternative arrangements.

**Background**

*Framework*

*NEPA:* NEPA requires Navy to undertake an assessment of the environmental effects of its proposed actions prior to making decisions. The CEQ Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act provide for situations when emergency circumstances make it necessary to make decisions and take action with significant environmental impact without observing the provisions of the CEQ Regulations (40 CFR § 1506.11). Specifically, the agency should consult with CEQ about alternative arrangements for actions necessary to control the immediate impacts of the emergency.

*Title 10:* The Fleet Response Training Plan (FRTP) is one of the processes used to ensure the Chief of Naval Operation's (CNO) obligation under Section 5062 of Title 10 of the U.S. Code, which requires organization, training and equipping of all naval forces for combat. The FRTP is an arduous training cycle that ensures Navy forces achieve the highest possible readiness levels prior to deployment. As part of the FRTP, the Navy conducts COMPTUEXs and JTFEXs to achieve required Navy

capabilities and missions in support of combatant commander and Navy requirements. Both JTFEX and COMPTUEX exercises are included in the integrated phase of training for U.S. and some allied forces, which requires a synthesis of unit and staff actions into a coordinated Strike Group necessary for surge and readiness certification.

The Vital Importance of Training with Mid-Frequency Active (MFA) Sonar during These Major Exercises: Anti-submarine warfare (ASW) is the Pacific Fleet's #1 war-fighting priority and critical to our national defense. Today's modern, quiet diesel-electric submarines employ state-of-the-art sound silencing technologies and sound isolation technologies. Additionally, they operate advanced propulsion systems that include high endurance battery systems and air-independent propulsion systems. These advances, combined with special hull treatments that significantly dampen submarine noise and reduce vulnerability to active sonar prosecution, make them highly potent adversaries. Diesel-electric submarines so equipped can covertly operate in coastal and open ocean areas, blocking Navy access to combat zones and increasing United States vessels' vulnerability to torpedo and anti-ship missile attacks. Detecting, identifying, locating, tracking, and if necessary, neutralizing a diesel-electric submarine is vitally important to the Navy's ability to conduct operations, accomplish its missions and ultimately prevail in conflict.

Submarines are operated by numerous navies, including potential adversaries in the Asia-Pacific and Middle East areas. Navy Strike Groups are continuously deployed to these high-threat areas. These missions require being able to access and operate in waters near shore, control strategic maritime transit routes and international straits, and protect sea lines of communications supporting international commerce. In preparing for these missions, the thousands of individuals in a Pacific Fleet Strike Group must train in the use of MFA sonar in a coordinated manner in a realistic environment prior to deployment. MFA sonar is defined as an active sonar system that operates within the 1 kHz to 10 kHz frequency range. MFA sonar capability allows the Strike Group to defend itself against quiet diesel-electric submarines that may come within range or attack any of the ships in the Strike Group. Training in the use of MFA sonar in the COMTUEX and JTFEX exercises is a vital component of certification and employment of these assets in support

of national security interests around the globe. The five COMPTUEXs and four JTFEXs scheduled to occur between today and January 23, 2009, in the Southern California (SOCAL) Operating Area are the only opportunities for these Strike Groups to achieve their required combat training.

The SOCAL Operating Area is uniquely suited to conducting the Navy COMPTUEX and JTFEX because it contains all of the land, air, and at-sea bases necessary for conducting the exercises, and the shallow coastal areas in SOCAL realistically simulate areas where the Navy is likely to encounter hostile submarines. The SOCAL Operating Area includes Warning Area 291 (W-291), and the Southern California Antisubmarine Warfare Range (SOAR) that is an instrumented underwater range which allows the Navy to monitor and evaluate the success of the Strike Group training. The use of MFA sonar will be within W-291 and SOAR.

*Environmental Effects:* The habitat and species in the SOCAL operating area have been monitored and studied over the last 40 years, and the Navy has extensively used MFA sonar in the area over the same period. Over that period, the intensity (i.e., the dB level of the sonar source) of the Navy's MFA sonar systems has remained the same. Since 1992, the Navy's use of MFA sonar in terms of the number of training hours has declined. It is emphasized that there have been no documented incidents of harm, injury, or death to marine mammals resulting from exposure to MFA sonar in the SOCAL Operating Area. There have also been no stranding incidents or population-level effects attributable to MFA sonar in the SOCAL Operating Area. No systematic declines in the stocks of marine mammals have occurred and the stocks of many species, such as humpback whales, blue whales, harbor seals, and common dolphins, are stable or improving. The Eastern North Pacific gray whale stock increased and the species was delisted, but is currently experiencing habitat changes due to sea ice melting patterns, and undersized gray whales have been reported in the media lately. Strandings of small cetaceans and California sea lions are common, usually attributed to fishery interaction, disease, or harmful algal blooms. There have also been several individual beaked whale strandings, usually attributed to disease or fishery interaction. In several of these individual strandings, the cause is unknown, but there has been no apparent link to sonar.

The Navy is evaluating the environmental impact of MFA sonar

training exercises through its development of the SOCAL Range Complex environmental impact statement (SOCAL EIS). The Navy began the SOCAL EIS process in late 2006 and published its notice of intent on December 21, 2006. That EIS will meet the procedural requirements of NEPA for all training, including MFA sonar training in SOCAL. To comply with NEPA procedural requirements, while developing the EIS, the Navy prepared an environmental assessment of the SOCAL training proposed for the time period prior to completion of the EIS. In addition, the Navy issued a consistency determination per the procedural requirements of the Coastal Zone Management Act (CZMA), 16 U.S.C. 1451 *et seq.*

In January 2007, the Deputy Secretary of Defense issued a National Defense Exemption (NDE) under the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1371(f)). The NDE provides for protection of marine mammals, in the absence of an MMPA Letter of Authorization, by including 29 specific conditions to minimize potential impacts on marine mammals. These 29 mitigation measures were developed in coordination with the National Marine Fisheries Service (NMFS), the agency with substantive responsibility for marine mammals. The NDE provides the Navy the ability to execute the plan coordinated with the Department of Commerce to obtain a Letter of Authorization under the usual procedural requirements of the MMPA. The plan requires the Navy to come into compliance with the MMPA as part of the SOCAL EIS process which will be completed when the NDE expires on January 23, 2009. The potential effects of MFA sonar training on threatened and endangered marine mammals were further analyzed in consultation with NMFS under section 7 of the Endangered Species Act (ESA), 16 U.S.C. 1531 *et seq.* In February of 2007, the Navy concluded consultation with NMFS, which issued a Biological Opinion on February 9, 2007. NMFS issued a Biological Opinion that includes an incidental take statement that exempts the Navy from the prohibitions in section 9 of the ESA through January 2009. The Biological Opinion found that the Navy's actions were not likely to result in jeopardy to any listed species nor adversely modify any designated critical habitat, and includes an incidental take statement that exempts the Navy from the prohibitions in section 9 of the Endangered Species Act through January 2009.

For the planned exercises, the Navy conducted acoustic propagation modeling and effects analysis and determined that there would be no permanent physical effects on marine mammals from MFA sonar exposure. The NMFS further reviewed the environmental effects and found any potential behavioral or physiological effects would be temporary effects to individual marine mammals.

In January 2008, NMFS further reviewed the environmental effects of Navy training exercises in SOCAL on marine mammals in and adjacent to SOCAL, determining that while there is some potential for injury, the mitigation measures employed as a result of the NDE and the reporting and monitoring measures outlined in the Biological Opinion will minimize that risk to marine mammals in and adjacent to the exercise area. The review concluded that NMFS does not expect the COMPTUEX and JTFEX exercises through January 23, 2009 to result in adverse population level effects for any of the marine mammal populations.

**Nature and Scope of the Emergency:** The use of MFA sonar is complex and requires constant training to achieve and maintain combat proficiency and effectiveness. MFA sonar is the Navy's best means of detecting potentially hostile diesel-electric submarines. The primary Strike Group targets of hostile submarines are the Navy's aircraft carriers, which typically carries over 5,300 personnel and the Amphibious Assault Ship carry the Marine Expeditionary Unit. Thus, the inability to train effectively with MFA sonar literally puts the lives of thousands of Americans at risk. If a Strike Group does not gain proficiency in MFA sonar, and cannot be certified as combat ready, the national security implications would be enormous. This harm compounds quickly if additional Strike Groups cannot be certified.

On August 7, 2007, the U.S. District Court for the Central District of California in *Natural Resources Defense Council v. Winter* (CV 07-335) issued an order enjoining all MFA sonar use during the Navy's remaining SOCAL Operating Area COMPTUEXs and JTFEXs scheduled to occur through January 2009. This order was stayed by an emergency panel of the Ninth Circuit Court of Appeals on August 31, 2007, pending full hearing of the Navy's appeal of the injunction. On November 13, 2007, a different panel of the Ninth Circuit ruled on the appeal, finding that the District Court had abused its discretion, leaving the stay in place long enough for the Navy to complete an ongoing exercise, and then reinstating

the August 7 injunction until the District Court issued a new, tailored injunction "under which the Navy may conduct its training exercises." The panel set a deadline of January 4, 2008, for the District Court to issue the tailored injunction.

On January 3, 2008, the District Court issued a new preliminary injunction that bars any training with MFA sonar within 12 nautical miles of the California coastline or anywhere in the Santa Catalina basin, except that Navy can use MFA sonar in the San Clemente Island Range Complex if the location is at least 5 nautical miles from the western shore of San Clemente Island. The new injunction also imposed a 2,200 yard (2,000 meter) sonar shutdown zone for ships, sonobuoys, and helicopters; 6 decibel (dB) power down when surface ducting conditions are detected regardless of the presence of marine mammals; 60 minutes of monitoring each day before use of MFA sonar; two dedicated (no other duties) NOAA- and NMFS-trained lookouts during MFA sonar use; use of passive acoustic monitoring to the maximum extent practicable; and aerial monitoring 60 minutes before and during MFA sonar exercises. The aerial monitoring included at least one dedicated aircraft. Helicopters must monitor for marine mammals for 10 minutes before use of dipping sonar. Finally, Navy must continue to comply with all 29 mitigation measures required by the NDE under the MMPA issued on January 23, 2007, unless superseded by one or more of the restrictions imposed by the court.

On January 10, 2008, the District Court modified the new injunction to "correct clerical errors and omissions." The court ordered that (1) the 2,200 yard shutdown zone does not apply to dolphins or porpoises that are "bow riding"; (2) dedicated monitoring aircraft are no longer required during the entire exercise (Navy aircraft engaged in the exercise are now sufficient); and (3) the requirement to reduce power by 6 dB when surface ducting conditions are present only apply when "significant" surface ducting conditions are present. These changes left the 2,200 yard shutdown requirement in place.

Accounting for the court's recent changes to the new injunction made on January 10, 2008, the order's training restrictions, in particular the unaltered 2,200 yard shut down requirement and 6 dB power down when significant surface ducting conditions are present, create a significant and unreasonable risk that Strike Groups will not be able to train effectively and certify as fully

mission capable. The COMPTUEXs and JTFEXs scheduled to occur in the SOCAL operating area this month through January 2009 enable critical training. Effective MFA sonar training is necessary to certify Strike Groups for deployment in support of world-wide operational and combat activities.

While the Navy continues to prepare the SOCAL EIS that will analyze potential effects to marine mammals from exposure to MFA sonar, including use during COMPTUEXs and JTFEXs, it cannot delay this critical training and subsequent certification. The inability to conduct effective MFA sonar training and certify Strike Groups constitutes an emergency with significant consequences to the national security of the United States. Therefore, based upon the court's preliminary determination as to the need for the Navy to prepare an EIS that analyzes MFA sonar exposure effects during these exercises, per the provisions of 40 CFR 1506.11, the Navy initiated consultation with CEQ and requested alternative arrangements.

The Navy's request that CEQ provide for alternative arrangements for NEPA compliance was limited to the Navy's proposed use of MFA sonar during Commander THIRD Fleet's nine (9) training exercises, 4 COMPTUEXs and 5 JTFEXs, in the SOCAL Operating Area. The Navy affirmed that any alternative arrangements would remain in effect during the preparation and completion of the SOCAL EIS or until January 23, 2009, whichever is earlier. Applying these alternative arrangements to any other area or exercise would not be appropriate absent an analysis tailored to such other area and exercise.

#### **Alternative Arrangements**

The Navy accepts the alternative arrangements prescribed by CEQ for the remaining MFA sonar training exercises in the SOCAL Operating Area between today and January 23, 2009.

**Mitigation Measures:** The Navy will adhere to 29 mitigation measures developed in cooperation with NMFS. These mitigation measures were developed and included as an integral part of the NDE under the MMPA invoked by the Deputy Secretary of Defense under Title 16, Section 1371(f) of the U.S. Code on January 23, 2007. That exemption applies to all Department of Defense (DoD) military readiness activities employing MFA sonar during major exercises or within established DoD maritime ranges or established operating areas through January 23, 2009.

The Navy's proposed use of MFA sonar during the Commander THIRD

Fleet's proposed nine training exercises (four COMPTUEXs and five JTFEXs), in the SOCAL Operating Area is based on the current knowledge of the SOCAL Operating Area and the 29 NDE mitigation measures, some of which are more fully described below:

The Navy will continue to ensure that watchstanders and lookouts will include at a minimum: (1) Three non-dedicated watchstanders on all surface ships required to look out for marine mammals during all exercises; and (2) two lookouts on all surface ships required to look out for marine mammals during all exercises. Furthermore, all sightings of marine mammals by all watchstanders and all lookouts will be reported directly to the Combat Information Center (CIC) or via the appropriate watch stations for submission to the CIC, and the CIC will disseminate the sighting information to all platforms in the area with a recommendation for appropriate action (e.g., power down sonar; surface or subsurface vessels to avoid area or increase distance from mammals; aerial platforms to increase vigilance). Similarly, all aerial platforms will monitor the area for marine mammals during their assigned missions and report marine mammal presence and confirmed sightings to Aircraft Control Unit for submission to the CIC, and the CIC will disseminate the sighting information to all platforms in the area to ensure they are aware of the presence of marine mammals and can take steps to increase vigilance or execute mitigation measures applicable to these exercises (e.g., power down sonar; surface or subsurface vessels to avoid area or increase distance from mammals; aerial platforms to increase vigilance).

The Navy will continue to submit after action reports (AARs) to NMFS 120 days after the conclusion of any COMPTUEX or JTFEX that contain: (1) An assessment of the mitigation and monitoring measures and how to improve them; and (2) the results of marine mammal monitoring, including all instances where marine mammals were observed and the levels of MFA sonar to which they were exposed, based on the NDE sonar mitigation measures and the requirements of the Biological Opinion dated February 9, 2007.

Use of MFA sonar in the SOCAL Operating Area for COMPTUEX and JTFEX training will occur in W-291 and SOAR. The training exercises in SOAR will occur at least 5 nautical miles away from the western shoreline of San Clemente Island. Aside from San Clemente Island, there are no other

islands located within W-291 or SOAR. The Channel Islands National Marine Sanctuary is located entirely outside of W-291 and SOAR.

The Navy will use meters rather than yards to describe the safety zone set forth in NDE mitigation measure 20, and the safety zone used in the SOCAL Operating Area will be 1000 meters. The Navy will power down 6dB if a marine mammal is detected within the safety zone. The Navy will power down an additional 4 dB at 500 meters and will shut off sonar transmissions at 200 meters. The remaining features of the safety zone described in NDE measure 20 will remain the same.

**Public Participation:** The Navy will ensure active public participation during the development of the SOCAL EIS and all other range EISs underway and scheduled for completion in 2008 that analyze MFA sonar effects. For the SOCAL EIS, the Navy will release the draft EIS (DEIS) for public review in early April 2008 with a public comment period of 45 days that will span the month of April and extend to mid-May. In addition to publication of the Notice of Availability by the Environmental Protection Agency (EPA) in the **Federal Register**, the Navy will publish a Notice of Availability in three local California newspapers: San Diego Union Tribune, North County Times (San Diego County), and The Press-Telegram (Long Beach).

The Navy will mail a postcard to all those who attended scoping meetings and those who submitted comments or requested copies of the DEIS. The postcard will announce availability of the DEIS and provide information on how and where to obtain copies. Three public hearings will be held in or near the following California communities: Coronado, Oceanside, and Long Beach. The locations of the meetings will be publicly announced in the **Federal Register**, the California newspapers San Diego Union Tribune, North County Times (San Diego County), and The Press-Telegram (Long Beach) and posted on the Web site <http://www.socalrangecomplexeis.com> at least 15 days beforehand.

Copies of the DEIS will also be available at four libraries in Southern California—the San Diego Central Library, the Coronado Public Library, the San Clemente Library, and the San Pedro Regional Branch Library—and at <http://www.socalrangecomplexeis.com>. The DEIS will be accompanied by fact sheets (presently under development) that will address the proposed action (including the use of MFA sonar during these exercises), marine mammals in the Range Complex, and major events

(including these major exercises). These fact sheets will track with facts made available during the public scoping process. The DEIS will be distributed to federal, state, and local elected and tribal officials and government and tribal agencies, non-governmental organizations (NGOs), and citizens, many of whom participated in the scoping process. NGOs on the distribution list include those known to have an interest in the ocean, ocean resources, or use of sonar and its effects on marine animals, including recreationists, sport and commercial fishing groups, environmental interest organizations, chambers of commerce, business entities, museums, and universities. In addition, prior to the public hearings, Navy will offer elected officials and agencies the opportunity to participate in briefings on the content and conclusions of the DEIS.

The Navy will provide notice of these alternative arrangements and publish this Decision Memorandum in the **Federal Register**. In addition, Navy will publish notice of these alternative arrangements in the following newspapers: (1) Los Angeles Times; (2) Sacramento Bee; (3) San Diego Union-Tribune; (4) North County Times (San Diego County); and (5) Daily Breeze (San Pedro, California).

Concurrent with the **Federal Register** notice, the Navy will include notices to the parties identified in its request to CEQ of January 10, 2008, as well as World Wildlife Fund, Nature Conservancy, National Wildlife Federation, Whale and Dolphin Conservation Society, Ocean Mammal Institute, Center for Whale Research, Consortium for Oceanographic Research and Education, National Fisheries Institute, American Sportfishing Association, Coastal Conservation Association, International Fund for Animal Welfare, American Tunaboat Association, Pacific Fisheries Management Council, Western Fish Boat Owners Association, Southern California Lobster and Trap Fisherman's Association, Southern California Trawler's Association, Morro Bay Commercial Fisherman Organization, Southern California Commercial Fishing Association, California Wetfish Producers Association, United Anglers of Southern California, Tuna Club of Santa Catalina Island, International Game Fish Association, Long Beach Sportfishing, Recreational Fishing Alliance, United Anglers of Southern California, United Pier & Shore Anglers of California, Scripps Research Institute, University of California at Santa Cruz, and the Applied Physics Laboratory—University of Washington.

The notices will specifically seek input on the process for reviewing post-exercise assessments and include an offer to meet jointly with Navy representatives from the office of the Assistant Secretary of the Navy (Installations & Environment) and the office of the Chief of Naval Operations, and CEQ to discuss the alternative arrangements.

CEQ will be provided copies of any notices made in accordance with the alternative arrangements and the notices will be posted on the Web site at <http://www.socalrangecomplexeis.com>.

The Navy will also provide CEQ notice of the post-exercise assessments which the Navy prepares for each exercise within 120 days of completion of each exercise (or 120 days after completion of an exercise which is reported as part of a group of exercises) to which these alternative arrangements apply. Further dissemination of the post-exercise assessments will be determined after considering input received in response to the Navy notice of alternative arrangements, and the further dissemination of the post-exercise assessments will be incorporated into the alternative arrangements.

After the conclusion of the alternative arrangements, and no later than March 23, 2009, the Navy will provide a report to CEQ on the use of the alternative arrangements that reviews the value and effectiveness of those arrangements. Notice of the report will be provided in the **Federal Register**, the five newspapers (Los Angeles Times; Sacramento Bee; San Diego Union-Tribune; North County Times (San Diego County); and Daily Breeze (San Pedro, California)) and on the Web site at <http://www.socalrangecomplexeis.com>.

**Adaptive Management:** Under the NDE, the Navy will continue to submit to NMFS's Office of Protected Resources (OPR) a report, within 120 days of the completion of major exercises, containing a discussion of the nature of effects on marine mammals from exposure to MFA sonar, if observed, based upon both modeled results of real-time events and sightings of marine mammals.

The Navy also consulted under the ESA with NMFS regarding the effects of its sonar activities for these exercises on listed species. NMFS issued a Biological Opinion finding that the Navy's actions were not likely to result in jeopardy to any listed species nor adversely modify any designated critical habitat. The Navy will continue to adhere to monitoring and reporting requirements specified in the Biological Opinion.

The Navy will continue to meet the requirements set out in the NDE for AARs. To accelerate and improve the information on marine mammal exposure effects or lack of effects, the Navy will modify its reporting and recordation processes to enable a more comprehensive analysis of impacts to marine mammals (including beaked whales that are not listed under the ESA) and ASW training during these major exercises and integrate these modifications into the reports prepared on the exercises conducted between March 1, 2008, and January 23, 2009. The reporting and monitoring program improvements identified using adaptive management principles will also inform the EIS process for the SOCAL Range Complex.

**Research Measures:** Efforts to obtain more information about the quantity, distribution, migration, and reactions of marine mammals to MFA sonar is ongoing and will continue. Consequently, information being obtained will inform compliance with the substantive provisions of the MMPA and ESA, and the procedural requirements of CZMA and NEPA. For NEPA, this information will inform the ongoing SOCAL EIS process as well as future exercise planning in the SOCAL Operating Area and serve to provide the basis for integrated compliance with all environmental statutes.

The Navy will continue to implement the following research measures to provide for continual improvement in the quality of information available:

The Navy will continue to improve information regarding marine mammal presence and density in the SOCAL Operating Area by coordinating with NMFS to determine the need to identify areas within the SOCAL Operating Area for additional marine mammal surveys. If a need is identified, an implementation plan identifying the areas and providing a schedule for the surveys will be developed no later than July 2008. The surveys will be designed to help determine where and when there are concentrations of marine mammals in the SOCAL Operating Area. The survey will occur over a two-year period through July 2010.

The Navy will continue to work on a program that will enhance its ability to use passive hydrophones on the SOAR Instrumented Range to detect and track marine mammals on those portions of the range where the passive hydrophones are in place. To ensure that these efforts remain focused, the Navy will develop an implementation plan and schedule to expand the technical capability of existing hydrophones to detect marine mammals

by April 4, 2008. The implementation plan should provide for completion of prototype classifiers for Cuvier's and Blaineville's beaked whales and visual verification of other small odontocetes detected by passive hydrophones by April 15, 2009.

As part of the SOCAL EIS, the Navy is evaluating a proposal to extend the range areas monitored by passive hydrophones. If Navy decides to extend the area covered by passive hydrophones as part of its ROD for the SOCAL EIS, the Navy will determine a timetable for acquisition and installation of additional hydrophones by March 30, 2009.

The Navy is evaluating current research regarding infrared (IR) technology for use in collecting data regarding marine mammals, assessing the feasibility of acquiring and deploying additional IR capabilities during major exercises or for conducting surveys, and developing a plan for acquiring and deploying IR in data collection efforts. The plan will be published no later than June 15, 2008.

Dated: January 15, 2008.

**Donald C. Winter,**

*Secretary of the Navy.*

[FR Doc. E8-1175 Filed 1-23-08; 8:45 am]

**BILLING CODE 3810-FF-P**

## DEPARTMENT OF DEFENSE

### Department of the Navy

[USN-2008-0002]

#### Privacy Act of 1974; System of Records

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice To Amend a System of Records.

**SUMMARY:** The Department of the Navy is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

**DATES:** This proposed action will be effective without further notice on February 25, 2008 unless comments are received which result in a contrary determination.

**ADDRESSES:** Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (DNS-36), 2000 Navy Pentagon, Washington, DC 20350-2000.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Doris Lama at (202) 685-6545.

**SUPPLEMENTARY INFORMATION:** The Department of the Navy systems of records notices subject to the Privacy