Pentagon Exempts Navy from Whale Protection Law

WASHINGTON — The Pentagon Friday exempted the Navy for six months from a law protecting whales and other marine mammals, a move that may allow planned naval exercises using military sonar to proceed despite a lawsuit.

The exemption allows the Navy to conduct the 13 exercises it plans over the next six months without seeking permission for each under the Marine Mammal Protection Act.

The exemption is allowed under law, but it was the first time the Pentagon had used that authority. The Defense Department may renew the Navy's exemption for up to two years.

Navy Deputy Assistant Secretary Donald Schregardus said the exemption was a response to a lawsuit filed by a coalition of groups led by the Natural Resources Defense Council over the use of sonar that they say injures and kills whales and other marine animals.

That lawsuit is still pending, and a trial date could be set as early as Monday, Schregardus said.

The environmental groups argue that sonar used in routine training and testing violates environmental laws. The suit accuses the Navy of failing to take precautions that could spare marine animals injury or death.

The groups said they plan to pursue the lawsuit despite the Pentagon's action. They said the Navy is also in violation of another law -- the National Environmental Policy Act.

'HISTORIC RETREAT'

"This is an historic and unprecedented retreat by the U.S. Navy from our national commitment to protect whales, dolphins and other marine life," said Joel Reynolds, a senior attorney at the Natural Resources Defense Council, of the exemption.

"It's not that the Navy can't comply with the law; it's that the Navy chooses not to."

The group says the exemption shows the Pentagon knows its use of military sonar does not comply with federal law.

Navy officials, however, said they set tough standards to protect marine mammals during a recent sea, air and land exercise, and that those standards would be met in the upcoming exercises as well.

The Navy remains subject to requirements under two other laws -- the National Environmental Policy Act and the Endangered Species Act.

Permitting under the Marine Mammal Protection Act can take as long as eight months. The Navy can obtain permits under the other two environmental laws within weeks, Schregardus said.
The exemption, he said, will allow the Navy to proceed with its planned exercises and give it time to work with regulatory agencies on a long-term plan to put all Navy ranges and operating areas in compliance with environmental laws.

"The Navy will continue to employ stringent mitigation measures to protect marine mammals during all sonar activities, to include habitat controls, safety zones around ships, trained lookouts, extra precautions during chokepoint exercises, in coordination with National Marine Fisheries Service," said Rear Adm. James Symonds, director of environmental readiness.

Earlier this week, the National Oceanic and Atmospheric Administration, a federal agency, granted the Navy permission to proceed with naval exercises off Hawaii, finding the use of sonar in those activities was not likely to threaten endangered species and would have no significant impact on the environment.

Source: Reuters

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