Defense Bill Weakens Protections for Marine Mammals

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The conference report for the FY2019 National Defense Authorization Act (H.R. 5515), released today, includes an anti-environmental rider that weakens the Marine Mammal Protection Act, the law that provides vital protections for our nation’s whales, dolphins and other marine mammals. Current law already contains several exemptions for the Department of Defense from marine mammal protections, including a two-year waiver that the Secretary of Defense can invoke as needed.

H.R. 5515 will extend the period between environmental reviews that the U.S. Navy must periodically undergo in order to obtain authorizations to cause harm to marine mammals while conducting training and readiness activities. The reviews, which primarily analyze the Navy’s use of sonar and underwater explosives and incorporate actions to mitigate the harm to marine mammals, would be delayed from five years to seven years.

Oceana’s senior director for federal policy, Lara Levison, released the following statement in response to the final FY19 National Defense Authorization Act:

“Today Congress dealt a blow to the Marine Mammal Protection Act (MMPA), the bedrock conservation law that protects our nation’s whales, dolphins and other beloved marine mammals. The National Defense Authorization Act for Fiscal Year 2019 includes a harmful provision that weakens protections for marine mammals from the U.S. Navy’s use of high-intensity active sonar and underwater explosives by stretching review periods from five to seven years. This provision was completely unnecessary for military readiness, since the Navy’s permit requests have never been rejected, and the law already provides the Department of Defense with a two-year waiver of the MMPA that can be exercised whenever the Secretary of Defense deems it necessary.

Because marine mammals are extraordinarily difficult to monitor and study in the wild, the law currently requires a review process every five years for activities that could injure or kill marine mammals. These reviews, called incidental take authorizations, also result in specific proposals to reduce, or “mitigate,” the damage that the activity will cause to marine mammals.

The extremely high impacts of these Navy activities make frequent reviews and updated mitigation plans essential to reduce harm to marine mammals. For the current five-year period, the Navy estimated it would kill more than 250 whales and other marine mammals, cause permanent injury to another 3,000, and disrupt foraging and other vital behavior more than 30 million times. Less-frequent reviews will use projections of Navy activities that are less specific due to the longer time-frames, rely on marine mammal data that is less up to date, and likely result in mitigation requirements that are less targeted.

Public opinion polling conducted in April 2018 shows that eight in 10 Americans (83%) support protecting marine mammals from threats, and most Americans (77%) support the Marine Mammal Protection Act.”