



DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
NATIONAL MARINE FISHERIES SERVICE

Letter of Authorization

The Commander, U.S. Pacific Fleet Attn: Code N465 250 Makalapa Drive, Pearl Harbor, HI 96860-3131, and persons operating under his or her authority (*i.e.*, Navy), are authorized to take marine mammals incidental to Navy training and testing activities conducted in the U.S. Navy's Mariana Islands Training and Testing (MITT) Study Area, subject to the provisions of the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.; MMPA); applicable regulations found at 50 CFR Part 218, Subpart J ("the regulations"); and the following conditions:

1. This Authorization is valid for the period July 31, 2020 through July 30, 2027.
2. This Authorization is valid only for the unintentional taking of the species of marine mammals and methods of take identified in Condition 5 of this Authorization incidental to the training and testing activities specified in Condition 4 of this Authorization and occurring within the MITT Study Area, which includes the seas off the coasts of Guam and the Commonwealth of the Northern Mariana Islands (CNMI), the in-water areas around the Mariana Islands Range Complex (MIRC), the transit corridor<sup>1</sup> between the MIRC and the Hawaii Range Complex, and select pierside and harbor locations. The planned activities also include various activities in Apra Harbor such as sonar maintenance alongside Navy piers located in Inner Apra Harbor.
3. This Authorization is valid only if the Holder of the Authorization or any person(s) operating under his or her authority implements the mitigation, monitoring, and reporting required pursuant to 50 CFR §§ 218.94 and 218.95 and implements the Terms and Conditions of this Authorization.
4. This Authorization is valid for the training and testing activities identified below that include sonar and other transducers, explosives, and vessel use in the MITT Study Area:
  - (a) Amphibious warfare.
  - (b) Anti-submarine warfare.
  - (c) Mine warfare.

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<sup>1</sup> Vessel transit corridors are the routes typically used by Navy assets to traverse from one area to another. The transit corridor is outside the geographic boundaries of the MIRC and represents a great circle route across the high seas for Navy vessels transiting between the MIRC and the Hawaii Range Complex.

- (d) Surface warfare.
- (e) Other training activities.
- (f) Naval Air Systems Command Testing Activities.
- (g) Naval Sea Systems Command Testing Activities.
- (h) Office of Naval Research Testing Activities.

5. The incidental take of marine mammals under the activities identified in Condition 4 and 50 CFR § 218.90(c) of the regulations is limited to the species and number of takes shown in Table 1.

**Table 1--Annual and seven-year total species-specific take estimates authorized from acoustic and explosive sound source effects for all training and testing activities in the MITT Study Area**

Species	Annual		7-Year Total <sup>1</sup>	
	Level B Harassment	Level A Harassment	Level B Harassment	Level A Harassment
Mysticetes				
Blue whale*	24	0	169	0
Bryde's whale	298	0	2,078	0
Fin whale*	25	0	173	0
Humpback whale*	771	0	3,348	1**
Minke whale	95	0	665	0
Omura's whale	29	0	199	0
Sei whale*	155	0	1,083	0
Odontocetes				
Blainville's beaked whale	1,718	0	12,033	0
Bottlenose dolphin	137	0	961	0
Cuvier's beaked whale	646	0	4,529	0
Dwarf sperm whale	8,499	50	59,459	341
False killer whale	762	0	5,331	0

Fraser's dolphin	13,278	1	92,931	8
Ginkgo-toothed beaked whale	3,726	0	26,088	0
Killer whale	44	0	309	0
Longman's beaked whale	6,066	0	42,487	0
Melon-headed whale	2,815	0	19,691	0
Pantropical spotted dolphin	14,896	1	104,242	7
Pygmy killer whale	104	0	726	0
Pygmy sperm whale	3,410	19	23,853	136
Risso's dolphin	3,170	0	22,179	0
Rough-toothed dolphin	197	0	1,379	0
Short-finned pilot whale	1,163	0	8,140	0
Sperm whale*	203	0	1,420	0
Spinner dolphin	1,414	1	9,896	4
Striped dolphin	4,007	0	28,038	0
*ESA-listed species within the MITT Study Area				
** There is one mother-calf pair of humpback whales estimated to be taken by Level A harassment by PTS over the period of the rule. See the <i>Estimated Take of Marine Mammals</i> section of the 2020 MITT final rule for further details.				
<sup>1</sup> The seven-year totals may be less than the annual totals times seven, given that not all activities occur every year, some activities occur multiple times within a year, and some activities only occur a few times over the course of a seven-year period.				

6. Mitigation. The Holder of this Authorization, and any persons operating under his or her authority, must implement the following mitigation measures when conducting the activities identified in Condition 4 of this Authorization.

- (a) *Procedural mitigation.* Procedural mitigation is mitigation that the Navy must implement whenever and wherever an applicable training or testing activity takes place within the MITT Study Area for each applicable activity category or stressor category and includes acoustic stressors (*i.e.*, active sonar and other transducers, weapons firing noise), explosive stressors (*i.e.*, sonobuoys, torpedoes, medium-caliber and large-caliber projectiles, missiles and rockets, bombs, sinking exercises, mines, anti-swimmer grenades), and physical disturbance and strike stressors (*i.e.*, vessel movement; towed in-water devices; small-, medium-, and large-caliber non-

explosive practice munitions; non-explosive missiles and rockets; and non-explosive bombs and mine shapes).

- (1) *Environmental awareness and education.* Appropriate Navy personnel (including civilian personnel) involved in mitigation and training or testing reporting under the specified activities will complete one or more modules of the U.S. Navy Afloat Environmental Compliance Training Series, as identified in their career path training plan. Modules include: Introduction to the U.S. Navy Afloat Environmental Compliance Training Series, Marine Species Awareness Training; U.S. Navy Protective Measures Assessment Protocol; and U.S. Navy Sonar Positional Reporting System and Marine Mammal Incident Reporting.
- (2) *Active sonar.* Active sonar includes low-frequency active sonar, mid-frequency active sonar, and high-frequency active sonar. For vessel-based activities, mitigation applies only to sources that are positively controlled and deployed from manned surface vessels (*e.g.*, sonar sources towed from manned surface platforms). For aircraft-based activities, mitigation applies only to sources that are positively controlled and deployed from manned aircraft that do not operate at high altitudes (*e.g.*, rotary-wing aircraft). Mitigation does not apply to active sonar sources deployed from unmanned aircraft or aircraft operating at high altitudes (*e.g.*, maritime patrol aircraft).
  - (i) *Number of Lookouts and observation platform*
    - (A) *Hull-mounted sources.* One Lookout must be positioned for platforms with space or manning restrictions while underway (at the forward part of a small boat or ship) and platforms using active sonar while moored or at anchor (including pierside); and two Lookouts must be positioned for platforms without space or manning restrictions while underway (at the forward part of the ship).
    - (B) *Sources that are not hull-mounted sources.* One Lookout must be positioned on the ship or aircraft conducting the activity.
  - (ii) *Mitigation zone and requirements.* The mitigation zones must be the zones as described in paragraphs (a)(2)(ii)(B) and (C) of this section.
    - (A) Prior to the initial start of the activity (*e.g.*, when maneuvering on station), Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must relocate or delay the start of active sonar transmission.
    - (B) During the activity for low-frequency active sonar at or above 200 dB and hull-mounted mid-frequency active sonar, Navy personnel must observe the mitigation zone for marine mammals and power down active sonar transmission by 6 dB if marine mammals are observed within

1,000 yd of the sonar source; power down by an additional 4 dB (for a total of 10 dB) if marine mammals are observed within 500 yd of the sonar source; and cease transmission if marine mammals are observed within 200 yd of the sonar source.

- (C) During the activity for low-frequency active sonar below 200 dB, mid-frequency active sonar sources that are not hull mounted, and high-frequency active sonar, Navy personnel must observe the mitigation zone for marine mammals and cease active sonar transmission if marine mammals are observed within 200 yd of the sonar source.
- (D) Commencement/recommencement conditions after a marine mammal sighting before or during the activity. Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing or powering up active sonar transmission) until one of the following conditions has been met: the animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the sonar source; the mitigation zone has been clear from any additional sightings for 10 minutes (min) for aircraft-deployed sonar sources or 30 min for vessel-deployed sonar sources; for mobile activities, the active sonar source has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting; or for activities using hull-mounted sonar where a dolphin(s) is observed in the mitigation zone, the Lookout concludes that the dolphin(s) is deliberately closing in on the ship to ride the ship's bow wave, and is therefore out of the main transmission axis of the sonar (and there are no other marine mammal sightings within the mitigation zone).

(3) *Weapons firing noise.* Weapons firing noise associated with large-caliber gunnery activities.

- (i) *Number of Lookouts and observation platform.* One Lookout must be positioned on the ship conducting the firing. Depending on the activity, the Lookout could be the same as the one provided for under "Explosive medium-caliber and large-caliber projectiles" or under "Small-, medium-, and large-caliber non-explosive practice munitions" in conditions 6(a)(6)(i) and 6(a)(15)(i) of this LOA.
- (ii) *Mitigation zone and requirements.* The mitigation zone must be thirty degrees on either side of the firing line out to 70 yd from the muzzle of the weapon being fired.

- (A) Prior to the initial start of the activity, Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must relocate or delay the start of weapons firing.
  - (B) During the activity, Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must cease weapons firing.
  - (C) Commencement/recommencement conditions after a marine mammal sighting before or during the activity. Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing weapons firing) until one of the following conditions has been met: the animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the firing ship; the mitigation zone has been clear from any additional sightings for 30 min; or for mobile activities, the firing ship has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting.
- (4) *Explosive sonobuoys*—(i) *Number of Lookouts and observation platform.* One Lookout must be positioned in an aircraft or on a small boat. If additional platforms are participating in the activity, Navy personnel positioned on those assets (*e.g.*, safety observers, evaluators) must support observing the mitigation zone for marine mammals and other applicable biological resources while performing their regular duties.
- (ii) *Mitigation zone and requirements.*
- (A) The mitigation zone must be 600 yd around an explosive sonobuoy.
  - (B) Prior to the initial start of the activity (*e.g.*, during deployment of a sonobuoy pattern, which typically lasts 20–30 min), Navy personnel must conduct passive acoustic monitoring for marine mammals and use information from detections to assist visual observations. Navy personnel also must visually observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must relocate or delay the start of sonobuoy or source/receiver pair detonations.
  - (C) During the activity, Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must cease sonobuoy or source/receiver pair detonations.
  - (D) Commencement/recommencement conditions after a marine mammal sighting before or during the activity. Navy personnel must allow a

sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing detonations) until one of the following conditions has been met: the animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the sonobuoy; or the mitigation zone has been clear from any additional sightings for 10 min when the activity involves aircraft that have fuel constraints (*e.g.*, helicopter), or 30 min when the activity involves aircraft that are not typically fuel constrained.

- (E) After completion of the activity (*e.g.*, prior to maneuvering off station), when practical (*e.g.*, when platforms are not constrained by fuel restrictions or mission-essential follow-on commitments), Navy personnel must observe for marine mammals in the vicinity of where detonations occurred; if any injured or dead marine mammals are observed, Navy personnel must follow established incident reporting procedures. If additional platforms are supporting this activity (*e.g.*, providing range clearance), Navy personnel on these assets must assist in the visual observation of the area where detonations occurred.

(5) *Explosive torpedoes*

- (i) *Number of Lookouts and observation platform.* One Lookout must be positioned in an aircraft. If additional platforms are participating in the activity, Navy personnel positioned on those assets (*e.g.*, safety observers, evaluators) must support observing the mitigation zone for marine mammals and other applicable biological resources while performing their regular duties.

- (ii) *Mitigation zone and requirements.*

- (A) The mitigation zone must be 2,100 yd around the intended impact location.
- (B) Prior to the initial start of the activity (*e.g.*, during deployment of the target), Navy personnel must conduct passive acoustic monitoring for marine mammals and use the information from detections to assist visual observations. Navy personnel also must visually observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must relocate or delay the start of firing.
- (C) During the activity, Navy personnel must observe the mitigation zone for marine mammals. If marine mammals are observed, Navy personnel must cease firing.

- (D) Commencement/recommencement conditions after a marine mammal sighting before or during the activity. Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met: the animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended impact location; or the mitigation zone has been clear from any additional sightings for 10 min when the activity involves aircraft that have fuel constraints, or 30 min when the activity involves aircraft that are not typically fuel constrained.
  - (E) After completion of the activity (*e.g.*, prior to maneuvering off station), Navy personnel must when practical (*e.g.*, when platforms are not constrained by fuel restrictions or mission-essential follow-on commitments), observe for marine mammals in the vicinity of where detonations occurred; if any injured or dead marine mammals are observed, Navy personnel must follow established incident reporting procedures. If additional platforms are supporting this activity (*e.g.*, providing range clearance), Navy personnel on these assets must assist in the visual observation of the area where detonations occurred.
- (6) *Explosive medium-caliber and large-caliber projectiles.* Gunnery activities using explosive medium-caliber and large-caliber projectiles. Mitigation applies to activities using a surface target.
- (i) *Number of Lookouts and observation platform.* One Lookout must be on the vessel or aircraft conducting the activity. For activities using explosive large-caliber projectiles, depending on the activity, the Lookout could be the same as the one described in “Weapons firing noise” in condition 6(a)(3)(i) of this LOA. If additional platforms are participating in the activity, Navy personnel positioned on those assets (*e.g.*, safety observers, evaluators) must support observing the mitigation zone for marine mammals and other applicable biological resources while performing their regular duties.
  - (ii) *Mitigation zone and requirements.*
    - (A) The mitigation zone must be 200 yd around the intended impact location for air-to-surface activities using explosive medium-caliber projectiles.
    - (B) The mitigation zone must be 600 yd around the intended impact location for surface-to-surface activities using explosive medium-caliber projectiles.



- (C) The mitigation zone must be 1,000 yd around the intended impact location for surface-to-surface activities using explosive large-caliber projectiles.
  - (D) Prior to the initial start of the activity (*e.g.*, when maneuvering on station), Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must relocate or delay the start of firing.
  - (E) During the activity, Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must cease firing.
  - (F) Commencement/recommencement conditions after a marine mammal sighting before or during the activity. Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met: the animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended impact location; the mitigation zone has been clear from any additional sightings for 10 min for aircraft-based firing or 30 min for vessel-based firing; or for activities using mobile targets, the intended impact location has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting.
  - (G) After completion of the activity (*e.g.*, prior to maneuvering off station), Navy personnel must, when practical (*e.g.*, when platforms are not constrained by fuel restrictions or mission-essential follow-on commitments), observe for marine mammals in the vicinity of where detonations occurred; if any injured or dead marine mammals are observed, Navy personnel must follow established incident reporting procedures. If additional platforms are supporting this activity (*e.g.*, providing range clearance), Navy personnel on these assets must assist in the visual observation of the area where detonations occurred.
- (7) *Explosive missiles and rockets.* Aircraft-deployed explosive missiles and rockets. Mitigation applies to activities using a surface target.
- (i) *Number of Lookouts and observation platform.* One Lookout must be positioned in an aircraft. If additional platforms are participating in the activity, Navy personnel positioned on those assets (*e.g.*, safety observers, evaluators) must support observing the mitigation zone for marine mammals and other applicable biological resources while performing their regular duties.

(ii) *Mitigation zone and requirements.*

- (A) The mitigation zone must be 900 yd around the intended impact location for missiles or rockets with 0.6–20 lb net explosive weight.
- (B) The mitigation zone must be 2,000 yd around the intended impact location for missiles with 21-500 lb net explosive weight.
- (C) Prior to the initial start of the activity (*e.g.*, during a fly-over of the mitigation zone), Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must relocate or delay the start of firing.
- (D) During the activity, Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must cease firing.
- (E) Commencement/recommencement conditions after a marine mammal sighting before or during the activity. Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met: the animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended impact location; or the mitigation zone has been clear from any additional sightings for 10 min when the activity involves aircraft that have fuel constraints, or 30 min when the activity involves aircraft that are not typically fuel constrained.
- (F) After completion of the activity (*e.g.*, prior to maneuvering off station), Navy personnel must, when practical (*e.g.*, when platforms are not constrained by fuel restrictions or mission-essential follow-on commitments), observe for marine mammals in the vicinity of where detonations occurred; if any injured or dead marine mammals are observed, Navy personnel must follow established incident reporting procedures. If additional platforms are supporting this activity (*e.g.*, providing range clearance), Navy personnel on these assets will assist in the visual observation of the area where detonations occurred.

(8) *Explosive bombs*

- (i) *Number of Lookouts and observation platform.* One Lookout must be positioned in an aircraft conducting the activity. If additional platforms are participating in the activity, Navy personnel positioned on those assets (*e.g.*, safety observers, evaluators) must support observing the mitigation zone for

marine mammals and other applicable biological resources while performing their regular duties.

(ii) *Mitigation zone and requirements.*

- (A) The mitigation zone must be 2,500 yd around the intended target.
- (B) Prior to the initial start of the activity (*e.g.*, when arriving on station), Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must relocate or delay the start of bomb deployment.
- (C) During the activity (*e.g.*, during target approach), Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must cease bomb deployment.
- (D) Commencement/recommencement conditions after a marine mammal sighting before or during the activity. Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing bomb deployment) until one of the following conditions has been met: the animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended target; the mitigation zone has been clear from any additional sightings for 10 min; or for activities using mobile targets, the intended target has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting.
- (E) After completion of the activity (*e.g.*, prior to maneuvering off station), Navy personnel must, when practical (*e.g.*, when platforms are not constrained by fuel restrictions or mission-essential follow-on commitments), observe for marine mammals in the vicinity of where detonations occurred; if any injured or dead marine mammals are observed, Navy personnel must follow established incident reporting procedures. If additional platforms are supporting this activity (*e.g.*, providing range clearance), Navy personnel on these assets must assist in the visual observation of the area where detonations occurred.

(9) *Sinking exercises*

- (i) *Number of Lookouts and observation platform.* Two Lookouts (one must be positioned in an aircraft and one must be positioned on a vessel). If additional platforms are participating in the activity, Navy personnel positioned on those assets (*e.g.*, safety observers, evaluators) must support observing the

mitigation zone for marine mammals and other applicable biological resources while performing their regular duties.

(ii) *Mitigation zone and requirements.*

- (A) The mitigation zone must be 2.5 nmi around the target ship hulk.
- (B) Prior to the initial start of the activity (90 min prior to the first firing), Navy personnel must conduct aerial observations of the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must delay the start of firing.
- (C) During the activity, Navy personnel must conduct passive acoustic monitoring for marine mammals and use the information from detections to assist visual observations. Navy personnel must visually observe the mitigation zone for marine mammals from the vessel; if marine mammals are observed, Navy personnel must cease firing. Immediately after any planned or unplanned breaks in weapons firing of longer than two hours, Navy personnel must observe the mitigation zone for marine mammals from the aircraft and vessel; if marine mammals are observed, Navy personnel must delay recommencement of firing.
- (D) Commencement/recommencement conditions after a marine mammal sighting before or during the activity. Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met: the animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the target ship hulk; or the mitigation zone has been clear from any additional sightings for 30 min.
- (E) After completion of the activity (for two hours after sinking the vessel or until sunset, whichever comes first), Navy personnel must observe for marine mammals in the vicinity of where detonations occurred; if any injured or dead marine mammals are observed, Navy personnel must follow established incident reporting procedures. If additional platforms are supporting this activity (*e.g.*, providing range clearance), Navy personnel on these assets will assist in the visual observation of the area where detonations occurred.

(10) *Explosive mine countermeasure and neutralization activities*

(i) *Number of Lookouts and observation platform.*

- (A) One Lookout must be positioned on a vessel or in an aircraft.

(B) If additional platforms are participating in the activity, Navy personnel positioned on those assets (*e.g.*, safety observers, evaluators) must support observing the mitigation zone for marine mammals and other applicable biological resources while performing their regular duties.

(ii) *Mitigation zone and requirements.*

(A) The mitigation zone must be 600 yd around the detonation site.

(B) Prior to the initial start of the activity (*e.g.*, when maneuvering on station; typically 10 min when the activity involves aircraft that have fuel constraints, or 30 min when the activity involves aircraft that are not typically fuel constrained), Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must relocate or delay the start of detonations.

(C) During the activity, Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must cease detonations.

(D) Commencement/recommencement conditions after a marine mammal sighting before or during the activity. Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing detonations) until one of the following conditions has been met: the animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the detonation site; or the mitigation zone has been clear from any additional sightings for 10 min when the activity involves aircraft that have fuel constraints, or 30 min when the activity involves aircraft that are not typically fuel constrained.

(E) After completion of the activity (typically 10 min when the activity involves aircraft that have fuel constraints, or 30 min when the activity involves aircraft that are not typically fuel constrained), Navy personnel must observe for marine mammals in the vicinity of where detonations occurred; if any injured or dead marine mammals are observed, Navy personnel must follow established incident reporting procedures. If additional platforms are supporting this activity (*e.g.*, providing range clearance), Navy personnel on these assets must assist in the visual observation of the area where detonations occurred.

(11) *Explosive mine neutralization activities involving Navy divers*

(i) *Number of Lookouts and observation platform.*

- (A) Two Lookouts (two small boats with one Lookout each, or one Lookout must be on a small boat and one must be in a rotary-wing aircraft) when implementing the smaller mitigation zone.
  - (B) Four Lookouts (two small boats with two Lookouts each), and a pilot or member of an aircrew which must serve as an additional Lookout if aircraft are used during the activity, must be used when implementing the larger mitigation zone.
  - (C) All divers placing the charges on mines will support the Lookouts while performing their regular duties and will report applicable sightings to their supporting small boat or Range Safety Officer.
  - (D) If additional platforms are participating in the activity, Navy personnel positioned on those assets (*e.g.*, safety observers, evaluators) must support observing the mitigation zone for marine mammals and other applicable biological resources while performing their regular duties.
- (ii) *Mitigation zone and requirements.*
- (A) For Lookouts on small boats or aircraft, the mitigation zone must be 500 yd around the detonation site under positive control.
  - (B) For Lookouts on small boats or aircraft, the mitigation zone must be 1,000 yd around the detonation site during all activities using time-delay fuses.
  - (C) For divers, the mitigation zone must be the underwater detonation location, which is defined as the sea space within the divers' range of visibility but no further than the mitigation zone specified for Lookouts on small boats or aircraft (500 yd or 1,000 yd depending on the charge type).
  - (D) Prior to the initial start of the activity (when maneuvering on station for activities under positive control; 30 min for activities using time-delay firing devices), Navy Lookouts on small boats or aircraft, must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must relocate or delay the start of detonations or fuse initiation.
  - (E) During the activity, Navy Lookouts on small boats or aircraft, must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must cease detonations or fuse initiation. While performing their normal duties during the activity, divers must observe the underwater detonation location for marine mammals.

Divers must notify their supporting small boat or Range Safety Officer of marine mammal sightings at the underwater detonation location; if observed, the Navy must cease detonations or fuse initiation. To the maximum extent practicable depending on mission requirements, safety, and environmental conditions, Navy personnel must position boats near the mid-point of the mitigation zone radius (but outside of the detonation plume and human safety zone), must position themselves on opposite sides of the detonation location (when two boats are used), and must travel in a circular pattern around the detonation location with one Lookout observing inward toward the detonation site and the other observing outward toward the perimeter of the mitigation zone. If used, Navy aircraft must travel in a circular pattern around the detonation location to the maximum extent practicable. Navy personnel must not set time-delay firing devices to exceed 10 min.

- (F) Commencement/recommencement conditions after a marine mammal sighting before or during the activity. Navy personnel must allow a sighted marine mammal to leave the underwater detonation location or mitigation zone (as applicable) prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing detonations or fuse initiation) until one of the following conditions has been met: the animal is observed exiting the 500 yd or 1,000 yd mitigation zone; the animal is thought to have exited the 500 yd or 1,000 yd mitigation zone based on a determination of its course, speed, and movement relative to the detonation site; or the 500 yd or 1,000 yd mitigation zones (for Lookouts on small boats or aircraft) and the underwater detonation location (for divers) has been clear from any additional sightings for 10 min during activities under positive control with aircraft that have fuel constraints, or 30 min during activities under positive control with aircraft that are not typically fuel constrained and during activities using time-delay firing devices.
- (G) After completion of an activity, the Navy must observe for marine mammals for 30 min. Navy personnel must observe for marine mammals in the vicinity of where detonations occurred; if any injured or dead marine mammals are observed, Navy personnel must follow established incident reporting procedures. If additional platforms are supporting this activity (*e.g.*, providing range clearance), Navy personnel on these assets must assist in the visual observation of the area where detonations occurred.

(12) *Maritime security operations – anti-swimmer grenades*

- (i) *Number of Lookouts and observation platform.* One Lookout must be positioned on the small boat conducting the activity. If additional platforms

are participating in the activity, Navy personnel positioned on those assets (*e.g.*, safety observers, evaluators) must support observing the mitigation zone for marine mammals and other applicable biological resources while performing their regular duties.

(ii) *Mitigation zone and requirements.*

- (A) The mitigation zone must be 200 yd around the intended detonation location.
  - (B) Prior to the initial start of the activity (*e.g.*, when maneuvering on station), Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must relocate or delay the start of detonations.
  - (C) During the activity, Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must cease detonations.
  - (D) Commencement/recommencement conditions after a marine mammal sighting before or during the activity. Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing detonations) until one of the following conditions has been met: the animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended detonation location; the mitigation zone has been clear from any additional sightings for 30 min; or the intended detonation location has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting.
  - (E) After completion of the activity (*e.g.*, prior to maneuvering off station), Navy personnel must, when practical (*e.g.*, when platforms are not constrained by fuel restrictions or mission-essential follow-on commitments), observe for marine mammals in the vicinity of where detonations occurred; if any injured or dead marine mammals are observed, Navy personnel must follow established incident reporting procedures. If additional platforms are supporting this activity (*e.g.*, providing range clearance), Navy personnel on these assets will assist in the visual observation of the area where detonations occurred.
- (13) *Vessel movement.* The mitigation will not be applied if: the vessel's safety is threatened; the vessel is restricted in its ability to maneuver (*e.g.*, during launching and recovery of aircraft or landing craft, during towing activities, when mooring); the vessel is submerged or operated autonomously; or if



impracticable based on mission requirements (e.g., during Amphibious Assault and Amphibious Raid exercises).

(i) *Number of Lookouts and observation platform.* One Lookout must be on the vessel that is underway.

(ii) *Mitigation zone and requirements.*

(A) The mitigation zone must be 500 yd around whales.

(B) The mitigation zone must be 200 yd around all other marine mammals (except bow-riding dolphins).

(C) During the activity. When underway Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must maneuver to maintain distance.

(iii) *Reporting.* If a marine mammal vessel strike occurs, Navy personnel must follow the established incident reporting procedures.

(14) *Towed in-water devices.* Mitigation applies to devices that are towed from a manned surface platform or manned aircraft. The mitigation will not be applied if the safety of the towing platform or in-water device is threatened.

(i) *Number of Lookouts and observation platform.* One Lookout must be positioned on a manned towing platform.

(ii) *Mitigation zone and requirements.*

(A) The mitigation zone must be 250 yd around marine mammals.

(B) During the activity (i.e., when towing an in-water device), Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must maneuver to maintain distance.

(15) *Small-, medium-, and large-caliber non-explosive practice munitions.* Mitigation applies to activities using a surface target.

(i) *Number of Lookouts and observation platform.* One Lookout must be positioned on the platform conducting the activity. Depending on the activity, the Lookout could be the same as the one described for “Weapons firing noise” in condition 6(a)(3)(i) of this LOA.

(ii) *Mitigation zone and requirements.*

- (A) The mitigation zone must be 200 yd around the intended impact location.
  - (B) Prior to the initial start of the activity (*e.g.*, when maneuvering on station), Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must relocate or delay the start of firing.
  - (C) During the activity, Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must cease firing.
  - (D) Commencement/recommencement conditions after a marine mammal sighting before or during the activity. Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met: the animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended impact location; the mitigation zone has been clear from any additional sightings for 10 min for aircraft-based firing or 30 min for vessel-based firing; or for activities using a mobile target, the intended impact location has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting.
- (16) *Non-explosive missiles and rockets.* Aircraft-deployed non-explosive missiles and rockets. Mitigation applies to activities using a surface target.
- (i) *Number of Lookouts and observation platform.* One Lookout must be positioned in an aircraft.
  - (ii) *Mitigation zone and requirements.*
    - (A) The mitigation zone must be 900 yd around the intended impact location.
    - (B) Prior to the initial start of the activity (*e.g.*, during a fly-over of the mitigation zone), Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must relocate or delay the start of firing.
    - (C) During the activity, Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must cease firing.

(D) Commencement/recommencement conditions after a marine mammal sighting prior to or during the activity. Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met: the animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended impact location; or the mitigation zone has been clear from any additional sightings for 10 min when the activity involves aircraft that have fuel constraints, or 30 min when the activity involves aircraft that are not typically fuel constrained.

(17) *Non-explosive bombs and mine shapes.* Non-explosive bombs and non-explosive mine shapes during mine laying activities.

(i) *Number of Lookouts and observation platform.* One Lookout must be positioned in an aircraft.

(ii) *Mitigation zone and requirements.*

(A) The mitigation zone must be 1,000 yd around the intended target.

(B) Prior to the initial start of the activity (*e.g.*, when arriving on station), Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must relocate or delay the start of bomb deployment or mine laying.

(C) During the activity (*e.g.*, during approach of the target or intended minefield location), Navy personnel must observe the mitigation zone for marine mammals and, if marine mammals are observed, Navy personnel must cease bomb deployment or mine laying.

(D) Commencement/recommencement conditions after a marine mammal sighting prior to or during the activity. Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing bomb deployment or mine laying) until one of the following conditions has been met: the animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended target or minefield location; the mitigation zone has been clear from any additional sightings for 10 min; or for activities using mobile targets, the intended target has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting.

(b) *Mitigation areas.* In addition to procedural mitigation, Navy personnel must implement mitigation measures within mitigation areas to avoid or reduce potential impacts on marine mammals.

(1) *Mitigation areas for marine mammals off Saipan in the MITT Study Area for sonar, explosives, and vessel strikes.*

(i) *Mitigation area requirements.*

(A) *Marpi Reef and Chalan Kanoa Reef Geographic Mitigation Areas.*

(1) Navy personnel will conduct a maximum combined total of 20 hours annually from December 1 through April 30 of surface ship hull-mounted MF1 mid-frequency active sonar during training and testing activities within the Marpi Reef and Chalan Kanoa Reef Geographic Mitigation Areas.

(2) Navy personnel will not use in-water explosives.

(3) Navy personnel must report the total hours of all active sonar use (all bins, by bin) from December 1 through April 30 in these geographic mitigation areas in the annual training and testing exercise report submitted to NMFS.

(4) Should national security present a requirement to conduct training or testing prohibited by the mitigation requirements in this paragraph (b)(1)(i)(A), Navy personnel must obtain permission from the appropriate designated Command authority prior to commencement of the activity. Navy personnel must provide NMFS with advance notification and include relevant information (*e.g.*, sonar hours, explosives use) in its annual activity reports submitted to NMFS.

(B) *Marpi Reef and Chalan Kanoa Reef Awareness Notification Message Area.*

(1) Navy personnel must issue a seasonal awareness notification message to alert Navy ships and aircraft operating in the Marpi Reef and Chalan Kanoa Reef Geographic Mitigation Areas to the possible presence of increased concentrations of humpback whales from December 1 through April 30.

(2) To maintain safety of navigation and to avoid interactions with large whales during transits, Navy personnel must instruct vessels to remain vigilant to the presence of humpback whales that when concentrated seasonally, may become vulnerable to vessel strikes.



- (c) *Notification of injured, live stranded, or dead marine mammals.* The Navy must consult the Notification and Reporting Plan, which sets out notification, reporting, and other requirements when dead, injured, or live stranded marine mammals are detected. The Notification and Reporting Plan is available at <https://www.fisheries.noaa.gov/action/incidental-take-authorization-us-navy-mariana-islands-training-and-testing-mitt>.
- (d) *Annual MITT Study Area marine species monitoring report.* The Navy must submit an annual report to NMFS of the MITT Study Area monitoring which will be included in a Pacific-wide monitoring report including results specific to the MITT Study Area describing the implementation and results from the previous calendar year. Data collection methods will be standardized across Pacific Range Complexes including the MITT, Hawaii-Southern California Training and Testing, Northwest Training and Testing, and Gulf of Alaska Study Areas to the best extent practicable, to allow for comparison in different geographic locations. The report must be submitted to the Director, Office of Protected Resources, NMFS, either within three months after the end of the calendar year, or within three months after the conclusion of the monitoring year, to be determined by the Adaptive Management process. NMFS will submit comments or questions on the draft monitoring report, if any, within three months of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or three months after the submittal of the draft if NMFS does not provide comments on the draft report. Such a report will describe progress of knowledge made with respect to monitoring study questions across multiple Navy ranges associated with the ICMP. Similar study questions must be treated together so that progress on each topic can be summarized across multiple Navy ranges. The report need not include analyses and content that does not provide direct assessment of cumulative progress on the monitoring study question. This will continue to allow the Navy to provide a cohesive monitoring report covering multiple ranges (as per ICMP goals), rather than entirely separate reports for the MITT, Hawaii-Southern California Training and Testing, Northwest Training and Testing and Gulf of Alaska Study Areas.
- (e) *Annual MITT Study Area Training and Testing Exercise Report.* Each year, the Navy must submit a preliminary report (Quick Look Report) detailing the status of authorized sound sources within 21 days after the anniversary of the date of issuance of the LOA to the Director, Office of Protected Resources, NMFS. The Navy must also submit a detailed report (MITT Annual Training and Testing Exercise Report) to the Director, Office of Protected Resources, NMFS, within three months after the one-year anniversary of the date of issuance of the LOA. The MITT Annual Training and Testing Exercise Report can be consolidated with other exercise reports from other range complexes in the Pacific Ocean for a single Pacific Exercise Report, if desired. NMFS will submit comments or questions on the report, if any, within one month of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or one month after submittal of the draft if NMFS does not provide comments on the draft report. The annual will contain information on major

training exercises (MTEs), Sinking Exercise (SINKEX) events, and a summary of all sound sources used (total hours or quantity of each bin of sonar or other non-impulsive source; total annual number of each type of explosive exercises; and total annual expended/detonated rounds (missiles, bombs, sonobuoys, etc.) for each explosive bin). The annual report will also contain information on sound sources used, including within specific mitigation reporting areas as described in Condition 7(e)(4) of this LOA. The annual report will also contain both the current year's data as well as cumulative sonar and explosive use quantity from previous years' reports. Additionally, if there were any changes to the sound source allowance in a given year, or cumulatively, the report will include a discussion of why the change was made and include analysis to support how the change did or did not affect the analysis in the 2020 MITT FSEIS/OEIS and MMPA final rule. The annual report will also include the details regarding specific requirements associated with specific mitigation areas. The final annual/close-out report at the conclusion of the authorization period (year seven) will serve as the comprehensive close-out report and include both the final year annual use compared to annual authorization as well as a cumulative seven-year annual use compared to seven-year authorization. The detailed reports must contain the information identified in paragraphs (e)(1) through (6) of this condition.

- (1) *MTEs*. This section of the report must contain the following information for MTEs conducted in the MITT Study Area.
  - (i) Exercise information for each MTE.
    - (A) Exercise designator.
    - (B) Date that exercise began and ended.
    - (C) Location.
    - (D) Number and types of active sonar sources used in exercise.
    - (E) Number and types of passive acoustic sources used in exercise.
    - (F) Number and types of vessels, aircraft, and other platforms participating in exercise.
    - (G) Total hours of all active sonar source operation.
    - (H) Total hours of each active sonar source bin.
    - (I) Wave height (high, low, and average) during exercise.

- (ii) Individual marine mammal sighting information for each sighting in each exercise where mitigation was implemented.
  - (A) Date/Time/Location of sighting.
  - (B) Species (if not possible, indication of whale or dolphin).
  - (C) Number of individuals.
  - (D) Initial Detection Sensor (*e.g.*, sonar, Lookout).
  - (E) Indication of specific type of platform observation was made from (including, for example, what type of surface vessel or testing platform).
  - (F) Length of time observers maintained visual contact with marine mammal.
  - (G) Sea state.
  - (H) Visibility.
  - (I) Sound source in use at the time of sighting.
  - (J) Indication of whether the animal was less than 200 yd, 200 to 500 yd, 500 to 1,000 yd, 1,000 to 2,000 yd, or greater than 2,000 yd from sonar source.
  - (K) Whether operation of sonar sensor was delayed, or sonar was powered or shut down, and how long the delay.
  - (L) If source in use was hull-mounted, true bearing of animal from the vessel, true direction of vessel's travel, and estimation of animal's motion relative to vessel (opening, closing, parallel).
  - (M) Lookouts must report, in plain language and without trying to categorize in any way, the observed behavior of the animal(s) (such as animal closing to bow ride, paralleling course/speed, floating on surface and not swimming, etc.) and if any calves were present.
- (iii) An evaluation (based on data gathered during all of the MTEs) of the effectiveness of mitigation measures designed to minimize the received level to which marine mammals may be exposed. This evaluation must identify the specific observations that support any conclusions the Navy reaches about the effectiveness of the mitigation.



- (2) *SINKEXs*. This section of the report must include the following information for each *SINKEX* completed that year.
- (i) Exercise information gathered for each *SINKEX*.
    - (A) Location.
    - (B) Date and time exercise began and ended.
    - (C) Total hours of observation by Lookouts before, during, and after exercise.
    - (D) Total number and types of explosive source bins detonated.
    - (E) Number and types of passive acoustic sources used in exercise.
    - (F) Total hours of passive acoustic search time.
    - (G) Number and types of vessels, aircraft, and other platforms participating in exercise.
    - (H) Wave height in feet (high, low, and average) during exercise.
    - (I) Narrative description of sensors and platforms utilized for marine mammal detection and timeline illustrating how marine mammal detection was conducted.
  - (ii) Individual marine mammal observation (by Navy Lookouts) information for each sighting where mitigation was implemented.
    - (A) Date/Time/Location of sighting.
    - (B) Species (if not possible, indication of whale or dolphin).
    - (C) Number of individuals.
    - (D) Initial detection sensor (*e.g.*, sonar or Lookout).
    - (E) Length of time observers maintained visual contact with marine mammal.
    - (F) Sea state.
    - (G) Visibility.
    - (H) Whether sighting was before, during, or after detonations/exercise, and how many minutes before or after.

- (I) Distance of marine mammal from actual detonations (or target spot if not yet detonated): Less than 200 yd, 200 to 500 yd, 500 to 1,000 yd, 1,000 to 2,000 yd, or greater than 2,000 yd.
  - (J) Lookouts must report, in plain language and without trying to categorize in any way, the observed behavior of the animal(s) (such as animal closing to bow ride, paralleling course/speed, floating on surface and not swimming, etc.), including speed and direction and if any calves were present.
  - (K) The report must indicate whether explosive detonations were delayed, ceased, modified, or not modified due to marine mammal presence and for how long.
  - (L) If observation occurred while explosives were detonating in the water, indicate munition type in use at time of marine mammal detection.
- (3) *Summary of sources used.* This section of the report must include the following information summarized from the authorized sound sources used in all training and testing events:
- (i) Total annual hours or quantity of each bin of sonar or other transducers; and
  - (ii) Total annual expended/detonated ordnance (missiles, bombs, sonobuoys, etc.) for each explosive bin.
- (4) *Marpi Reef and Chalan Kanoa Reef Geographic Mitigation Areas.* The Navy must report any active sonar use (all bins, by bin) between December 1 and April 30 that occurred as specifically described in these areas. Information included in the classified annual reports may be used to inform future adaptive management within the MITT Study Area.
- (5) *Geographic information presentation.* The reports must present an annual (and seasonal, where practical) depiction of training and testing bin usage geographically across the MITT Study Area.
- (6) *Sonar exercise notification.* The Navy must submit to NMFS an electronic report within fifteen calendar days after the completion of any MTE indicating:
- (i) Location of the exercise;
  - (ii) Beginning and end dates of the exercise; and
  - (iii) Type of exercise.

- (f) *Final Close-Out Report.* The final (year seven) draft annual/close-out report must be submitted within three months after the expiration of this LOA to the Director, Office of Protected Resources, NMFS. NMFS must submit comments on the draft close-out report, if any, within three months of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or three months after the submittal of the draft if NMFS does not provide comments.
  - (g) *Communication plan.* The Navy and NMFS shall develop a communication plan that will include all of the communication protocols (phone trees, etc.) and associated contact information required for NMFS and the Navy to carry out the necessary expeditious communication required in the event of a dead, injured, or live stranded marine mammal including information described in Condition 7 Monitoring and Reporting.
8. Prohibitions. Notwithstanding the takings identified in Condition 5 of this LOA and authorized under this LOA and 50 CFR Part 218, Subpart J, no person in connection with the activities described in Condition 4 of this Authorization may take any marine mammal specified in Condition 5 of this Authorization other than by incidental take and in the course of conducting the activities specified in Condition 4; take any marine mammal other than a species identified in Condition 5; take a marine mammal specified in Condition 5 if such taking results in more than a negligible impact on the species of such marine mammal; or violate, or fail to comply with, the terms, conditions, and requirements of the regulations or this LOA.
- 9 Renewals and modifications of Letters of Authorization.
- (a) An LOA issued under 50 CFR §§ 216.106 and 218.96 for the activity identified in Condition 4 may be renewed or modified upon request by the applicant, provided that:
    - (1) The planned specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for the regulations at 50 CFR Part 218, Subpart J (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this condition); and
    - (2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA(s) were implemented.
  - (b) For LOA modification or renewal requests by the applicant that include changes to the activity or to the mitigation, monitoring, or reporting measures (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this condition) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of planned LOA in the **Federal**

**Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

- (c) An LOA issued under 50 CFR §§ 216.106 and 218.96 may be modified by NMFS under the following circumstances:
- (1) *Adaptive management.* After consulting with the Navy regarding the practicability of the modifications, NMFS may modify (including adding or removing measures) the existing mitigation, monitoring, or reporting measures if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring.
    - (i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA include:
      - (A) Results from the Navy's annual monitoring report and annual exercise report from the previous year(s);
      - (B) Results from other marine mammal and/or sound research or studies;
      - (C) Results from specific stranding investigations; or
      - (D) Any information that reveals marine mammals may have been taken in a manner, extent, or number not authorized by this LOA.
    - (ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of planned LOA in the **Federal Register** and solicit public comment.
  - (2) *Emergencies.* If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species of marine mammals specified in LOAs issued pursuant to 50 CFR §§ 216.106 and 218.96, an LOA may be modified without prior notice or opportunity for public comment. Notice will be published in the **Federal Register** within thirty days of the action.
10. A copy of this Authorization or a document containing the equivalent requirements specified in this Authorization and the 50 CFR Part 218, Subpart J regulations, must be in the possession of the on-site Commanding Officer in order to take marine mammals under the authority of this Authorization while conducting the specified activities.

11. The Holder of this Authorization and any person operating under their authority is required to comply with the Terms and Conditions of the Incidental Take Statement corresponding to NMFS' Biological Opinion for the activities identified in Condition 4 as they pertain to Endangered Species Act listed marine mammals.

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FOR Donna S. Wieting,  
Director, Office of Protected Resources,  
National Marine Fisheries Service.

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Date

# NOTIFICATION AND REPORTING PLAN FOR THE U.S. NAVY MARIANA ISLANDS TRAINING AND TESTING STUDY AREA

## BACKGROUND

This Notification and Reporting Plan will be cited as a requirement in the U.S. Navy (Navy) Mariana Islands Training and Testing (MITT) Study Area final rule and requirements outlined below will be included as part of the Navy's Marine Mammal Protection Act (MMPA) Letter of Authorization (LOA). The LOA indicate the conditions under which the Navy is authorized to take marine mammals pursuant to Navy training and testing activities, involving sonar, explosive detonations, or vessel movements, conducted in the waters in the MITT Study Area. This Notification and Reporting Plan is specifically intended to outline the applicable requirements the authorization is conditioned upon in the event that a marine mammal stranding (or milling) event is reported in or immediately adjacent to (within 50 kilometer (km) (27 nautical miles (nmi) of)) the MITT Study Area. Since the National Marine Fisheries Service (NMFS) considers all plausible causes when investigating any injury, death, or stranding, any reporting provided pursuant to this plan does not, in any way, presume that any injuries, deaths, strandings, or milling events are related to, or caused by, Navy training or testing activities. All data provided will undergo appropriate security procedures prior to release to NMFS.

## REQUIREMENTS

### 1) Notification of the Discovery of a Stranded Marine Mammal a. Discovery of any Stranded Marine Mammal<sup>2</sup>

In the event that Navy personnel (uniformed military, civilian, or contractors while conducting Navy work) discover a live or dead stranded marine mammal within the MITT Study Area or on Navy property, the Navy shall report the incident to NMFS (see communication protocols below) as soon as feasible.

The Navy will provide NMFS with:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s)
- General circumstances under which the animal was discovered (e.g., during an MTE, explosive event, found on Navy property, or by transiting vessel)

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<sup>2</sup> As defined in Title IV of the MMPA, a "stranding" is defined as "an event in the wild in which (A) a marine mammal is dead and is (i) on a beach or shore of the United States, or (ii) in waters under the jurisdiction of the United States (including any navigable waters) ; or (B) a marine mammal is alive and is (i) on a beach or shore of the United States and unable to return to the water; (ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or (iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance."

## **b. Vessel Strike**

Within the boundaries of the MITT Study Area, whether such ship strike was authorized by the LOA or not, in the event of a ship strike of a marine mammal by any Navy vessel, the Navy shall immediately report, or as soon as security clearance procedures and safety conditions allow, the information above in (a), to NMFS (see Communication Protocols below).

As soon as feasible, but no later than seven (7) business days, the Navy shall additionally report to NMFS, the:

- Vessel's speed during and leading up to the incident;
- Vessel's course/heading and what training or testing activity was being conducted (if applicable);
- Status of all sound sources in use (*e.g.*, active sonar, explosives);
- Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;
- Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;
- Estimated size and length of animal that was struck;
- Description of the behavior of the marine mammal immediately preceding and following the strike;
- If available, description of the presence and behavior of any other marine mammals immediately preceding the strike;
- Estimated fate of the animal (*e.g.*, dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared, etc.);
- To the extent practicable, photographs or video footage of the animal(s); and
- Any relevant information discovered during Navy's investigation of a ship strike, including but not limited to other in-water platforms in use within a mile immediately preceding the strike, as available.

## **2) Additional Information Requests**

If NMFS personnel determine that the circumstances of any marine mammal stranding found within the MITT Study Area or within 50 km (27 nmi) of the boundary of the MITT Study Area, suggest investigation of the association of Navy activities is warranted (example circumstances noted below), and an investigation into the stranding is being pursued, NMFS personnel will submit a written request to the Navy asking that they provide the following initial available information as soon as possible, but no later than seven (7) business days after the request for information.

- Status of all permitted sound source and/or explosive use in the 48 hours (hrs) preceding and within 50 km (27 nmi) of the discovery/notification of the stranding by NMFS, or estimated time of stranding; and
- If available, description of the behavior of any marine mammal(s) sightings preceding (48 hrs and 50 km (27 nmi)) and immediately after the discovery of the stranding (as available).

Examples of circumstances that could trigger the additional information request include, but are not limited to, the following:

- Atypical nearshore milling events of live cetaceans;
- Mass strandings of cetaceans (two or more individuals, not including cow/calf pairs);

- Beaked whale strandings;
- Necropsies with findings of pathologies that are unusual for the species or area; and
- Stranded animals with findings consistent with blast trauma.

In the event that the investigation is still inconclusive, the investigation of the association of Navy activities is still warranted, and the investigation is still being pursued, NMFS may have additional information requests. If the previously mentioned factors are present (*i.e.*, investigation is still inconclusive, etc.), the Navy would be required to answer additional questions regarding their activities within 148 km (80 nmi) and 72 hrs prior, provided appropriate security clearance procedures are followed.

### **3) Actions to Minimize Additional Harm to Live-Stranded (or Milling) Marine Mammals**

In the event of a live stranding (or near-shore atypical milling) event within the MITT Study Area or within 50 km (27 nmi) of the boundary of the MITT Study Area, where the stranding network is engaged in herding or other interventions to return animals to the water, NMFS (individuals specifically identified in the MITT Stranding Communication Protocol, NMFS Office of Protected Resources (OPR) – HQ senior administrators) will advise the Navy of the need to implement shutdown procedures for all permitted active acoustic sources or explosive devices within 50 km (27 nmi) of the stranding. Following this initial shutdown, NMFS will communicate with the Navy to determine if circumstances support any modification of the shutdown zone. The Navy may decline to implement all or part of the shutdown if the holder of the LOA, or his/her designee, determines that it is necessary for national security. Shutdown procedures for live stranding or milling marine mammals include the following:

- If at any time, the marine mammal(s) die or are euthanized, or if herding/intervention efforts are stopped, NMFS (individuals specifically identified in the MITT Stranding Communication Protocol) will immediately advise the Navy that the shutdown around that animal(s)' location is no longer needed.
- Otherwise, shutdown procedures will remain in effect until NMFS (individuals specifically identified in the MITT Stranding Communication Protocol) determines and advises the Navy that, all live animals involved have left the area (either of their own volition or following an intervention).
- If further observations of the marine mammals indicate the potential for restranding, additional coordination with the Navy will be required to determine what measures are necessary to minimize that likelihood (*e.g.*, extending the shutdown or moving operations farther away) and to implement those measures as appropriate.

Shutdown procedures are not related to the investigation of the cause of the stranding and their implementation is not intended to imply that Navy activity is the cause of the stranding. Rather, shutdown procedures are intended to protect marine mammals exhibiting indicators of distress by minimizing their exposure to possible additional stressors, regardless of the factors that contributed to the stranding.

### **COMMUNICATION PROTOCOL**

Effective communication is critical to the successful implementation of this Notification and Reporting Plan in the MITT Study Area. Very specific protocols for communication, including identification of the Navy personnel authorized to implement a shutdown and the NMFS personnel authorized to advise the Navy of the need to implement shutdown procedures, have been identified. These protocols and



associated phone trees are currently in usable form and will be finalized for the MITT Study Area by July 2020 and updated yearly (or more frequently, as appropriate) in the document entitled “MITT Stranding Communication Protocols.”