

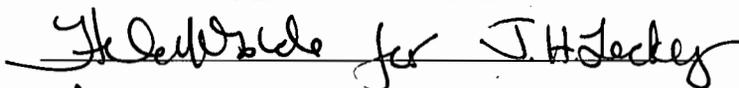
National Marine Fisheries Service
Endangered Species Act Section 7 Consultation
Biological Opinion

Agencies: United States Navy
National Marine Fisheries Service

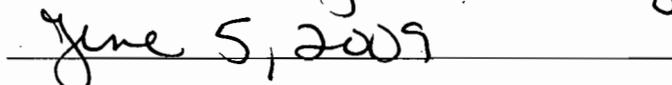
Activities Considered: U.S. Navy activities in the Northeast Operating Area
U.S. Navy activities in the Virginia Capes Range Complex from June 2009 to June 2014
U.S. Navy activities in the Cherry Point Range Complex from June 2009 to June 2014
U.S. Navy activities in the Jacksonville Range Complex from June 2009 to June 2014
Promulgation of regulations to authorize the U.S. Navy to “take” marine mammals incidental to the conduct of training in the Virginia Capes, Cherry Point, and Jacksonville Range Complexes June 2009 to June 2014

Consultation Conducted by: Endangered Species Division of the Office of Protected Resources,
National Marine Fisheries Service

Approved by:



Date:



Section 7(a)(2) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1536(a)(2)) requires each federal agency to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat of such species. When a federal agency’s action “may affect” a protected species, that agency is required to consult formally with the National Marine Fisheries Service or the U.S. Fish and Wildlife Service, depending upon the endangered species, threatened species, or designated critical habitat that may be affected by the action (50 CFR 402.14(a)). Federal agencies are exempt from this general requirement if they have concluded that an action “may affect, but is not likely to adversely affect” endangered species, threatened species, or designated critical habitat and NMFS or the U.S. Fish and Wildlife Service concur with that conclusion (50 CFR 402.14(b)).

For the actions described in this document, the action agencies are the United States Navy, which proposes to undertake training activities in operating areas and range complexes along the Atlantic Coast of the United States of America and NMFS’ Office of Protected Resources – Permits, Conservation, and Education Division, which proposes

to promulgate regulations that would authorize the U.S. Navy to “take” marine mammals incidental to those training activities. The consulting agency for these proposals is NMFS’ Office of Protected Resources - Endangered Species Division.

This document presents the results of section 7 consultations on several actions that are all proposed to occur along the Atlantic Coast of the United States: (1) the U.S. Navy’s proposal to conduct training activities in (a) the Northeast Operating Area; (b) the Virginia Capes Range Complex; (c) the Cherry Point Range Complex; (d) the Jacksonville Range Complex from June 2009 through June 2014; and (e) establishment of an enhanced Transit Protection System at Naval Submarine Base Kings Bay, Georgia, to escort nuclear-powered submarines in transit between NSB Kings Bay and dive/surface sites; and (2) NMFS’ promulgation of regulations to authorize the U.S. Navy to “take” marine mammals incidental to the conduct of training in the Virginia Capes, Cherry Point, and Jacksonville Range Complexes June 2009 to June 2014. The National Marine Fisheries Service’s biological opinions on each of these separate actions have been grouped into this single document because of their spatial proximity and their potential to result in cumulative impacts (in the NEPA sense of that term) on endangered and threatened species and designated critical habitat that occurs along the Atlantic Coast of the United States.

This Opinion has been prepared in accordance with section 7 of the ESA and is based on information provided in the applications for the proposed Letters of Authorization, published and unpublished scientific information on the biology and ecology of threatened and endangered whales, endangered and threatened sea turtles, Atlantic salmon, and shortnose sturgeon that occur along the Atlantic coast of the United States, and other sources of information which are discussed in greater detail in the *Approach to the Assessment* section of this Opinion.

Consultation History

In January 2008, the U.S. Navy provided NMFS with a draft of its biological evaluation for training and operations in U.S. Navy Range Complexes along the east coast of the United States. In September 2008, the the U.S. Navy provided NMFS with its biological evaluation for training and operations in three range complexes along the east coast of the United States: Virginia Capes Range Complex, Cherry Point Range Complex, and Jacksonville Range Complex.

On 17 March 2008, the Permits Division received an application from the Navy requesting authorization for the take of cetacean species incidental to the proposed training activities in the Jacksonville Range Complex and Virginia Capes Range Complex over the course of 5 years. On 12 December 2008, the Permits Division published proposed rules for these requests for authorization in the Federal Register on Friday, December 12, 2008 (73 FR 76578 and 73 FR 75631, respectively). On 5 June 2008, the Permits Division received an application from the Navy requesting authorization for the take of Atlantic spotted dolphin incidental to the proposed training activities in the Cherry Point Range Complex over the course of 5 years.

In February 2009, the U.S. Navy provided NMFS with several clarifications and updates to its earlier Biological Evaluation. This document described several major changes to the information the U.S. Navy provided in September 2008, including the addition of training activities off the Northeastern U.S., the addition of a Transit Protection System at Naval Submarine Base Kings Bay, Georgia, the use of anti-swimmer grenades in the Jacksonville Range

Complex, additional data on East Coast Navy vessel transits, clarification of maritime security operations, and a revised set of mitigation measures.

On 10 April 2009, NMFS provided the U.S. Navy with a copy of the draft Description of the Proposed Action section of this Opinion. On 22 April 2009, the U.S. Navy submitted its comments and recommendations on that draft Description of the Proposed Action, which triggered further discussions that were resolved during the first week of May 2009.

On 8 May 2009, NMFS' Permits, Education, and Conservation Divisions provided NMFS Endangered Species Division with a copy of the final draft regulations it planned to issue for U.S. Navy training activities in the Virginia Capes Range Complex. On 10 May 2009, NMFS' Permits, Education, and Conservation Divisions provided NMFS Endangered Species Division with a copy of the final draft regulations it planned to issue for U.S. Navy training activities in the Jacksonville Range Complex. On 14 May 2009, NMFS' Permits, Education, and Conservation Divisions provided NMFS Endangered Species Division with a copy of the final draft regulations it planned to issue for U.S. Navy training activities in the Cherry Point Range Complex.

On 2 June 2009, NMFS provided the U.S. Navy with copies of its draft biological opinion on the suite of activities that would be authorized by the regulations the Permits Division proposed to issue pursuant to the Marine Mammal Protection Act. NMFS has reviewed all comments on those draft documents and, where appropriate, has incorporated them into this document. On 4 June 2009, NMFS received the U.S. Navy's comments on its draft biological opinion on the suite of activities that would be authorized by the regulations the Permits Division proposed to issue pursuant to the Marine Mammal Protection Act. NMFS has reviewed all comments on those draft documents and, where appropriate, has incorporated them into this document.

BIOLOGICAL OPINION

1.0 Description of the Proposed Actions

This biological opinion considers several actions that have been proposed by the U.S. Navy and the National Marine Fisheries Service's Permits, Conservation, and Education Division:

- 1 the U.S. Navy's proposal to continue to conduct training activities within and adjacent to: (a) waters off the Northeast coast of the United States, (b) the Virginia Capes Range Complex; (c) the Cherry Point Range Complex, and (d) the Jacksonville Range Complex. For some training activities, the U.S. Navy plans to increase the number of training events they will conduct in these areas each year. The purpose of the U.S. Navy's training activities is to meet the requirements of the U.S. Navy's Fleet Response Training Plan.

In addition, the U.S. Navy proposes to establish a transit protection system at Naval Submarine Base Kings Bay, Georgia, to escort nuclear powered ballistic submarines during transit between the Naval Submarine Base and the dive/surface site. The U.S. Navy proposes to employ a mixture of enhanced vessel platforms and conventional weapons systems to provide protection during all transits between the Naval Submarine Base and dive/surface sites that employs U.S. Coast Guard personnel and their ancillary equipment.

2 the National Marine Fisheries Service’s Permits, Conservation, and Education Division (hereafter, “Permits Division”) proposal to promulgate regulations governing the take and importation of marine mammals, pursuant to the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), to allow NMFS to promulgate regulations that would allow it to issue annual letters of authorization to the U.S. Navy to take marine mammals for a five-year period beginning in June 2009 and ending in June 2014 incidental to the U.S. Navy’s training activities.

This document represents the National Marine Fisheries Service’s biological opinions on each of these separate actions. Pursuant to the goals of the section 7 regulations (50 CFR 402.14(c)), we have grouped these 10 different actions into this single document because of their spatial proximity and their potential to result in cumulative impacts (in the NEPA sense of that term) on endangered and threatened species and designated critical habitat that occurs along the Atlantic Coast of the United States. Section 7 consultations on subsequent letters of authorization or that result from reinitiating section 7 consultation on any one of the actions considered in this document may result in separate biological opinions in the future.

1.1 Training in Northeast Operating Areas

The U.S. Navy’s Fleet Forces Command proposes to continue unit level training exercises during transits to, from, and within the Atlantic City Operating Area, Narragansett Bay Operating Area, and Boston Complex. Unit level training generally involves training activities by a single vessel in which the vessel uses only its own systems or sensors and includes man overboard drills, towed array operations (passive), small arms training, and surface gunnery (inert only). Unit level training activities are conducted at the discretion of the vessel Commanding Officer if and only if the proximity of surrounding traffic permits.

1.2 Training in the Virginia Capes Range Complex

The following narratives summarize the training operations the U.S. Navy plans to conduct within the Virginia Capes Range Complex. Table 1 (which begins on the following page) identifies the specific training activities and number of events for each activity while Chapter 2 and Appendix D of the U.S. Navy’s Environmental Impact Statement and Overseas Environmental Impact Statement on the Virginia Capes Range Complex provide more detailed narratives of these training operations and specific ordnance that might be involved in particular training operations (U.S. Navy 2008a).

1. MINE WARFARE, which would consist of mine countermeasures and mine neutralization training operations. These exercises are designed to train Navy personnel to detect, identify, classify, mark, avoid, and disable sea mines using a variety of methods. These training operations would generally occur within areas W-50A, W-50C (including the Surface Danger Zone), W-72, W-386, and the lower Chesapeake Bay training area (see Figure 1).

Table 1. Activities the U.S. Navy proposes to conduct in the Virginia Capes Range Complex

Range Operation	Platform	System or Ordnance	Proposed Action	Location
MINE WARFARE				
Mine Countermeasures	MH-53E	MK-103	200 sorties	W-50 A/C
		SPU-1W	70 sorties	Lower Chesapeake Bay
		MK-104	120 sorties	
		MK-105	120 sorties	
	MH-60S	AQS-24A	550 sorties	W-386, W-72
		OASIS	370 sorties	Lower Chesapeake Bay
		AQS-20A	670 sorties	W-386, W-72
DDG 91+ (Remote Mine hunting System)	ALMDS	110 sorties	W-50C	
Mine Neutralization	MH-53E	AQS-20A	12 events	W-386, W-72
	MH-60S	AMNS	70 sorties	W-50C
		AMNS	140 sorties (30 HE rounds)	W-50C
	RAMICS	110 sorties (2,750 rounds)		
EOD	20 Lb NEW Charges	24 events	Surface Danger Zone (W-50C)	
SURFACE WARFARE				
Bombing Exercise (air-to-surface)	F/A-18	MK-83/GBU-32 or similar ordnance (1,000 lb HE bomb)	5 sorties (20 bombs)	W-386 (Air-K)
		MK-20 (non-explosive practice munitions or NEPM)	34 sorties (68 bombs)	W-72 A/B
		MK-76 (NEPM)	28 sorties (142 bombs)	
		MK-82 (NEPM)	75 sorties (150 bombs)	
		MK-83 (NEPM)	25 sorties (50 bombs)	
		BDU-45 (NEPM)	22 sorties (50 bombs)	
Bombing Exercise (air-to-surface)	F/A-18, F-35 (Joint Strike)	BDU-33, GBU-12, JDAM,	77 sorties	W-386 (Air-K)

BIOLOGICAL OPINION ON U.S. NAVY TRAINING ACTIVITIES ON EAST COAST TRAINING RANGES

Table 1. Activities the U.S. Navy proposes to conduct in the Virginia Capes Range Complex

Range Operation	Platform	System or Ordnance	Proposed Action	Location
	Fighter)	JSOW, MK-76, MK-82, MK-84 (all NEPM)	(77 bombs)	
Missile Exercise (Air-to-Surface) ⁷	MH-60R/S, HH-60H	AGM-114 (Hellfire Missile HE)	60 sorties (60 missiles)	W-386 (Air-K; 75%), W-72A (25%)
	F/A-18, P-3C and P-8	AGM-65 E/F (Maverick; HE)	20 sorties (20 missiles)	W-386 (Air-K)
	F/A-18, F-35 (JSF) and H-60	AGM-14 (Hellfire) AGM-88 (HARM) AGM-65 LSR Maverick AGM-84 (Harpoon)	23 sorties	W-386 (Air-K)
Gunnery Exercise (Air-to-Surface) ⁸	MH-53E	.50 cal machine gun	27 sorties (54,000 rounds)	W-72A (Air-1A; 75%) W-50C (25%)
	MH-60R/S	2.75-inch rockets	97 sorties (3,700 rounds)	W-386 (Air-K; 75%) W-72A (25%)
		.50 cal machine gun	330 sorties (264,000 rounds)	W-72A (Air-1A; 75%) W-50C (25%)
		M-240 (7.62 mm machine gun)	165 sorties (264,000 rounds)	W-72A (Air-1A; 75%) W-50C (25%)
	F/A-18, F-35 (JSF)	20 mm cannon (NEPM)	11 sorties (7,000 rounds)	W-386 (Air-K)
Gunnery Exercise (Surface-to-Surface; Boat)	Vessels such as small unit river craft, combat rubber raiding craft, rigid hull inflatable boats, and patrol craft	.50 cal, 7.62 mm	36 events (220,000 small caliber rounds)	W-50C (90%) R-6606 (10%)
		40 mm grenades	36 events (600 rounds)	
Gunnery Exercise (Surface-to-Surface; Ship)	CG, DDG	5 inch gun	115 events (2,430 rounds)	W-386 (80%) W-72 (20%)
	FFG	76 mm gun	22 events (370 rounds)	
	CG, DDG, FFG, LHA, LHD, LPD, LSD	.50 cal machine gun	120 events (261,600 rounds)	
		25 mm machine gun	120 events (137,400 rounds)	
Laser Targeting	F/A-18	Maverick Laser Fire Control System	136 sorties	W-386 (Air-K) W-72A
	H-60	Hellfire Laser Fire Control System	136 sorties	
Maritime Security Operation (to include VBSS/MIO)	Rigid Hull Inflatable Boat or similar small boat, and CG, DDG, FFG, LPD or	none	92 events	Virginia Capes Operating Area

BIOLOGICAL OPINION ON U.S. NAVY TRAINING ACTIVITIES ON EAST COAST TRAINING RANGES

Table 1. Activities the U.S. Navy proposes to conduct in the Virginia Capes Range Complex

Range Operation	Platform	System or Ordnance	Proposed Action	Location
	LSD			
VBSS/MIO-Helicopter	H-60	none	44 events	Virginia Capes Operating Area
AIR WARFARE				
Air Combat Maneuvers	F/A-18	Captive carry missiles or telemetry pods	5,800 sorties	W-72A (Air-2A/B, 3A/B)
Gunnery Exercise (air-to-air)	F/A-18, F-35 (JSF)	20 mm cannon	60 sorties (15,000 rounds)	W-72A
Missile Exercise (Air-to-Air)	F/A-18	AIM-7, AIM-9, AIM-120	160 sorties (48 HE, 112 NEPM)	W-72A
	F/A-18	AIM-7, AIM-9, AIM-120, AIM-132 (ASRAAM)	33 sorties (33 missiles)	W-386 (Air D, G, H, K)
Missile Exercise (Surface-to-Air)	AOE, LHD, CVN	NATO Sea Sparrow	33 RDT&E events	W-386 (Air D, G, H, K)
	CG, LHA, AOE	Evolved NATO Sea Sparrow		
	CVN, FFG, LHA, LHD, LSD, LPD	Rolling Airframe Missile		
	CG, DDG	SM-2		
	CG, DDG, LHA, LHD, LSD, LPD	SM-2 (20 missiles); Sea Sparrow (2 missiles); RAM (2 missiles)	24 events	Virginia Capes Operating Area
Air Intercept Control	F/A-18, E-2C, CVN, CG, DDG, LHA, LHD	Air Search and fire control radars	370 events	W-386 and W-72
Detect-to-Engage	CG, DDG, FFG, LHA, LHD, LPD, LSD, CVN		225 events	
Gunnery Exercise (Surface-to-Air)	CG, DDG	5 inch gun	15 events (290 rounds)	W-386 (80%) W-72 (20%)
	FFG	76 mm gun (inert)	3 events (72 rounds)	
	CG, DDG, FFG, CVN, LHA, LHD, LPD, LSD	20 mm Close-in Weapons System	30 events (64,000 rounds)	
Strike Warfare				
HARM Missile exercise (air-to-surface)	F/A-18	AGM-88 (HARM)	26 sorties (26 missiles)	W-386 (Air E, F, I, J)
Amphibious Warfare				
Firing Exercise (Surface-to-Surface) with IMPASS	CG, DDG	5-inch gun (IMPASS)	22 events (1,540 rounds)	Preferred areas: W-386, 7C/D, 8C/D, W-72 (1C1/2) Secondary areas: W-386 (5C/D)

Table 1. Activities the U.S. Navy proposes to conduct in the Virginia Capes Range Complex

Range Operation	Platform	System or Ordnance	Proposed Action	Location
ELECTRONIC COMBAT				
Electronic Combat Operations	F/A-18, F-35 (JSF)	ALE-50/55 electronic jammer	10 sorties	W-386 (Air-K)
	F/A-18		110 sorties	W-386 (15%), W-72 (85%)
	AOE, CG, CVN, DDG, FFG, LHA, LHD, LPD, LSD	SLQ-32	182 events	Virginia Capes Operating Area
Chaff Exercise	CG, DDG, FFG, LCC, LHA, LHD, LPD, LSD	MK-214 or MK-216 Super Rapid Bloom Off-board Chaff	28 MK-214 events (168 canisters); 9 MK-216 events (54 canisters)	W-386 (85%) W-72 (15%)
	F/A-18, MH-60 R/S, F-35 (JSF)	R-144A/AL defensive chaff	14 sorties (140 canisters)	
	MH-60R/S	R-144A/AL defensive chaff	17 sorties (510 canisters)	W-386 (Air-K)
	F/A-18	R-144A/AL defensive chaff	1,950 sorties (19,500 canisters)	W-72 (85%), W-386 (15%)
Flare Exercise	MH-60R/S	Defensive flares	17 sorties (510 flares)	W-386 (Air-K)
	F/A-18, MH-60R/S, F-35 (JSF)		8 sorties (40 flares)	W-386 (85%), W-72 (15%)
	F/A-18		55 sorties (275 flares)	W-72 (85%), W-386 (15%)
TEST AND EVALUATIONS				
Shipboard Electronic Systems Evaluation Facility Utilization (SESEF)	All Hampton Roads-based ships	Radio and radar only	3,800 tests	Virginia Capes Operating Area (SESEF ULM-4 Range and RCS Range)

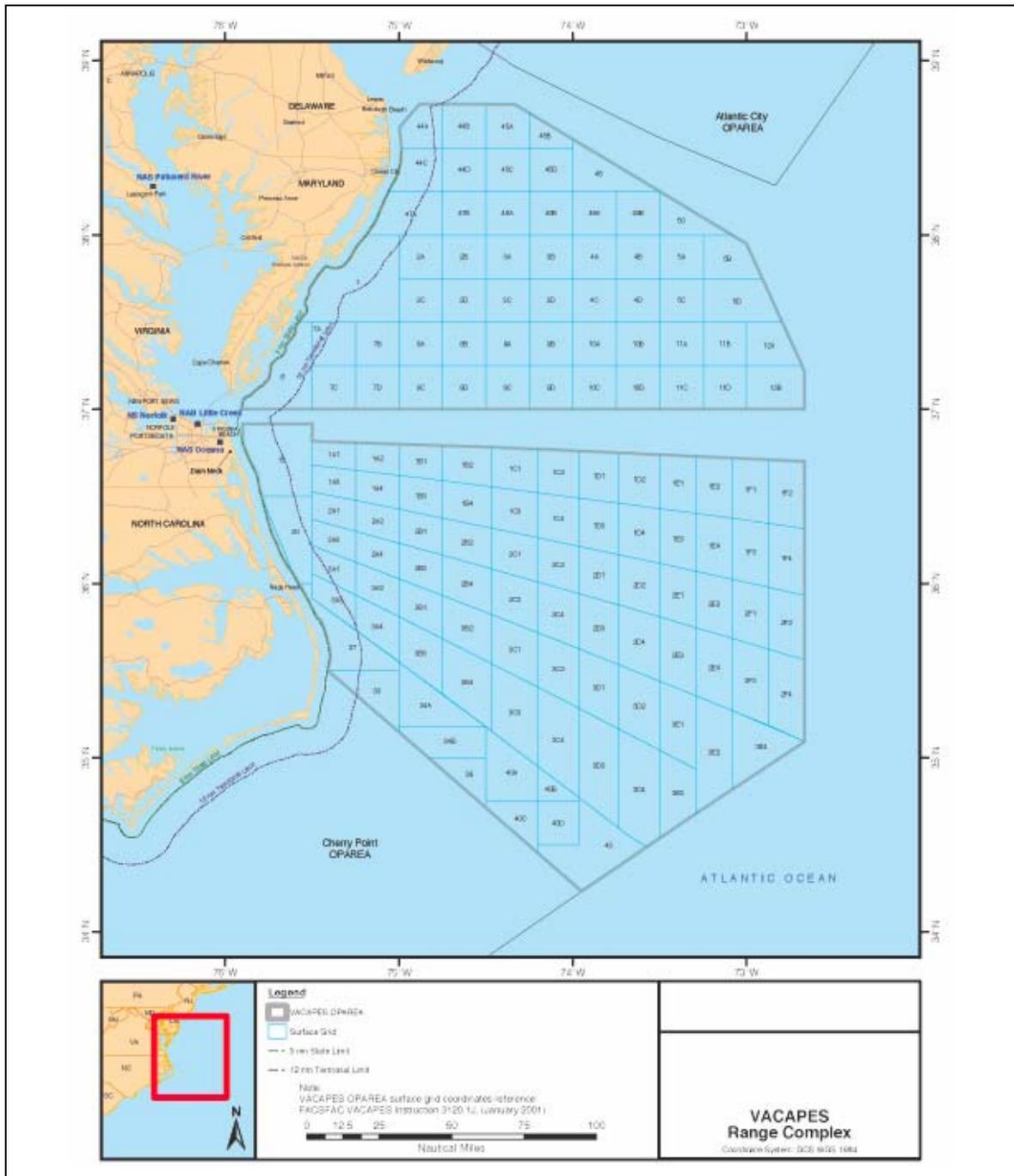


Figure 1. Map of the Virginia Capes Range Complex (from U.S. Navy 2008a)

2. SURFACE WARFARE, which would consist of bombing exercises (air-to-surface) involving F/A-18 and F-35 aircraft; missile exercises (air-to-surface); gunnery exercises (air-to-surface and surface-to-surface); laser targeting, and maritime security operations (including military interception operations and visit, board, search, and seizure operations). Air-to-surface missile exercises train aircrews to deliver missiles to surface targets, air-to-surface gunnery exercises train aircrews to attack surface targets with guns, surface-to-surface gunnery exercises train ship crews to attack surface targets with guns, and maritime security operations are designed to train Navy personnel to identify, track, intercept, board, and inspect surface vessels. Bombing operations would generally occur within areas W-386 (Air-K), W-72A (Air-3B), and W-72A/B. Some surface warfare training operations would occur in these same areas as well as within areas W-50C and R-6606. Maritime Security Operations and Maritime Interdiction Operations would occur throughout the Virginia Capes Operating Area.
3. AIR WARFARE, which would consist of air combat maneuvers, gunnery exercises (air-to-air) and missile exercises (air-to-air), gunnery exercises (surface-to-air), missile exercises (surface-to-air), air intercept control, and detect to engage. Air combat maneuvers, air-to-air gunnery exercises, and air-to-air missile exercises would generally occur within areas W-386 (Air-D, G, H, K), W-72A (Air-2A, Air-2B, Air-3A and Air-3B). Surface-to-air training operations would generally occur within areas W-386 and W-72, except for surface-to-air missile exercises, which would generally occur throughout the Virginia Capes Operating Area.
4. STRIKE WARFARE, which would consist of High-Speed Anti-Radiation (HARM) missile exercises (air-to-surface) and would generally occur within area W-386 (Air-E, F,I, and J). The U.S. Navy currently conducts about 26 sorties for a total of 26 missiles in the Virginia Capes Range Complex each year.
5. AMPHIBIOUS WARFARE, which would consist of Firing Exercises with Integrated Maritime Portable Acoustic Scoring and Simulation System (IMPASS) operations. These training operations would preferentially occur in areas W-386, 7C, 7D, 8C, 8D, W-72, IC1 and IC2 with W-386, 5C, and 5D as secondary areas. The U.S. Navy currently conducts about 22 of these firing exercise events, involving a total of 1,340 rounds, in the Virginia Capes Range Complex each year.
6. ELECTRONIC COMBAT, which would consist of chaff exercises, flare exercises, and electronic combat operations. These training operations would generally occur within areas W-72 and W-386, although some electronic combat operations would occur throughout the Virginia Capes Operating Area. The U.S. Navy currently conducts about 1,821 chaff exercise sorties and events, 63 flare exercise sorties, and 274 electronic combat operations sorties or events in the Virginia Capes Range Complex each year.
7. TEST AND EVALUATION, which consists of shipboard electronic systems evaluation facility utilization (SESEF). These training operations could occur throughout the Virginia Capes Operating Area, although they are most likely to occur within SESEF ULM-4 Range and RCS Range.
8. RESEARCH, DEVELOPMENT, TEST AND EVALUATION, which consists of operational test & evaluation, developmental test & evaluation, and production acceptance test & evaluation. Tests include a wide variety of aircraft, ships, ocean engineering, missile firings, torpedo testing, manned and unmanned submersibles, unmanned aerial and underwater vehicles, electronic warfare and other Navy weapons systems. Tests are

used principally for equipment maintenance and to ensure that equipment within units work well when integrated.

In the Virginia Capes Range Complex, the Navy proposes to increase training above current baseline levels; as proposed, the number of most training operations would increase by about 10 percent above baseline training levels. In addition to increasing the number of current training operations, the U.S. Navy also proposes to conduct Maritime Security Surge Surface Strike Group (Independent Deployment) Training in the Virginia Capes Range Complex, although the Navy does not expect this training to substantially change the general type and quantity of operations currently conducted in the Virginia Capes Range Complex.

In addition, the U.S. Navy proposes to use the Virginia Capes Range Complex to prepare surface ships and embarked air, special forces and Marine Corps units for deployment as Maritime Security Surge Surface Strike Groups. Each fleet maintains a number of ships ready to deploy on short notice. Preparing a Maritime Security Surge Surface Strike Group for deployment includes a mix of classroom, synthetic and live training events. Live training ensures proficiency in multi-unit procedures and autonomous operations by means of anticipated region-specific scenarios. The Navy does not expect Maritime Security Surge Surface Strike Group training to significantly alter the overall type and quantity of operations currently conducted in the Virginia Capes Range Complex.

Finally, the U.S. Navy proposes to provide range support and services at the Virginia Capes Range Complex that would be required to accommodate additional squadrons of aircraft and new systems and weapons that would be associated with changes in the structure of naval forces. The additional squadrons include:

9. MH-60S Multi-Mission Combat Support Helicopter missions, which would include organic mine counter-measures, air-to-surface missile and gunnery operations, combat search and rescue, search and rescue, special operations, logistics support, surface warfare, maritime security operations, and chaff and flare exercises (electronic combat capability that supports all other mission areas).

Most operations of the MH-60S helicopter in the Virginia Capes Range Complex would involve a single aircraft engaged in unit-level training sorties less than two hours in duration that would begin and end at Naval Station Norfolk. When they participate in Carrier Strike Group exercises, these aircraft would deploy as an entire squadron; when they participate in Expeditionary Strike Group exercises, these aircraft would deploy in one- or-two helicopter detachments aboard frigates, destroyers, cruisers, and amphibious ships in support of an Expeditionary Strike Group. All of the training exercises involving these aircraft that were considered in this consultation would occur at sea.

10. MH-60R Multi-Mission Helicopter missions, which would include anti-submarine warfare, surface warfare, maritime security operations, and search and rescue. The Atlantic Fleet would split the projected 105 airframes between Naval Air Station Jacksonville and Naval Station Mayport (Florida), distributed between five carrier air wing squadrons, two expeditionary squadrons, and one Fleet replacement squadron.

Most MH-60R Unit-Level Training operations would occur in the Jacksonville Range Complex near their home bases. With few exceptions, the MH-60R would only train in the Virginia Capes Range Complex when they participate in major exercises. The deployment and training patterns for the MH-60R would resemble those discussed for the MH-60S (see preceding description) and would also include sonar training.

New systems and weapons the U.S. Navy would employ in the Virginia Capes include:

11. The Organic Mine Countermeasures Systems. The Navy proposes to accommodate operations of MH-60S helicopters, surface ships, and submarines equipped with new Organic Mine Countermeasures systems in the Virginia Capes Range Complex. This would entail some changes in tactics, techniques, and procedures from current mine warfare training. “Organic” refers to the concept of embedding mine warfare capability into the strike group rather than as an external capability of specialized ships and aircraft, only brought in on an as-needed basis. The Navy plans to configure 51 of the 102 MH-60Ss eventually home based at Naval Station Norfolk with Organic Mine Countermeasures capability. These systems include:

- Towed mine-hunting sonar (AN/AQS-20A);
- Towed magnetic influence and acoustic, mine-sweeping body (OASIS);
- Airborne mine-hunting laser (ALMDS);
- Submerged mine-neutralization, self-propelled devices using explosive charges (Airborne Mine Neutralization System); and
- Airborne, mine-neutralization ordnance (designated A/AWS-2 and abbreviated as RAMICS in Navy documents).

12. The Airborne Mine Neutralization System (designated AN/ASQ-235 and abbreviated as AMNS in Navy documents) is a non-towed system designed to identify and neutralize bottom and moored mines in the ocean environment. A hovering MH-60S or MH- 53E helicopter lowers an expendable, self-propelled, neutralizer device into the water at a safe distance from a potential mine previously identified with a separate mine-hunting system. A fiber-optic cable connected to the neutralizer relays depth, position, and sensor (sonar and video) information to the operator in the helicopter, who sends control and guidance commands back to the neutralizer. The operator guides the lightweight (15.5 kg) and highly maneuverable vehicle to the target location using onboard high frequency sonar. After the target is viewed and positively identified with an on-board video camera, the operator detonates a charge to neutralize the mine.

For training and testing purposes, the airborne mine neutralization system explosive charge can be replaced with a ballast device that would cause the neutralizer to float to the surface for recovery and reuse after completion of the exercise. Training targets are expendable, non-explosive, bottom and moored mine shapes. The Navy evaluated the potential environmental effects of testing airborne mine neutralization system and concluded that significant impacts would not occur (U.S. Navy 2001; 2002b).

13. The Rapid Airborne Mine Clearance System (designated A/AWS-2 and abbreviated as RAMICS in Navy documents) consists of a non-towed system designed to neutralize floating and near-surface mines. Rapid Airborne Mine Clearance System is a MK44 Bushmaster II cannon with a laser Light Detection and Ranging targeting fire control system that fires a flat-nosed, 30 mm, armor piercing, non-explosive, super-cavitating projectile.

A hovering MH-60S helicopter uses the Light Detection and Ranging system to reacquire a mine previously located with a separate mine hunting system. Once the target is acquired, an onboard fire control subsystem automatically tracks it and aims the gun, firing the projectiles in bursts. A successful neutralization would

disable the mine at a safe distance from the helicopter. Training targets are expendable, non-explosive, bottom and moored mine shapes.

13. AN/AES-1 Airborne Laser Mine Detection System is a non-towed (airborne) mine-hunting system designed to rapidly detect, classify, and locate near-surface floating or moored mines. A pod mounted on the MH-60S pylon contains the laser Light Detection and Ranging system used to detect mines. An operator on the helicopter identifies potential mines from the laser images on a video monitor and marks their exact locations. A separate mine neutralization system is needed to disable or destroy mines once they have been identified.
14. The Organic Airborne and Surface Influence Sweep (designated AN/ALQ-220 and abbreviated as OASIS in Navy documents) is a high-speed (25 knots), towed, minesweeping system designed to rapidly neutralize magnetic and acoustic mines in shallow coastal waters. It emulates the magnetic and acoustic signatures of transit platforms, causing nearby mines to detonate. An underwater, towed body attached to a MH-60S helicopter with an electromechanical cable contains the electromagnetic field generator and the acoustic generator, a mechanical device that needs no external power.
15. AN/AQS-20, which is a towed, mine-hunting system designed to detect, classify, and localize bottom and moored mines in deep or shallow water. An underwater, towed body attached to an MH-60S helicopter with an electromechanical cable that contains the high-frequency, high-resolution, side-looking, multi-beam sonar system. It can also be configured with an electro-optic identification sensor that incorporates a laser Light Detection and Ranging system to identify bottom mines. An operator on the helicopter identifies potential mines from the sonar and laser images on a video monitor and marks their exact locations. A separate mine neutralization system is needed to disable or destroy mines once identified.
16. Increase Commercial Air Services Support for Fleet Training. The Navy proposes to increase the number, type, and operation of commercial air services within the Virginia Capes Range Complex. These contractor-owned and -operated supersonic and subsonic aircraft carry a variety of electronic threat emitters, perform aircraft maneuvers and flight profiles that mimic enemy aircraft, provide air-to-air refueling capabilities, and tow and stream targets used for surface-to-air gunnery training. Their use enhances the following range capabilities:
 - Opposition Force aircraft against naval aircraft and ships in air defense events, such as air intercept control and detect to engage, and sometimes intercept aircraft for air intercept control events;
 - Threat missile and aircraft profiles against naval aircraft and ships in electronic combat events;
 - Refueling tanker support during major exercises; and
 - Tow aircraft for target banners in air-to-air and surface-to-air gunnery exercises.Increased use of commercial air services to support Fleet training would not substantially increase aircraft numbers, emissions, or time spent in the warning areas, or alter current airspace usage. Rather, commercial air services would displace Fleet assets now used to support Fleet training events.
17. Conduct Surface-to-Air Missile training. The Navy proposes to conduct up to 24 High Explosive Surface-to-Air Missile events annually in Virginia Capes Operating Area. In these air defense exercises, surface

ships launch surface-to-air missiles with high explosive warheads at target drones simulating enemy aircraft. The Navy suspended live missile training launches from all surface ships except aircraft carriers in 2004; however, the Navy continues to conduct Surface-to-Air Missile test and evaluation events in the northern part of Virginia Capes Operating Area off-shore from the Goddard Flight Facility, Wallops Island, Virginia. If the Navy decides to reinstate Surface-to-Air Missile training events, it would conduct most of those events in the Virginia Capes Operating Area. Participants could include cruisers or destroyers launching SM-2 Standard Missiles, large amphibious ships (LHA or LHD) launching NATO Sea Sparrow missiles, or the smaller amphibious ships (LPD or LSD) launching Rolling Airframe Missiles. The targets are BQM-74 drones, launched from either G-1 Commercial Air Services aircraft or the Mobile Sea Range for SM-2 and Sea Sparrow missiles and BQM-34 drones launched from Dam Neck, Virginia.

These missiles have self-destruct mechanisms that cause the missiles to explode after a pre-set period of flight time. Therefore, the Navy does not anticipate any underwater detonations from high explosive warheads that fail to detonate near the target.

18. Reduction of High Explosive Bombing Events (at-Sea). As part of their preferred alternative, the Navy proposes to reduce the number of high explosive bombing training events that involve dropping high explosive (live) ordnance on targets at-sea by 96 percent. Targets employed for these exercises are usually a flare or smoke float.
19. Establish or Enhance Training Opportunities in Specific Geographic Areas. The U.S. Navy proposes to expand the area of current preferred mine training areas in the Virginia Capes Range Complex to handle increased training needs. The narratives that follow describe these training areas in greater detail and Table 1 presents the total number of operations that the Navy would conduct on the proposed training areas.

MINE NEUTRALIZATION TRAINING AREA. Except for training with the new organic mine neutralization systems (Rapid Airborne Mine Clearance System and Airborne Mine Neutralization System), the Navy would continue mine warfare training missions involving MH- 53E and MH-60S helicopter as they currently occur. Most training operations would involve single-aircraft, unit-level training that is accomplished without training mines. These flights involve planning an appropriate search, deploying equipment, flying a search pattern, familiarizing operators with system procedures, and recovering equipment. Some systems would have an organic simulation capability.

To overcome some of the limitations of its current training operations, the U.S. Navy proposes to establish a Mine Neutralization Training Area in the Virginia Capes Operating Area underneath W-50C Special Use Airspace, which would be designated as a Safety Danger Zone pursuant to 33 CFR §334.390. The Navy proposes to deploy about 140 non-explosive, expendable mine shapes in the Virginia Capes Operating Area each year in addition to the 24 underwater detonations already conducted by explosive ordnance disposal personnel. The helicopters would concentrate their operations in two training minefields that would be about 1 square mile in size.

- *Airborne Mine Neutralization System Training Minefield* would support H-60 and H-53 operations with explosive and non-explosive Airborne Mine Neutralization System. While most of these operations would use training neutralizers with no explosive materials, the Navy proposes to conduct about 30 operations per year with live warheads against expendable, non-explosive, bottom and moored mine shapes.

- *Rapid Airborne Mine Clearance System and Airborne Laser Mine Detection System Training Minefield* would support H-60 operations with the Rapid Airborne Mine Clearance System mine-neutralization system and Airborne Laser Mine Detection System mine-hunting system. Rapid Airborne Mine Clearance System is a 30-mm cannon that fires an armor-piercing, non-explosive, super-cavitating projectile that destroys the expendable, non-explosive, moored mine shapes. While Airborne Laser Mine Detection System is not a mine-neutralization activity, the Navy would take advantage of the moored training mines available in this training area.

MINE WARFARE TRAINING AREAS. The U.S. Navy also proposes to create six separate mine warfare training areas, two in the lower Chesapeake Bay and four in Virginia Capes Operating Area, primarily for enhanced mine countermeasures and neutralization Unit-Level Training.

Each training area would accommodate one to four individual minefields with semi-permanent training mines, and would be sized, located, and equipped to support several systems with similar criteria for water depth and distance from Naval Station (Naval Station) Norfolk. The total capability would support training with all mine systems home based in the Hampton Roads area.

As the Navy consolidates its fleet of mine warfare-capable MH-53E and MH-60S helicopters at Naval Station Norfolk, the Virginia Capes Range Complex would become the backyard range for most mine warfare Unit-Level Training. Helicopter Unit-Level Training typically entails a high volume of single-aircraft sorties, typically lasting about four hours that begin and end at the home base, and should not involve extensive preparation of the training areas. Most mine operations currently conducted in the Virginia Capes Range Complex are done without training mines, which greatly reduces the effectiveness of training and reduce readiness.

The type of non-explosive mines in a particular mine warfare training area would depend on the characteristics of the systems for which they are targets. The two broad categories of training mines include:

- *Non-explosive mine shapes*, which support mine hunting systems (sonar and/or laser sensors) and mine neutralization systems.
- *Versatile Exercise Mine Systems (VEMS)* support minesweeping systems (magnetic and/or acoustic signal generators). They are electronic devices shaped like bottom mines that detect and record acoustic and magnetic fields that pass over them. Each Versatile Exercise Mine System unit consists of a ballast section and a buoy section with all of the sensors. They do not contain any explosive material.

A surface vessel would seed a minefield with about 20 Versatile Exercise Mine System units that could remain in place for up to 90 days (but more typically for no more than 14 days) to support multiple events. A command from an acoustic link or at a programmed time activates the self-recovery system, causing the ballast section to release the buoy section. It rises to the surface, but remains tethered by a recovery line to the ballast section, which would act as an anchor. A surface vessel can then recover both sections. After extracting the data to provide feedback to the aircrew, maintenance personnel can reassemble and redeploy the Versatile Exercise Mine System unit.

The six mine warfare training areas overlay existing MH-53E preferred training areas. Each is located to satisfy depth, distance from their home base, and other requirements specific to the supported mine systems and helicopter

or ship. Each training area would have one to four simulated threat minefields of about 4 nm², each with 10 to 25 non-explosive training mines.

- *Instrumented Training Area (South)* would support MH-53 operations with the MK-105 and SPU-1W mine sweeping systems. The overriding design criterion is distance from Naval Station Norfolk (within 15 nm). All other mine countermeasures systems are transported within the helicopter, allowing normal cruise airspeeds (about 100 knots) to and from the training area. In contrast, the MK-105 is a bulky sled that must be streamed for operation at the departure point (in this case, the Naval Station Norfolk seawall) and dragged through the water to the training area. The SPU-1W is a 30-foot-long pipe, which is transported externally underneath the helicopter by a long cable during the transit to and from the training area. For both systems, the maximum transit speed is 27 knots. Because both systems operate on or just below the surface, their training areas can be in shallow water. This area would employ Versatile Exercise Mine System as training mines.
- *Instrumented Training Area (North)* would support H-53 operations with the MK-104 and MH-60S operations with the Organic Airborne and Surface Influence Sweep mine-sweeping systems. This area must have deeper water to ensure that the MK-104 and Organic Airborne and Surface Influence Sweep, both of which are underwater towed bodies, would not hit bottom. H-53s would occasionally use the area to train with the MK-106, which is a MK-104 attached to a MK-105 sled.

The Navy would regularly send small surface craft to both instrumented training areas to deploy and recover Versatile Exercise Mine System units. Both of these factors, which reduce transit times from Naval Station Norfolk to the training area, encourage locating training sites in the lower Chesapeake Bay instead of the open ocean. This area would employ Versatile Exercise Mine System as training mines.

SONAR TRAINING AREAS would support H-53 operations with the AQS-24A; MH-60S operations with the AQS-20A; and cruiser, destroyer, and frigate operations with their hull-mounted mine hunting sonar systems. These areas must have deeper water to ensure that AQS-20 and AQS-24 systems, both of which are underwater towed bodies, would not hit bottom. The Navy proposes to establish three separate sonar training areas in the Virginia Capes Range Complex:

- *Shallow Water Sonar Training Area (South)*. This area, which is closest to Naval Station Norfolk, would host most (about 75%) of H-60 AQS-20 operations to accommodate its shorter on-station time compared to the H-53. The H-53 would infrequently train there with its AQS-24, filling in the few remaining time periods. All training mines would be non-explosive bottom mine shapes.
- *Shallow Water Sonar Training Area (North)*. This area would handle the overflow MH-60S operations from the south training area, about 25 percent of the total AQS-20 operations, and about half of the H-53 AQS-24 operations. Also, most AQS-20 operations with the Remote Mine-hunting System (RMS) Unmanned Underwater Vehicle (uuv) would occur here. All training mines would be non-explosive bottom mine shapes.

- *Deep Water Sonar Training Area.* About half of H-53 AQS-24 operations and all surface ship operations would take place in this area. The training mines would be an even split of bottom and moored non-explosive mine shapes.

Mine Neutralization Training Areas require three individual minefields with slightly different capabilities, all of which could be co-located in the same training area. The Navy proposes to deploy about 140 non-explosive expendable mine shapes each year in addition to the 24 underwater detonations already conducted by explosive ordnance personnel.

- *MK-103 Training Minefield* would support H-53 operations with the MK-103, a mechanical mine sweeping system that consists of a Y-shaped, split cable dragged behind the helicopter that rides just below the surface. The cables have a series of cutters with small charges (0.002 lbs. Net Explosive Weight) that shear the anchoring cables of moored mines, releasing them to float to the surface. The cutters do not use live charges for most training flights. However, the Navy proposes to use live cartridges for about 25 percent of MK-103 training flights against non-explosive, moored mine shapes. In these live operations, after the cutter has sheered the mooring line connecting the non-explosive mine shape to its concrete anchor, the mine shape would float to the surface where a boat can recover it. These operations would occur in W-50A and W-50C (Figure 1).
- *Airborne Mine Neutralization System Training Minefield* would support H-60 and H-53 operations with live and non-explosive Airborne Mine Neutralization System. While most of these operations would use training neutralizers with no explosive materials, the Navy proposes to conduct about 30 operations per year with live warheads against expendable non-explosive bottom and moored mine shapes. The Airborne Mine Neutralization System operations would occur in area W-50C.
- *Rapid Airborne Mine Clearance System and Airborne Laser Mine Detection System Training Minefield* would support H-60 operations with the Rapid Airborne Mine Clearance System mine-neutralization system (which is a 30-mm cannon that fires an armor-piercing, on-explosive, super-cavitating projectile that punctures the non-explosive, moored, mine shape). While the Airborne Laser Mine Detection System mine-hunting system is not a mine-neutralization activity, the U.S. Navy would take advantage of the moored training mines available in this area to train with this system.

Rapid Airborne Mine Clearance System and Airborne Laser Mine Detection System operations would occur in area W-50C. The U.S. Navy's preferred alternative would require a larger mine neutralization training area because training would include MK-103 with live cartridges, which are likely to be conducted in W-50A and C, where the Navy has already studied the environmental effects and received permits to conduct underwater detonations, and which the U.S. Army Corps of Engineers has already designated a Surface Danger Zone (33 CFR §334.390).

1.3 Training in the Cherry Point Range Complex

The following narratives summarize the training operations the U.S. Navy plans to conduct within the Cherry Point Range Complex (see Figure 2). Table 2 (which begins on the following page) identifies the specific training

activities and number of events for each activity while Chapter 2 and Appendix D of the U.S. Navy's Environmental Impact Statement and Overseas Environmental Impact Statement on the Cherry Point Range Complex provide more detailed narratives of these training operations and specific ordnance that might be involved in particular training operations (U.S. Navy 2008b).

1. MARITIME SECURITY SURGE SURFACE STRIKE GROUP TRAINING. The Navy proposes to use Navy Cherry Point Range Complex to prepare surface ships and embarked air, special forces and Marine Corps units for deployment as Maritime Security Surge Surface Strike Groups. Each fleet maintains a number of ships ready to deploy on short notice. Preparing a Maritime Security Surge Surface Strike Group for deployment includes a mix of classroom, synthetic and live training events. Live training ensures proficiency in multi-unit procedures and autonomous operations by means of anticipated region-specific scenarios. The Navy does not expect Maritime Security Surge Surface Strike Group training to significantly alter the overall type and quantity of operations currently conducted in the Cherry Point Range Complex.
2. MINE WARFARE will only take place in the Navy Cherry Point Range Complex in conjunction with major exercises. Expeditionary Strike Group mine events will occur in Onslow Bay (Cherry Point Operating Area 15). Carrier Strike Group mine events will occur in Cherry Point Operating Areas 2, 4, 6, 11, 12, 13 and 14. See Bullet 15 below for detailed description of these areas.
3. SURFACE WARFARE includes the following operations: Bombing exercises (air-to-surface) with non-explosive practice munitions only throughout the Cherry Point Operating Area; Missile exercises (air-to-surface) in Cherry Point Operating Areas 16 and 17; Gunnery exercises (air-to-surface and surface-to-surface) throughout Cherry Point Operating Area; Maritime security operations, including maritime interception operations and visit, board, search and seizure operations, throughout the Cherry Point Operating Area.
4. AIR WARFARE includes the following operations: Air combat maneuvers in W-122 Areas 1, 8, 15 and 16; Gunnery exercises (air-to-air) in W-122 Areas 9, 10, 11 and 12; Missile exercises (air-to-air) in W-122 Areas 1, 2, 3, 8, 9, 10, 15, 16 and 17; Missile exercises (surface-to-air) throughout W-122; Air intercept control exercises throughout W-122.
5. STRIKE WARFARE, which consists of High-Speed Anti-Radiation (HARM) missile exercises (air-to-surface), would occur within Cherry Point Operating Areas 18, 19, 20 and 21.
6. AMPHIBIOUS WARFARE which include: Amphibious assaults that move Marine Corps amphibious forces by watercraft or aircraft from amphibious ships at sea over the beach to establish a beachhead then to occupy an area or to move inland for an extended period. These events occur in Cherry Point Operating Area 15 and the three mile littoral strip between the operating area and Onslow Beach on Marine Corps Base Camp Lejeune; Amphibious raids which involve Marine Corps amphibious forces from amphibious ships at sea to occupy land areas for a specified purpose and a specified time, followed by a planned withdrawal. These events occur in the same geographic area as amphibious assaults; Firing exercises with Integrated Maritime Portable Acoustic Scoring and Simulation System (IMPASS) which would occur in Cherry Point Operating Areas 4, 5, 13 and 14; Firing exercises into land targets in the G-10 Impact Area at Marine Corps Base Camp Lejeune. Navy ships will fire from Cherry Point Operating Area 15B.

7. ELECTRONIC COMBAT, which consist of chaff, flare and electronic combat operations occur throughout Cherry Point Operating Area.
8. RESEARCH, DEVELOPMENT, TEST AND EVALUATION, which could occur throughout Cherry Point Operating Area and are included in the estimates of the number of other events discussed in this *Description of the Proposed Action*.
9. SURFACE-TO-AIR MISSILE TRAINING. The Navy proposes to conduct up to eight surface-to-air missile training events annually in Cherry Point Operating Area. In these air defense exercises, surface ships launch surface-to-air missiles with either high explosive or non-explosive warheads at target drones simulating enemy aircraft.

However, the U.S. Navy would continue to conduct surface-to-air missile test and evaluation events in the northern part of the Virginia Capes Operating Area (W-386) offshore from the Goddard Flight Facility, Wallops Island, Virginia. If the Navy decides to reinstate surface-to-air missile training events, it would conduct most of them in the Virginia Capes Operating Area (W-72A/B), but would need the operational flexibility to train in Cherry Point Operating Area (W-122), as well. Participants could include cruisers or destroyers launching SM-2 Standard Missiles, or large amphibious ships (LHA or LHD) launching NATO Sea Sparrow missiles. Targets would be BQM-74 drones, launched from either G-1 Commercial Air Services aircraft or the Mobile Sea Range. Because the BQM-34 is the target of choice for the Rolling Airframe Missile, the Navy would schedule launches of these missiles to the Virginia Capes Operating Area.

10. MH-60R/S TRAINING. The Navy proposes to increase the type and quantity of MH-60R and MH-60S training conducted in the Cherry Point Range Complex. The on-going restructuring of its helicopter forces would eventually replace the aging fleet of CH-46D, UH-1N, HH-3U, SH-60B, SH-60F and HH-60H helicopters with these two linchpin airframes.
11. MH-60S MULTI-MISSION COMBAT SUPPORT. Helicopter missions would include organic mine countermeasures (Organic Mine Countermeasures), combat search and rescue, special operations, logistics support, surface warfare (surface warfare), maritime intercept operations and search and rescue. Naval Station (Naval Station) Norfolk would host all 100 airframes destined for the Atlantic Fleet, distributed between five carrier air wing squadrons, three expeditionary squadrons, and one fleet replacement squadron.

Most MH-60S operations in Cherry Point Range Complex would be with helicopters embarked aboard ships participating in major fleet training exercises. A carrier air wing squadron would deploy as an entire squadron onto the aircraft carrier when part of a Carrier Strike Group, whereas an expeditionary squadron would deploy one or two plane detachments aboard frigates, destroyers, cruisers and amphibious ships in support of an Expeditionary Strike Group.

Table 2. Activities the U.S. Navy proposes to conduct in the Cherry Point Range Complex (see U.S. Navy FEIS for further description and discussion)

Range Operation	Platform	System or Ordnance	Proposed Action	Location
MINE WARFARE				
Mine Countermeasures	MH-53E (Navy)	MK-103	54 sorties	Expeditionary Strike Group Composite Training Unit Exercise and Joint Task Force Exercise. Onslow Bay Mine Warfare Training Area. Carrier Strike Group Composite Training Unit Exercise: Carrier Operating Area North
		MK-105	54 sorties	
		AQS-24A	228 sorties	
	MH-60S (Navy)	OASIS	75 sorties	
		AQS-20A	165 sorties	
		ALMDS	84 sorties	
Mine Neutralization	MH-60S (Navy)	AMNS (non-explosive practice munitions or NEPM)	27 sorties	UNDET Area, Onslow Bay (3 – 12 nm from Onslow Beach)
		RAMICS	27 sorties (675 rounds)	
	Explosive Ordnance Disposal (Navy)	20 Lb NEW Charges	20 events	
SURFACE WARFARE				
Bombing Exercise (air-to-surface)	F/A-18 (Navy and USMC)	MK-82 or BDU-45 (NEPM)	25 events (98 bombs)	W-122
	AV-8B (USMC)	MK-82 or BDU-45 (NEPM)	12 events (96 bombs)	
	F/A-18 (Navy and USMC)	MK-83 (NEPM)	13 events (52 bombs)	
	F/A-18 (Navy)	MK-76 (25 lb NEPM)	14 events (142 bombs)	
	F/A-18 (USMC)	MK-76 (NEPM)	12 events (290 bombs)	
	AV-8B (USMC)	MK-76 (NEPM)	12 events (133 bombs)	
Missile Exercise (Air-to-Surface) ⁷	AH-IW (USMC)	AGM-114 (Hellfire Missile)	8 sorties (6 HE missiles, 2 NEPM)	W-122 (Area 16, 17)
		TOW Missile (HE)	8 sorties (8 missiles)	
Gunnery Exercise (Air-to-Surface) ⁸	AH-1W (USMC)	.20 mm cannon	40 sorties (12,000 rounds)	W-122 (Area 1, 2, 3, 8, 9, 10, 15, 16, 17)

BIOLOGICAL OPINION ON U.S. NAVY TRAINING ACTIVITIES ON EAST COAST TRAINING RANGES

Table 2. Activities the U.S. Navy proposes to conduct in the Cherry Point Range Complex (see U.S. Navy FEIS for further description and discussion)

Range Operation	Platform	System or Ordnance	Proposed Action	Location
	UH-1N (USMC)	.50 cal machine gun	40 sorties (60,000 rounds)	W-122
		7.62 mm machine gun	40 sorties (60,000 rounds)	
	F/A-18 (USMC)	20 mm cannon	10 sorties (2,400 rounds)	
	AV-8B (USMC)	25 mm cannon	10 sorties (2,400 rounds)	
Gunnery Exercise (Surface-to-Surface; Ship)	LHA, LHD, LSD, and LPD (Navy)	.50 cal machine gun	18 events (43,200 rounds)	Cherry Point Operating Area
		25 mm machine gun	18 events (28,800 rounds)	
	CG and DDG (Navy)	5-inch guns (NEPM)	27 events (1,140 rounds)	
	FFG (Navy)	76 mm (NEPM)	7 events (190 rounds)	
Gunnery Exercise (Surface-to-Surface; USMC small arms training)	LHA, LHD, LSD, and LPD (Navy)	9 mm pistol	30 events (12,000 rounds)	
		9 mm/.45 cal pistol, M-16, M-4, M-249 squad Automatic Weapon, MK-19, 40 mm TP, M-240-G machine gun, .50 cal machine gun (5.56,7.62 mm/.50 cal rounds)	30 events (12,000 rounds)	
		M-40 sniper rifle (.308 cal)	4 events (40 rounds)	
Maritime Security Operation (to include VBSS/MIO) Ship	Rigid Hull Inflatable Boat or similar small boat, and CG, DDG, FFG, LPD or LSD (Navy)	none	60 events	
Maritime Security Operation to include VBSS/MIO-Helo	MH-60 and CG, DDG, FFG, LPD or LSD (Navy)	none	8 events (24 sorties)	
AIR WARFARE				
Air Combat Maneuvers	F/A-18, AV-8B, F-15 and F-16 (Navy, USMC, and USAF)	Captive carry missiles or telemetry pods	770 sorties	W-122 (Areas 1, 8, 15, and 16)

BIOLOGICAL OPINION ON U.S. NAVY TRAINING ACTIVITIES ON EAST COAST TRAINING RANGES

Table 2. Activities the U.S. Navy proposes to conduct in the Cherry Point Range Complex (see U.S. Navy FEIS for further description and discussion)

Range Operation	Platform	System or Ordnance	Proposed Action	Location
Gunnery Exercise (air-to-air)	F/A-18 (USMC)	20 mm cannon	10 sorties (2,400 rounds)	W-122 (Areas 9, 10, 11, 12)
	AV-8B	25 mm cannon	10 sorties (2,400 rounds)	
Missile Exercise (Air-to-Air)	F/A-18 (USMC)	AIM-7 Sparrow (NEPM)	4 sorties (4 missiles)	
	F/A-18 (USMC)	AIM-7 Sparrow (NEPM)	4 sorties (4 missiles)	
Missile Exercise (Air-to-Air)	F/A-18 (USMC)	AIM-9 Sidewinder (HE)	4 sorties (4 missiles)	W-122 (Areas 9, 10, 11, 12)
	AV-8B (USMC)	AIM-9 Sidewinder (HE)	4 sorties (4 missiles)	
	AH-1W (USMC)	AIM-9 Sidewinder (HE)	4 sorties (4 missiles)	W-122 (Areas 1, 2, 3, 8, 9, 10, 15, 16, 17)
Missile Exercise (Surface-to-Air)	CG, DDG, LHA, LHD	SM-2 (HE); Sea Sparrow (HE)	8 events (8 missiles)	Cherry Point Operating Area
Air Intercept Control	F/A-18 (Navy and USMC)	Air Search and fire control radars	54 sorties 21 events	W-122
Strike Warfare				
HARM Missile exercise (Air-to-Surface)	F/A-18 (USMC)	AGM-88 (HARM HE)	8 sorties (8 missiles)	W-122 (Areas 18, 19, 20, 21)
Amphibious Warfare				
Firing Exercise (Land)	CG, DDG (Navy)	5-inch gun	30 events (3,000 rounds)	Cherry Point Operating Area (Firing Point Area 15B; the impact point is inland range at MCB Camp Lejeune Area G-10)
Firing Exercise with IMPASS		5-inch guns (70 rounds/event) [39 HE, 31 NEPM]	2 events (140 rounds, 78 HE, 62 NEPM)	Cherry Point Operating Area (Area 4/5, 13/14)
Amphibious Assault	1 LHA or LHD, 1 LPD, 1 1 LSD; 1 CG, up to 3 DDG and 2 FFG, with tailored MAGTF	11-14 amphibious AAV/EFV or LAV/LAR; 4 – 8 landing craft (3 – 5 LCACs, 1-3 LCU); 22 aircraft (4 MH-53, 12 H-46/MV-22, 4 AH-1M 2 UH-1, 4 AV-8)	4 assaults (52 AAVs and LAVs; 144 LCACs, 96 LCUs, 36 MH-53, 64 H-46 or MV-22, 36 AH-1, 24 UH-1, 16 AV-8)	Onslow Bay (90% of operations occur in Expeditionary Strike Group box, extending from Onslow Beach seaward 25 nm into Operating Area 15)
	1-3 amphibious ships (1 LHA or LHD, 1 LPD, 1 LSD), partial MAGTF	4-14 amphibious AAV/EFV or LAV/LAR; 2-8 landing LCAC/ LCU; 22 aircraft (4 MH-53, 12 H-46/MV-22, 4 AH-1, 2 UH-1, 4 AV-8)	6 assaults (42 AAVs and LAVs; 28 LCACs, 8 LCUs, 18 MH-53, 32 H-46 or MV-22, 18 AH-1, 12 UH-1, 8 AV-8)	

BIOLOGICAL OPINION ON U.S. NAVY TRAINING ACTIVITIES ON EAST COAST TRAINING RANGES

Table 2. Activities the U.S. Navy proposes to conduct in the Cherry Point Range Complex (see U.S. Navy FEIS for further description and discussion)

Range Operation	Platform	System or Ordnance	Proposed Action	Location
Amphibious Raid	1-3 amphibious ships (1 LHA or LHD, 1 LPD, 1 LSD), reinforced company (100 – 150 Marines)	4-14 amphibious AAV/EFV or LAV/LAR); 2–8 LCAC/ LCU's and small boats; 22 aircraft (4 MH-53, 12 H-46/MV-22, 4 AH-1, 2, UH-1, 4 AV-8)	24 raids (72 AAV/EFV or LAVLAR; 120 LCACs, 24 LCUs, 36 MH-53, 36 H-46 or MV-22, 36 AH-1, 36 UH-1, 36 AV-8)	
ELECTRONIC COMBAT				
Electronic Combat Operations	EA-6B, F/A-18G (Navy)	AN/ALQ-218, AN/ALQ-99, and AN/USQ-113	120 sorties	W-122
	All Navy and Marine Corps Fixed-wing aircraft	Multiple fixed and mobile SA, ZSU, and EW threat emitters	2,450 sorties	W-122
	AOE, CG, CVN, DDG, FFG, LHA, LHD, LPD, LSD	SLQ-32	50 events	Cherry Point Operating Area
Chaff Exercise	CG, DDG, FFG, LCC, LHA, LHD, LPD, LSD (Navy)	MK-214 (seduction chaff)	56 events (336 canisters)	
		MK-216 (distraction chaff)	18 events (108 canisters)	
	MH-60S	R-144A/AL defensive chaff	72 sorties (2,160 canisters)	
	F/A-18, AV-8B (Navy and USMC)	R-144A/AL defensive chaff	500 sorties (5,000 canisters)	
Flare Exercise	MH-60S (Navy)	MK-46 MOD 1C, MJU-8A/B, MJU-27 A/B, MJU-32B, MJU-53B, SM-875/ALE	72 sorties (2,160 flares)	W-122 (Areas 1, 8, 15, and 16)
	F/A-18, AV-8B (Navy and USMC)		35 sorties (175 flares)	

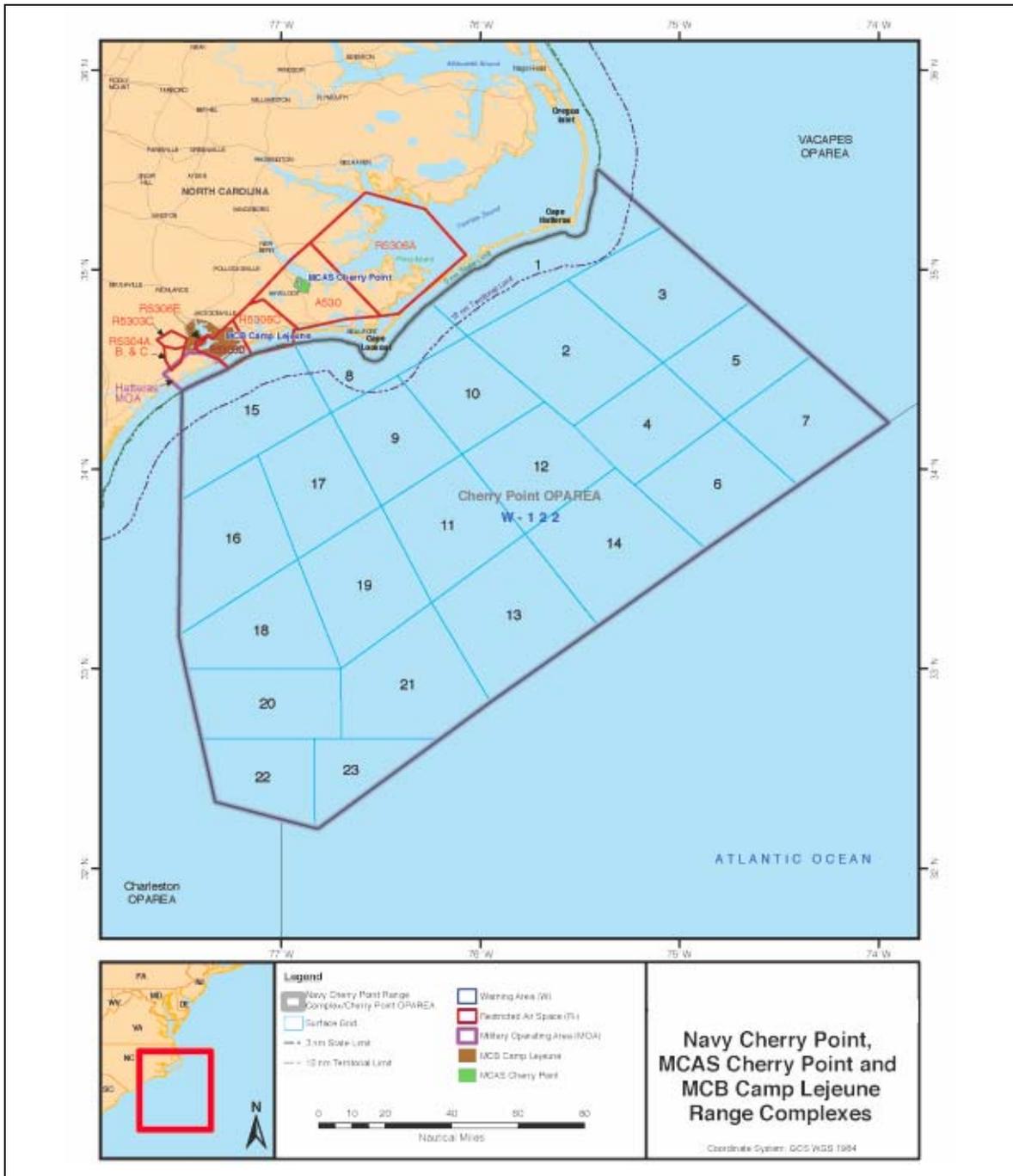


Figure 1. Map of the Cherry Point Range Complex (from U.S. Navy 2008b)

Navy MH-60Ss would also launch from ships and fly inland to participate in Combat Search and Rescue and special operations battle problems during major exercises. The Marine Corps would address those operations in their separate Marine Corps Base Camp Lejeune and MCAS Cherry Point Range Complex Environmental Assessments.

12. MH-60R MULTI-MISSION TRAINING. Helicopter missions would include anti-submarine warfare, surface warfare, maritime interdiction operations, and search and rescue. The Atlantic Fleet would split the projected 105 airframes between Naval Air Station Jacksonville and Naval Station Mayport, distributed between five carrier air wing squadrons, two expeditionary squadrons, and one fleet replacement squadron. Most MH-60R Unit-Level Training operations would occur in the Jacksonville Range Complex near their home bases. With few exceptions, the MH-60R would only train in the Cherry Point Range Complex when participating in a major exercise. The deployment and training patterns for the MH-60R resemble those for the MH-60S (discussed in previous item).
13. TRAINING WITH ORGANIC MINE COUNTERMEASURES SYSTEMS. The Navy proposes to accommodate operations of MH-60S helicopters, surface ships and submarines equipped with new Organic Mine Countermeasures systems in Navy Cherry Point Range Complex. This would entail some changes in tactics, techniques and procedures from current mine warfare training. Organic refers to the concept of embedding mine warfare capability into the strike group rather than as an external capability of specialized ships and aircraft, only brought in on an as-needed basis. The Navy would configure 51 of the 102 MH-60Ss that would eventually be home-based at Naval Station Norfolk with Organic Mine Countermeasures capability. These systems include a towed mine hunting sonar (AQS-20A), a towed magnetic influence and acoustic mine sweeping body (OASIS), airborne mine hunting laser (ALMDS), submerged mine neutralization self-propelled device (Airborne Mine Neutralization System), and airborne mine neutralization ordnance (RAMICS).
14. AN/AQS-20, which is a towed mine hunting system designed to detect, classify and localize bottom and moored mines in deep or shallow water. An underwater towed body attached to a MH-60S helicopter with electromechanical cable contains the high frequency, high resolution, side-looking, multi-beam sonar system. It can also be configured with an electro-optic identification sensor that incorporates a laser Light Detection and Ranging system to identify bottom mines. An operator on the helicopter identifies potential mines from the sonar and laser images on a video monitor and marks their exact locations. A separate mine neutralization system is needed to disable or destroy mines once identified.
15. ORGANIC AND SURFACE INFLUENCE SWEEP (designated AN/ALQ-220 and abbreviated as OASIS in Navy documents), which is a high-speed (25 knots), towed, minesweeping system designed to rapidly neutralize magnetic and acoustic mines in shallow coastal waters. It emulates the magnetic and acoustic signatures of transit platforms, causing nearby mines to detonate. An underwater, towed body attached to a MH-60S helicopter with an electromechanical cable contains the electromagnetic field generator and the acoustic generator, a mechanical device that needs no external power.
16. AN/AES-1 AIRBORNE LASER MINE DETECTION SYSTEM, which is a non-towed (airborne) mine hunting system designed to rapidly detect, classify and locate near-surface floating or moored mines. A pod mounted on the

MH-60S pylon contains the laser Light Detection and Ranging system used to detect mines. An operator on the helicopter identifies potential mines from the laser images on a video monitor and marks their exact locations. A separate mine neutralization system is needed to disable or destroy mines once identified.

17. AN/ASQ-235 AIRBORNE MINE NEUTRALIZATION SYSTEM, which is a non-towed system designed to identify and neutralize bottom and moored mines in the ocean environment. A hovering MH-60S or MH-53E helicopter lowers an expendable, self-propelled neutralizer device into the water at a safe distance from a potential mine previously identified with a separate mine hunting system. A fiber-optic cable connected to the neutralizer relays depth, position and sensor (sonar and video) information to the operator in the helicopter, who in turn sends control and guidance commands back to the neutralizer. The operator relocates and positively identifies the mine, and positions the neutralizer so its shaped charge would detonate into a vulnerable area. A successful neutralization renders the mine inoperable either by rupturing its case or, preferably, by triggering a sympathetic detonation of its charge. For training and testing purposes, the Airborne Mine Neutralization System explosive charge can be replaced with a ballast device that would cause the neutralizer to float to the surface for recovery and reuse after completion of the exercise. Training targets are expendable inert bottom and moored mineshapes.
18. RAPID AIRBORNE MINE CLEARANCE SYSTEM (designated A/AWS-2 and abbreviated as RAMICS in Navy documents), which is a non-towed system designed to neutralize floating and near-surface mines. Rapid Airborne Mine Clearance System is a MK44 Bushmaster II cannon with a laser Light Detection and Ranging targeting fire control system that fires a flat-nosed, 30 mm, armor piercing, non-explosive, super-cavitating projectile.

A hovering MH-60S helicopter uses the Light Detection and Ranging system to reacquire a mine previously located with a separate mine hunting system. Once the target is acquired, an onboard fire control subsystem automatically tracks it and aims the gun, firing the projectiles in bursts. A successful neutralization would disable the mine at a safe distance from the helicopter. Training targets are expendable, non-explosive, bottom and moored mine shapes.

Navy MH-53E and MH-60S helicopters would continue to train in Navy Cherry Point Range Complex in conjunction with major exercise mine warfare events, lasting seven to 14 days with up to four MH-53Es and three MH-60Ss. The mine training area for Expeditionary Strike Group exercises is in the shallower water where amphibious operations take place, whereas for Carrier Strike Group exercises, mine training occurs in the deeper water where the Carrier Strike Group would operate. The U.S. Navy currently conducts mine events in most major exercises without mine shapes, although exercise planners occasionally deploy temporary mine shapes in the Expeditionary Strike Group Operations Box off Onslow Beach in the Cherry Point Operating Area.

In the Cherry Point Range Complex, the Navy proposes to increase training above current baseline levels; as proposed, the number of most training operations would increase by about 10 percent above baseline. This increase in training operations results from changes in how the U.S. Navy is organizing, deploying, and employing naval forces (training Maritime Security Surge Surface Strike Groups) and changing the structure of Navy forces (for example, increasing the number of MH--60S Seahawk Multi-Mission Combat Support Helicopters at Naval Station Norfolk from four squadrons to nine and introducing Organic Mine Countermeasures systems).

19. INCREASE COMMERCIAL AIR SERVICES SUPPORT FOR FLEET TRAINING. The Navy proposes to increase the number, type and operation of Commercial Air Services within the Navy Cherry Point Range Complex. These contractor owned and operated supersonic and subsonic aircraft carry a variety of electronic threat emitters, perform aircraft maneuvers and flight profiles that mimic enemy aircraft, provide air-to-air refueling capabilities and tow and stream targets used for air-to-surface gunnery training to enhance the following range capabilities:
 - 19.1. Opposition Force aircraft against naval aircraft and ships in air defense (Air Intercept Control and Detect to Engage) and strike (air-to-ground bombing exercise) events, and sometimes intercept aircraft for Air Intercept Control events;
 - 19.2. Threat missile and aircraft profiles against naval aircraft and ships in electronic combat events;
 - 19.3. Refueling tanker support for multi-aircraft strike flights during major exercises;
 - 19.4. Tow aircraft for target banners in air-to-air and surface-to-air gunnery exercises. Increased use of commercial air services to support fleet training would not substantially increase aircraft numbers, emissions or time spent in the warning areas, or alter current airspace usage. Rather, commercial air services would displace fleet assets now used to support fleet training events.
20. UPGRADE ELECTRONIC COMBAT CAPABILITIES AT MID-ATLANTIC ELECTRONIC WARFARE RANGE. The Navy proposes to upgrade Mid-Atlantic Electronic Warfare Range threat emitters to include new mobile coastal anti-ship missile system simulators and add reactive Threat Radar Emitter System capability to several current threat emitters.
 - 20.1. COASTAL ANTI-SHIP MISSILE SYSTEM SIMULATORS, which consist of four mobile electronic emitters that train friendly surface ships to effectively identify and counter anti-ship electronic acquisition and targeting radars, and to gather coastal surveillance intelligence. Most often, these systems would operate from positions along the shoreline primarily in support of major exercises, prompting the air warfare commander and individual ships to react defensively and counter the threat. This training does not involve actual missile or ordnance use.
 - 20.2. THREAT RADAR EMITTER SYSTEM. Current surface-to-air threat emitters at Mid-Atlantic Electronic Warfare Range simulate the radar signature of enemy missile systems, designed to cause inbound aircraft to react in such a manner so as to defeat the threat. However, the emitters do not have a mechanism to provide the pilot with feedback as to the effectiveness of his response. Threat Radar Emitter System would track aircraft response to the threat signal, gauge whether that response would have successfully defeated the enemy threat, and provide real-time feedback to the pilot.
23. ENHANCE MINE WARFARE TRAINING CAPABILITY. The U.S. Navy proposes to designate mine warfare Training Areas in the Cherry Point Operating Area and the three-mile strip of Onslow Bay coastal water seaward from Onslow Beach (see Figure 2) for enhanced mine warfare training during major exercises. The Navy proposes two separate mine warfare Training Areas in the Cherry Point Range Complex:
 - 23.1. EXPEDITIONARY STRIKE GROUP MINE WARFARE TRAINING AREA. The relatively shallow water (littorals) off the coast of Onslow Beach at Marine Corps Base Camp Lejeune where the Expeditionary Strike Group/Marine Expeditionary Unit team conducts its amphibious warfare

training. Navy Cherry Point Range Complex would be the primary venue for Expeditionary Strike Group major exercise mine warfare events. The Navy proposes to temporarily deploy non-explosive recoverable training mines in the Expeditionary Strike Group mine warfare Training Area for each mine warfare event, typically up to two weeks each for a maximum of three Expeditionary Strike Group exercises in a surge year. It would recover these training mines at event completion.

A typical Expeditionary Strike Group major exercise mine warfare scenario would include mines in both the Expeditionary Strike Group Operating Box that threaten the Expeditionary Strike Group amphibious and support ships, and in the landing craft and amphibian transit lanes between the Expeditionary Strike Group Operating Box and the amphibious landing beach. These littoral waters are shallow enough that the Navy can easily deploy and recover training mines for the duration of the exercise mine warfare event. Use of training mines greatly increases the quality of training for the mine warfare Commander and his aircrews who would gain experience coordinating their efforts to detect, identify, locate, and/or neutralize mines over a large area, and get feedback about the efficacy of their initial planning and subsequent revisions. The type of training mine in a particular area depends on characteristics of the systems for which they are targets. Two broad categories of non-explosive training mines:

- *Inert mine shapes* support mine hunting systems (sonar and/or laser sensors) and mine neutralization systems. They replicate the appearance of mines that U.S. naval forces could encounter throughout the world. Inert mine shapes have an outer shell of glass-reinforced plastic or steel, contain no explosives or target detecting/actuating mechanisms, and are filled with concrete or some other inert material. They are available as bottom or moored mines. Moored mines float at a pre-programmed depth, and are held in place with steel cable or chain attached to an anchor. A surface support craft would deploy the both bottom and moored mines (with mine shape, mooring line, and anchor as a pre-assembled unit) in the exercise area just prior to commencing the mine warfare event. Divers, working in conjunction with a surface support craft, would retrieve recoverable training mines at the conclusion of mine warfare events. Expendable mine shapes destroyed during mine neutralization operations are not recovered.
- *Versatile Exercise Mine System* support mine sweeping systems (magnetic and/or acoustic signal generators). They are electronic devices shaped like bottom mines that detect and record acoustic and magnetic fields that pass over them. Each Versatile Exercise Mine System unit consists of a buoy section with all the sensors and a ballast section, and contains no explosive material. As with the inert mine shapes, a surface support craft would seed the exercise area with Versatile Exercise Mine System units just before the mine warfare event. A command from either an acoustic link or at a preprogrammed time activates the self-recovery system, causing the ballast section to release the buoy section. It rises to the surface, but remains tethered by a recovery line to the ballast section which acts as an anchor. A surface vessel can then recover both

sections. After extracting the data to provide feedback to the aircrew, maintenance personnel can reassemble and redeploy the Versatile Exercise Mine System unit.

A typical Expeditionary Strike Group major exercise mine warfare event would include up to four MH-53E and three MH-60S helicopters deployed to the exercise area one to two weeks before strike group arrival, operating from a ship participating in the exercise and/or shore-basing. Their mission is to clear the Expeditionary Strike Group Operating Area and landing craft transit lanes of mines. The MH-53s would fly two missions/day, three hours/mission, and the MH-60S would fly three missions/day, two hours/mission. Table 2 identifies the total number of operations for each the mine countermeasures and mine neutralization system the U.S. Navy plans to use over the course of three mine warfare events.

The Cherry Point Expeditionary Strike Group mine warfare Training Area would have three distinct sub-areas:

- EXPEDITIONARY STRIKE GROUP OPERATING BOX, 3 to 12 nm seaward from Onslow Beach, between 15 and 25 nm wide. In this area, helicopters would use their mine sweeping (MK-103, MK-105 and OASIS) and sonar mine hunting (AQS-20A and AQS-24A) systems against about 20 bottom and 5 moored inert mine shapes, and 10 Versatile Exercise Mine System.
- LANDING CRAFT AND AMPHIBIAN TRANSIT LANES, from 3 nm to the shoreline of the Onslow Beach amphibious training area, about 3 nm wide. In this area, the helicopters would use their mine hunting systems (laser ALMDS, and sonar AQS-20A and AQS-24A in areas with at least 40' depth of water) against about 50 bottom and 20 moored inert mine shapes.
- MINE NEUTRALIZATION AREA, within the Underwater Detonation Area MH-60S helicopters would employ inert Airborne Mine Neutralization System and Rapid Airborne Mine Clearance System, and Explosive Ordnance Disposal divers would use up to 20 lb charges against up to 10 inert moored and bottom mine shapes. Exercise scenarios would geographically displace mine neutralization events from to prevent them from interfering with one another.

23.2 CARRIER STRIKE GROUP MINE WARFARE TRAINING AREA. Deep water 50 to 100 nm off the North Carolina coast frequently used an operating box during Carrier Strike Group major exercises. The U.S. Navy would conduct most Carrier Strike Group major exercise mine warfare events in the Jacksonville and Charleston Operating Areas, but would use the Navy Cherry Point Range Complex as an alternate location (generally not more than once during any year). Since water depths are too deep for routine retrieval of submerged objects, major training events that occurred in the Cherry Point Range Complex would take place without training mines.

The Navy proposes to conduct mine neutralization operations for both Expeditionary Strike Group and Carrier Strike Group major exercises in the area currently designated for underwater detonation training (3 to 12 nm off the coast of Camp Lejeune in the Cherry Point Operating

Area). Non-explosive expendable training mines used for these training operations are typically destroyed in place so they are not recovered. The Navy is developing a mine countermeasures and neutralization capability to embed in its Carrier Strike Groups and Expeditionary Strike Groups, and desires to improve the quality of the mine warfare training events in major exercises. Currently, most mine warfare events during major exercises in the Cherry Point Operating Area are typically paper exercises.

The Strike Group mine warfare Commander and his staff are presented with a mine problem for which they must plan a solution using all available mine countermeasures assets. However, typically the event does not involve any helicopters, ships, or submarines actually executing the plan. The obvious shortfalls of this process is that neither the commander nor the mine countermeasures units derive the benefit of working together to execute the plan, feedback on the plan's efficacy, and the opportunity to respond to real world contingencies that inevitably arise to complicate any plan. As Expeditionary Strike Groups and Carrier Strike Groups begin to embark with Organic Mine Countermeasures-configured MH-60S helicopters, exercise planners in the Navy's fleet would increase the amount of live mine warfare training events during major exercises.

A typical Carrier Strike Group major exercise mine warfare event would simulate two mine threat scenarios: an open ocean environment in the Carrier Operating Box, and a channel or near-shore embayment with limited egress (also known as a "simulated choke point"). The Navy would deploy up to four MH-53E and three MH-60S helicopters to an exercise area one to two weeks before a strike group arrives, these aircraft would operate from a ship participating in the exercise, and would prepare safe transits and operating area for Carrier Strike Groups.

In deep water training areas, helicopters would execute the mine countermeasures plan with their mine hunting (AQS-20A and AQS-24A) and mine sweeping (Mk-103, Mk-105 and OASIS) systems. Aircrews would practice deploying their equipment in an operational environment, flying search patterns in proximity with other units, familiarizing the operators with system procedures, and recovering the equipment. In the shallow underwater detonation area, the Navy can insert up to ten inert expendable bottom or moored mine shapes so the MH-60S helicopters can exercise their mine neutralization equipment (inert Airborne Mine Neutralization System and Rapid Airborne Mine Clearance System), and deployed Explosive Ordnance Disposal personnel can practice their underwater detonation techniques.

24. Eliminating High Explosive Bombs At-sea. As part of its preferred alternative, the Navy proposes to eliminate high explosive air-to-surface bombing exercises in Navy Cherry Point Range Complex, primarily conducted at smoke float targets in Area 18 of W-122 (see Figure 2). The Navy and Marine Corps would continue to drop Non- Explosive Practice Munitions (inert bombs) in the area designated W-122.

1.4 Training in the Jacksonville Range Complex

The following narratives summarize the training operations the U.S. Navy plans to conduct within the Jacksonville Range Complex. Table 3 (which begins on the following page) identifies the specific training activities and number of events for each activity while Chapter 2 and Appendix D of the U.S. Navy's Environmental Impact Statement and Overseas Environmental Impact Statement on the Jacksonville Range Complex provide more detailed narratives of these training operations and specific ordnance that might be involved in particular training operations (U.S. Navy 2008c).

1. MAJOR TRAINING EXERCISES consist of Carrier Strike Group Composite Training Unit Exercises, Expeditionary Strike Group Composite Training Unit Exercises, and Joint Task Force Exercises.

Carrier Strike Group Composite Unit Training Exercises involve an aircraft carrier, carrier air wing, surface and submarine units. Carrier Strike Group Composite Unit Training Exercises are nominally 21 days long. Typical events that occur during a Carrier Strike Group Composite Training Unit Exercise include flight operations; several coordinated mine, air defense, surface, electronic, and anti-submarine operations.

During a Carrier Strike Group Composite Training Unit Exercises, anti-submarine warfare events could include a target submarine or submarines follow pre-determined tracks within a specific geographic area while 3 to 6 surface vessels (cruisers, destroyers, and frigates) attempt to locate and track the submarines with passive sonar. Active mid-frequency sonar would be used if vessels in the Surface Group are proximate to a larger Navy vessel they are protecting or if the larger vessel is located beyond the effective range of passive sonar, sonobuoys, or dipping sonar. The majority of these exercises occur within the Jacksonville Range Complex although some events occur in the Cherry Point Range Complex and portions of the Virginia Capes Range Complex.

Expeditionary Strike Group Composite Training Unit Exercises involve Navy amphibious ships and U.S. Marine Corps units in maritime and amphibious operations. These training exercises typically include amphibious assaults; several amphibious raids; coordinated mine, air defense, surface, anti-submarine, electronic combat, strike operations, and urban-combat training. The amphibious events occur in the Cherry Point Operating Area and adjoining Marine Corps Base Camp Lejeune and Marine Corps Air Station Cherry Point Range Complexes. Maritime events are split between the Jacksonville and Cherry Point Range Complexes.

During Expeditionary Strike Group COMPTUEX, anti-submarine warfare events could include a target submarine or submarines follow pre-determined tracks within a specific geographic area while 3 to 6 surface vessels (cruisers, destroyers, and frigates) attempt to locate and track the submarines with passive sonar. About half of these exercises occur within the Jacksonville Range Complex with the other half occurring in the Cherry Point Range Complex.

Table 3. Activities the U.S. Navy proposes to conduct in the Jacksonville Range Complex

Range Operation	Platform	System or Ordnance	Proposed Action	Location
MINE WARFARE				
Mine Countermeasures	MH-53E	MK-103	40 sorties	Amber Strait and Kaiser Carrier Operating Area ⁴
		MK-105	40 sorties	
		AQS-14A & AQS-24A	160 sorties	
	MH-60S	OASIS	54 sorties	
		AQS-20A	162 sorties	
Mine Neutralization	MH-60S	AMNS (non-explosive practice munitions or NEPM)	27 sorties	Charleston Operating Area (10L and 12I)
		RAMICS	27 sorties	
	EOD	20 Lb NEW Charges	12 events	Charleston Operating Area (10L and 12I)
SURFACE WARFARE				
Missile Exercise (Air-to-Surface)	MH-60R/S, SH-60B, HH60-H	AGM-114 Hellfire (HE) (8-lb NEW)	70 sorties (70 missiles)	W-157A and W-159A (Missile Laser Training Area)
	P-3C and P-8A	AGM-65 Maverick (HE) (80-lb NEW)	3 sorties (3 missiles)	
Gunnery Exercise (Air-to-Surface)	H-60 (all models)	.50 cal machine gun	70 sorties (112,000 rounds)	W-132, W-133, W-134, W-157, W-158
	H-60 (all models), MH-68 (U.S. Coast Guard [USCG])	M-240 (7.62 mm) machine gun	84 sorties (192,000 rounds)	
	SH-60B, MH-60R, MH-68 (USCG)	.50 cal rifle	14 sorties (140 rounds)	W-157, W-158
Gunnery Exercise (Surface-to-Surface; Boat)	Harbor Defense Boats (Boston Whalers)	.50 cal guns	96 events (44,000 rounds)	Charleston Operating Area (UNDET North and South)
		M-60 and M-240 (7.62 mm)	96 events (49,300 rounds)	
		M-19 (40 mm rounds)	96 events (12,700 rounds)	
Gunnery Exercise (Surface-to-Surface; FAC/FIAC)	CG, DDG, FFG	none	9 events	Charleston-Jacksonville Operating Areas
Gunnery Exercise (Surface-to-Surface; Ship)	CG, DDG	5" gun	31 events (810 rounds)	Jacksonville Operating Area (Surface Gunnery Areas AA, BB, CC)
	FFG	76 mm gun	58 events (960 rounds)	
	CG, DDG, FFG	.50 cal machine gun	44 events (105,800 rounds)	

BIOLOGICAL OPINION ON U.S. NAVY TRAINING ACTIVITIES ON EAST COAST TRAINING RANGES

Table 3. Activities the U.S. Navy proposes to conduct in the Jacksonville Range Complex

Range Operation	Platform	System or Ordnance	Proposed Action	Location
		25 mm machine gun	44 events (26,400 rounds)	
Bombing Exercise (Air-to-Surface)	P-3C, P-8A	MK-82(I), BDU-45 (500lb NEPM)	36 events (144 bombs)	W-157A/B W-158A/B
	F/A-18		90 events (360 bombs)	
Bombing Exercise (Air-to-Surface)	F/A-18	MK-83 (1,000 lb NEPM)	3 events (12 bombs)	W-157A/B W-158A/B
	F/A-18	MK-20 (cluster bomb, NEPM)	13 events (51 bombs)	W-157A/B W-158A/B
	F/A-18	MK-76 (25 lb NEPM with small smoke charge)	13 events (129 bombs)	W-157A/B W-158A/B
Laser Targeting	H-60	Hellfire Laser Fire Control System	275 sorties	W-132, W-133, W-134, W-157, W-158
	P-3C	Maverick Laser Fire Control System	28 sorties	W-132, W-133, W-134, W-157, W-158
Maritime Security Operation	Rigid Hull Inflatable Boat or similar small boat, and CG, DDG, FFG, LPD or LSD	none	90 events	Jacksonville and Charleston Operating Areas
VBSS/MIO-Helicopter	H-60	None	60 events	W-157A (Area 4X) and W-159A (Area 5X)
SMALL ARMS TRAINING				
Small Arms Training – Explosive hand grenades	Maritime Expeditionary Support Group (Various small boats)	MK3A2 Concussion anti- swimmer grenades (HE)	96 events (80 rounds)	Charleston Operating Area (10L and 12I)
AIR WARFARE				
Air Combat Maneuvers	F/A-18	Captive carry missiles or telemetry pods	1,245 sorties	W-157A (Area 3X, 4X)
Missile Exercise (Air-to-Air)	F/A-18	AIM-7, AIM-9, AIM-120 (30% HE, 70% NEPM)	22 sorties (7 HE, 15 NEPM)	W-132, W-133, W-134, W-157, W-158
Missile Exercise (Surface-to-Air)	CG, DDG LHA/LHD	SM-2 (6 missiles) Sea Sparrow (2 missiles)	8 events (8 missiles)	Jacksonville and Charleston Operating Areas
Air Intercept Control	F/A-18, E-2C, CVN, CG, DDG, LHA, LHD	Air Search and fire control radars	32 events (150 sorties)	W-132, W-133, W-134, W-157, W-158
Detect-to-Engage	CG, DDG, FFG, LHA,		85 events	W-132, W-133, W-134, W-157, W-158

BIOLOGICAL OPINION ON U.S. NAVY TRAINING ACTIVITIES ON EAST COAST TRAINING RANGES

Table 3. Activities the U.S. Navy proposes to conduct in the Jacksonville Range Complex

Range Operation	Platform	System or Ordnance	Proposed Action	Location
	LHD, LPD, LSD, CVN			
Gunnery Exercise (Surface-to-Air)	CG, DDG	5-inch gun (inert)	5 events (100 rounds)	Jacksonville Operating Area (Surface Gunnery Areas AA, BB, CC)
	FFG	76 mm gun (inert)	8 events (192 rounds)	
	CG, DDG, FFG	20 mm Close-in Weapons System	11 events (20,800 rounds)	
AMPHIBIOUS WARFARE				
Firing Exercise (Surface-to-Surface) with IMPASS	CG, DDG	5" gun (IMPASS)	10 events (390 HE rounds; 310 NEPM rounds)	Jacksonville Operating Area (Surface Gunnery Areas BB and CC)
ELECTRONIC COMBAT				
Electronic Combat Operations	EA-6B, F/A18G	AN/ALQ-218, AN/ALQ-99, AN/USQ-113	120 sorties	W-132, W-133, W-134, W-157, W-158
	CG, DDG, FFG, CVN, LHD, LPD, LSD	SLQ-32	61 events	Jacksonville and Charleston Operating Areas
Chaff Exercise	CG, DDG, FFG, LCC, LHA, LHD, LPD, LSD	MK-214 (seduction chaff)	56 events (336 canisters)	Jacksonville and Charleston Operating Areas
	CG, DDG, FFG, LCC, LHA, LHD, LPD, LSD	MK-216 (distraction chaff)	18 events (108 canisters)	Jacksonville and Charleston Operating Areas
	H-60B/R	RR-181/AL	9 sorties (9 canisters)	Jacksonville and Charleston Operating Areas
	F/A-18	R-144, R-129	415 sorties (4,150 canisters)	W-157A (Area 3X, 4X)
Flare Exercise	F/A-18	MK-46 MOD 1C, MJU-8A/B, MJU-27A/B, MJU-32B, MJU-53B, SM-875/ALE	14 sorties (70 flares)	W-157A (Area 3X, 4X)
TEST AND EVALUATIONS				
Shipboard Electronic Systems Evaluation Facility Utilization (SESEF)	CG, DDG, FFG	Radio and radar only	2,130 tests	5-15 nm east of Naval Station Mayport

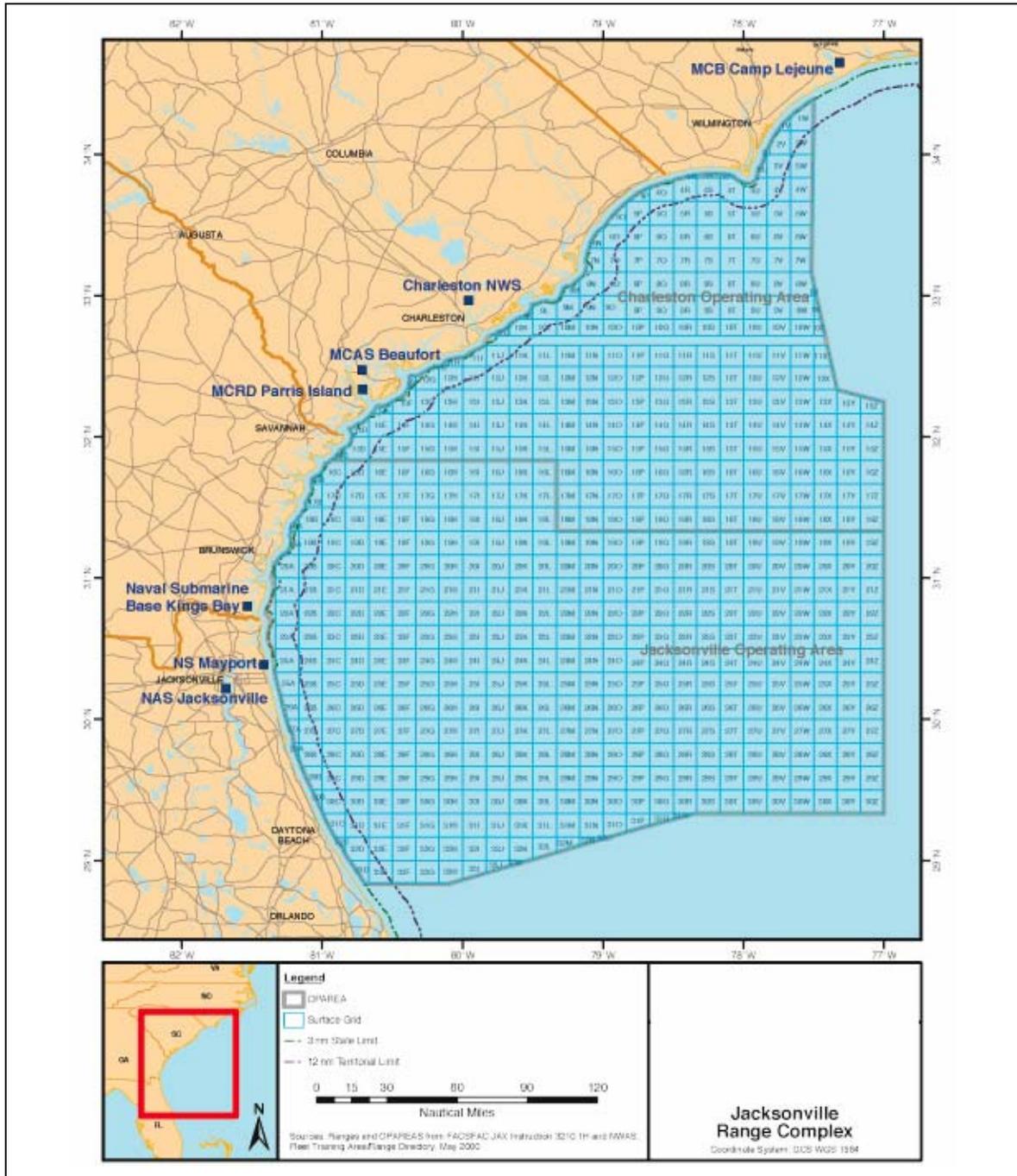


Figure 3. Map of the Jacksonville Range Complex (from U.S. Navy 2008c)

Joint Task Force Training Exercises typically follow Carrier Strike Group Composite Training Unit Exercises and are unscripted, scenario-driven exercises. Joint Task Force Exercises usually last for about 10 days involve one Strike Group consisting of the following participants:

- a. *Carrier Strike Group*: 1 multi-purpose carrier with a carrier air wing, 1 guided missile cruiser, 1 to 2 guided missile destroyer, 1 to 2 guided missile frigate, 1 fast combat support ship, and 1 submarine (SSN or SSGN)
 - b. *Expeditionary Strike Group*: 1 amphibious assault ship (general purpose or multipurpose) with air wing, 1 guided missile cruiser, 1 to 2 guided missile destroyer, 1 to 2 guided missile frigate, 1 amphibious transport dock, 1 dock landing ship, 1 fast combat support ship, 1 submarine (SSN or SSGN), and embarked marines. Joint Task Force Exercises would primarily occur in the Jacksonville Range Complex with portions of events occurring in the Cherry Point Range Complex.
2. MINE WARFARE, which would consist of mine laying, mine countermeasures, and mine neutralization training operations. These exercises are designed to train Navy personnel to detect, identify, classify, mark, avoid, and disable sea mines using a variety of methods. These training operations would generally occur within the Lake George Range, throughout the Range Complex, and the North and South Underwater Detonation Areas (see Figure 3 and Table 3).
 3. SURFACE WARFARE, which would consist of bombing exercises (air-to-surface), air-to-surface missile exercises; air-to-surface and surface-to-surface gunnery exercises; laser targeting, maritime security operations, and maritime interdiction operations. Air-to-surface missile exercises train aircrews to deliver missiles to surface targets, air-to-surface gunnery exercises train aircrews to attack surface targets with guns, surface-to-surface gunnery exercises train ship crews to attack surface targets with guns, and maritime security operations are designed to train Navy personnel to identify, track, intercept, board, and inspect surface vessels. Bombing operations would generally occur within areas W-158 (31-J), W-157A and W-157B, and W-158A and W-158B. Some air-to-surface missile exercises would occur in area W-157A while others would occur in area W-159A, air-to-surface and surface-to-surface gunnery exercises would occur in areas W-132, W-133, W-134, W-157 (AA, BB, or CC), W-158, or W-159A. Maritime Security Operations and Maritime Interdiction Operations would occur throughout the Charleston-Jacksonville Operating Area.
 4. AIR WARFARE, which would consist of air combat maneuvers, air intercept control, chaff exercises, flare exercises, air-to-air missile exercises, surface-to-air missile exercises, surface-to-air gunnery exercises, air-to-air gunnery exercises, and detect to engage operations. Air combat maneuvers would generally occur within areas W-157A; air-to-air missile exercises would generally occur within areas W-132, W-133, W-134, W-157, and W-158; air-to-air gunnery exercises would generally occur within areas W-157A and W-133 (Area 2X); and Detect to Engage Operations would occur within areas W-132, W-133, W-134, W-157,

- and W-158. Flare Exercises would occur on the Lake George Range while chaff exercises, surface-to-air missile exercises, and surface-to-air gunnery exercises would occur throughout the Range Complex.
5. AMPHIBIOUS WARFARE, which would consist of firing exercises with Integrated Maritime Portable Acoustic Scoring and Simulation System (IMPASS) operations. These training operations would occur throughout the Range Complex, particularly in areas BB and CC.
 6. STRIKE WARFARE, which would consist of air-to-ground bombing exercises, combat, search, and rescue operations, and convoy operations. These training operations would occur on the Rodman Range.
 7. ELECTRONIC COMBAT, which would consist of electronic combat operations, chaff operations, flare exercises. Electronic combat operations would generally occur on areas W-132, W-133, W-134, W-157, W-158, and elsewhere in the Jacksonville Range Complex; chaff operations would occur throughout the Range Complex; and flare exercises would occur on the Lake George Range Complex.
 8. TEST AND EVALUATION, which would consist of shipboard electronic systems evaluation facility utilization (SESEF), precision anchoring, and training with anti-swimmer grenades. Shipboard electronic systems evaluation facility utilization training operations would occur east of Naval Station Mayport, precision anchoring would occur in Naval Station Mayport, and training operations with anti-swimmer grenades would occur in the North and South Underwater Detonation Areas of the Charleston Operating Area.
 9. MARITIME SECURITY SURGE SURFACE STRIKE GROUP TRAINING. The Navy proposes to use the Jacksonville Range Complex for preparing surface ships and embarked air, special forces and Marine Corps units for deployment as Maritime Security Surge Surface Strike Groups. Each fleet maintains a number of ships ready to deploy on short notice. Preparing a Maritime Security Surge Surface Strike Group for deployment includes a mix of classroom, synthetic and live training events. Live training ensures proficiency in multi-unit procedures and autonomous operations by means of anticipated region-specific scenarios. The Navy does not expect Maritime Security Surge Surface Strike Group training to significantly alter the overall type and quantity of operations currently conducted in the Jacksonville Range Complex.
 10. SURFACE-TO-AIR MISSILE TRAINING. The Navy proposes to conduct up to eight surface-to-air missile training events annually in Jacksonville Range Complex. In these air defense exercises, surface ships launch surface-to-air missiles with either high explosive or non-explosive warheads at target drones simulating enemy aircraft.

However, the U.S. Navy would continue to conduct surface-to-air missile test and evaluation events in the northern part of the Virginia Capes Operating Area (W-386) offshore from the Goddard Flight Facility, Wallops Island, Virginia. If the Navy decides to reinstate surface-to-air missile training events, it would conduct most of them in the Virginia Capes Operating Area (W-72A/B), but would need the operational flexibility to train in Charleston-Jacksonville Operating Areas (W-122), as well. Participants could include cruisers or destroyers launching SM-2 Standard Missiles, or large amphibious ships (LHA or LHD)

launching NATO Sea Sparrow missiles. Targets would be BQM-74 drones, launched from either G-1 Commercial Air Services aircraft or the Mobile Sea Range. Because the BQM-34 is the target of choice for the Rolling Airframe Missile, the Navy would schedule launches of these missiles to the Virginia Capes Operating Area.

11. The Navy proposes to conduct the MH-60R/S training missions in the Jacksonville Range Complex in accordance with the recent restructuring of Navy helicopter forces around the two linchpin airframes, the MH-60S and MH-60R. The MH-60R squadrons would be consolidated at Naval Station Mayport and Naval Air Station Jacksonville. The Navy also expects 52 airframes that are capable of employing Hellfire missiles in the Jacksonville Range Complex in the coming years (U.S. Navy 2002).

MH-60R Multi-Mission Helicopter missions, which would include anti-submarine warfare, surface warfare, maritime interdiction operations, and search and rescue. The Atlantic Fleet would split the projected 105 airframes between Naval Air Station Jacksonville and Naval Station Mayport (Florida), distributed between five carrier air wing squadrons, two expeditionary squadrons, and one Fleet replacement squadron.

Most MH-60R Unit-Level Training operations would occur in the Jacksonville Range Complex near their home bases. The deployment and training patterns for the MH-60R would resemble those discussed for the MH-60S (see preceding description). MH-60R operations in the Jacksonville Range Complex would primarily be used for sonar training. MH-60R helicopters would train both from land bases as well as from ships at sea as part of helicopter squadrons when deploying from shore-based airfields, as well as on ship-based platforms at-sea.

Most MH-60S Unit-Level Training operations would occur in the Virginia Capes Range Complex close to its home base of Naval Station Norfolk. With few exceptions, the MH-60S would only train in the Jacksonville Range Complex as part of major exercises. For Carrier Strike Group exercises, the Navy prefers to use the Jacksonville Range Complex for Organic Mine Countermeasures and combat search and rescue events involving the MH-60S. A carrier air wing squadron would deploy as an entire squadron when part of a Carrier Strike Group, whereas an expeditionary squadron would deploy one or two plane detachments aboard frigates, destroyers, cruisers and amphibious ships in support of an Expeditionary Strike Group.

12. ORGANIC MINE COUNTERMEASURES SYSTEMS. The Navy proposes to accommodate operations of MH-60S helicopters, surface ships, and submarines equipped with new Organic Mine Countermeasures systems in the Jacksonville Range Complex. This would entail some changes in tactics, techniques, and procedures from current mine warfare training. "Organic" refers to the concept of embedding mine warfare capability into the strike group rather than as an external capability of specialized ships and aircraft, only brought in on an as-needed basis. The Navy plans to configure 51 of the 102 MH-60Ss eventually home based at Naval Station Norfolk with Organic Mine Countermeasures capability. These systems include:

- Towed mine-hunting sonar (AN/AQS-20A);

- Towed magnetic influence and acoustic, mine-sweeping body (OASIS);
- Airborne mine-hunting laser (ALMDS);
- Submerged mine-neutralization, self-propelled devices using explosive charges (Airborne Mine Neutralization System); and
- Airborne, mine-neutralization ordnance (designated A/AWS-2 and abbreviated as RAMICS in Navy documents).

During a major exercise, multi-purpose helicopters (MH-60S) would take off from ships engaged in the exercise and practice “clearing” an area within the Charleston Operating Area or Jacksonville Operating Area before entry of the Strike Group. The MH-60S would fly at low altitude in the area to be cleared and would utilize mine hunting sonar (AQS-20). No mine shapes would be involved.

13. The Airborne Mine Neutralization System (designated AN/ASQ-235 and abbreviated as AMNS in Navy documents) is a non-towed system designed to identify and neutralize bottom and moored mines in the ocean environment. A hovering MH-60S or MH- 53E helicopter lowers an expendable, self-propelled, neutralizer device into the water at a safe distance from a potential mine previously identified with a separate mine-hunting system. A fiber-optic cable connected to the neutralizer relays depth, position, and sensor (sonar and video) information to the operator in the helicopter, who sends control and guidance commands back to the neutralizer. The operator guides the lightweight (15.5 kg) and highly maneuverable vehicle to the target location using onboard high frequency sonar. After the target is viewed and positively identified with an on-board video camera, the operator fires an armor-piercing warhead from the vehicle to neutralize the mine.

For training and testing purposes, the airborne mine neutralization system explosive charge can be replaced with a ballast device that would cause the neutralizer to float to the surface for recovery and reuse after completion of the exercise. Training targets are expendable, non-explosive, bottom and moored mine shapes. The Navy evaluated the potential environmental effects of testing airborne mine neutralization system and concluded that significant impacts would not occur (U.S. Navy 2001; 2002b).

14. The Rapid Airborne Mine Clearance System (designated A/AWS-2 and abbreviated as RAMICS in Navy documents) is a non-towed system designed to neutralize floating and near-surface mines. Rapid Airborne Mine Clearance System is a MK44 Bushmaster II cannon with a laser Light Detection and Ranging targeting fire control system that fires a flat-nosed, 30 mm, armor piercing, non-explosive, super-cavitating projectile.

A hovering MH-60S helicopter uses the Light Detection and Ranging system to reacquire a mine previously located with a separate mine hunting system. Once the target is acquired, an onboard fire control subsystem automatically tracks it and aims the gun, firing the projectiles in bursts. A successful neutralization would

disable the mine at a safe distance from the helicopter. Training targets are expendable, non-explosive, bottom and moored mine shapes.

15. AN/AES-1 Airborne Laser Mine Detection System is a non-towed (airborne) mine-hunting system designed to rapidly detect, classify, and locate near-surface floating or moored mines. A pod mounted on the MH-60S pylon contains the laser Light Detection and Ranging system used to detect mines. An operator on the helicopter identifies potential mines from the laser images on a video monitor and marks their exact locations. A separate mine neutralization system is needed to disable or destroy mines once they have been identified.
16. The Organic and Surface Influence Sweep (designated AN/ALQ-220 and abbreviated as OASIS in Navy documents) is a high-speed (25 knots), towed, minesweeping system designed to rapidly neutralize magnetic and acoustic mines in shallow coastal waters. It emulates the magnetic and acoustic signatures of transit platforms, causing nearby mines to detonate. An underwater, towed body attached to a MH-60S helicopter with an electromechanical cable contains the electromagnetic field generator and the acoustic generator, a mechanical device that needs no external power.

In the Jacksonville Range Complex, which includes the Charleston and Jacksonville Operating Areas, the Navy proposes to increase training above current baseline levels; as proposed, the number of most training operations would increase by about 10 percent above baseline training levels. Training operations in the Jacksonville Range Complex can consist of air combat maneuvers or ordnance delivery at land and water targets by a single aircraft, to Joint Task Force Exercises which may involve thousands of participants over a period of two weeks. In addition to increasing the number of current training operations, the U.S. Navy also proposes to conduct Maritime Security Surge Surface Strike Group (Independent Deployment) Training in the Jacksonville Complex, although the Navy does not expect this training to substantially change the general type and quantity of operations currently conducted in the Jacksonville Range Complex. The U.S. Navy also proposes the following changes:

17. AN/AQS-20, which is a towed, mine-hunting system designed to detect, classify, and localize bottom and moored mines in deep or shallow water. An underwater, towed body attached to an MH-60S helicopter with an electromechanical cable that contains the high-frequency, high-resolution, side-looking, multi-beam sonar system. It can also be configured with an electro-optic identification sensor that incorporates a laser Light Detection and Ranging system to identify bottom mines. An operator on the helicopter identifies potential mines from the sonar and laser images on a video monitor and marks their exact locations. A separate mine neutralization system is needed to disable or destroy mines once identified.
18. Multi-Mission Maritime Aircraft Training. The selected replacement for the P-3C Orion is the P-8A Poseidon multi-mission maritime aircraft, which would be a long-range surface warfare, intelligence, surveillance and reconnaissance aircraft capable of broad-area, maritime and littoral operations. The Navy expects these aircraft to be operational in fiscal year 2013 and, if they become operational, they would be based at Naval Air Station Jacksonville.

19. INCREASE COMMERCIAL AIR SERVICES SUPPORT FOR FLEET TRAINING. The Navy proposes to increase the number, type, and operation of commercial air services within the Jacksonville Range Complex. These contractor-owned and -operated supersonic and subsonic aircraft carry a variety of electronic threat emitters, perform aircraft maneuvers and flight profiles that mimic enemy aircraft, provide air-to-air refueling capabilities, and tow and stream targets used for surface-to-air gunnery training. Their use enhances the following range capabilities:
- Opposition Force aircraft against naval aircraft and ships in air defense events, such as air intercept control and detect to engage, and sometimes intercept aircraft for air intercept control events;
 - Threat missile and aircraft profiles against naval aircraft and ships in electronic combat events;
 - Refueling tanker support during major exercises; and
 - Tow aircraft for target banners in air-to-air and surface-to-air gunnery exercises.

Increased use of commercial air services to support Fleet training would not substantially increase aircraft numbers, emissions, or time spent in the warning areas, or alter current airspace usage. Rather, commercial air services would displace Fleet assets by making it a dedicated mission in specially equipped aircraft for the commercial air services' aircrew.

20. The U.S. Navy proposes to eliminate all bombing exercise training events that involve dropping live explosive ordnance on targets at-sea. The at-sea target in these exercises is usually a flare or smoke float. All use of explosive munitions during at sea bombing exercises would be eliminated (these events have typically taken place in area 31J).
21. INCREASE THE NUMBER OF MINE WARFARE TRAINING EVENTS. As Carrier Strike Groups begin to embark with Organic Mine Countermeasures-configured MH-60S helicopters, fleet exercise planners intend to increase the amount of mine warfare training events during major exercises, up to three two-week events in the Charleston-Jacksonville Operating Areas.

A typical Carrier Strike Group major exercise mine warfare event would simulate two mine threat scenarios: an open ocean environment and a channel or near-shore embayment with limited egress. Up to four MH-53E and three MH60S helicopters would deploy to the exercise area one to two weeks before a strike group arrives, operate from a ship participating in the exercise, and prepare a safe transit and operating area for the Carrier Strike Group. In deeper water training areas, the helicopters would MK-105 and OASIS) systems.

Aircrews would practice deploying their equipment in an operational environment, flying search patterns in proximity with other units, familiarizing the operators with system procedures, and recovering the equipment. In addition, the system operators would use the sonar mine hunting gear for bottom mapping-detecting, identifying and mapping mine-like objects on the ocean floor for future reference and comparison with other bottom maps. The mine warfare commander and his staff would get experience planning a large-

scale operation, coordinating all the assets involved in executing the plan, and responding to emergent situations.

In the shallow Underwater Detonation area, the Navy would insert several (approximately 27) non-explosive expendable bottom or moored mine shapes so the MH-60S helicopters could exercise their mine neutralization equipment (non-explosive Airborne Mine Neutralization System and the Rapid Airborne Mine Clearance System), and deployed Explosive Ordnance Disposal personnel could train using live explosives to neutralize mine shapes. Mine shapes utilized in these events (RAMICS and Airborne Mine Neutralization System) are temporarily placed and removed at the end of the exercise. For these exercises one mine is used per sortie.

1.5 Transit Protection System at Naval Submarine Bay, Kings Bay, Georgia

The U.S. Navy proposes to establish an enhanced transit protection system at Naval Submarine Base Kings Bay, Georgia, to escort nuclear powered ballistic submarines during transit between the Naval Submarine Base and the dive/surface site. The U.S. Navy proposes to employ a mixture of enhanced vessel platforms and conventional weapons systems to provide protection during all transits between the Naval Submarine Base and dive/surface sites that employs U.S. Coast Guard personnel and their ancillary equipment. To prevent incidents similar to what happened to the U.S.S. COLE, the U.S. Navy is proposing a transit protection system for nuclear powered ballistic submarines (SSBNs) to reduce the potential threats of terrorist attacks while these submarines are transiting. The purpose of the proposal is to improve the effectiveness of the Naval Vessel Protection Zone and maintain a Maritime Domain Awareness for nuclear powered ballistic submarines in near-shore and open-ocean environments.

For the Transit Protection System, the Naval Vessel Protection Zone would consist of a protective area around a nuclear-powered submarine formed by various escort vessels as the submarine transits from Kings Bay to or returning from drive sites and which would be enforced by personnel from the U.S. Coast Guard's Maritime Force Protection Unit.

The Naval Vessel Protection Zone would have two distinct zones that affect the operations of other vessels: (1) a 500-yard Warning Zone in which vessel must slow to minimum speeds to maintain steerage and (2) a 100-yard Exclusion Zone in which other vessels would not be allowed without permission. At full operational capacity, the U.S. Navy would homeport up to 16 escort security boats, consisting of up to two Blocking Vessels, up to 2 Reaction Vessels, and up to 12 Screening Vessels, at Kings Bay as part of the proposed Transit Protection System. All of these vessels would be owned or leased by the U.S. Navy, but personnel from the U.S. Coast Guard's Maritime Force Protection Unit would crew the vessels and enforce the Naval Vessel Protection Zone. Although the number of escort operations would vary, the U.S. Navy estimates that they would occur between 130 to 170 times per year or 10 to 15 times per month.

1.6 Scope of the Proposed MMPA Regulations

The regulations the Permits Division proposes to promulgate for U.S. Navy training activities in the Virginia Capes Range Complex would authorize non-lethal “take” of marine mammals by the Navy associated with training activities consisting of surface warfare [Missile Exercise (MISSILEX) and High-speed Anti-Radiation Missile Exercise (HARMEX)], mine warfare [Mine Exercises (MINEX)], amphibious warfare [Firing Exercise (FIREX)], strike warfare [Bombing Exercise (BOMBEX)], and vessel movement to, from, and within the VACAPES Range Complex Study Area.

The regulations the Permits Division proposes to promulgate for U.S. Navy training activities in the Cherry Point Range Complex would authorize non-lethal “take” of marine mammals by the Navy associated with training activities consisting of surface warfare [Missile Exercise (MISSILEX)], mine warfare [Mine Exercise (MINEX)], amphibious warfare [Firing Exercise (FIREX)], and vessel movement to, from and within the Cherry Point Range Complex Study Area.

The regulations the Permits Division proposes to promulgate for U.S. Navy training activities in the Jacksonville Range Complex would authorize non-lethal “take” of marine mammals by the Navy associated with training activities consisting of surface warfare [Missile Exercise (MISSILEX)], mine warfare [Mine Exercises (MINEX)], amphibious warfare [Firing Exercise (FIREX)], small arms training (explosive hand grenades), and vessel movement to, from, and within the JAX Range Complex Study Area.

Although the scope of the Permits Division’s proposed regulations includes the activities described in the preceding paragraphs, the Permits Division only proposes to authorize the “taking” of marine mammals if it occurs incidental to the detonation of the underwater explosives conducted as part of the training events discussed in this *Description of the Proposed Actions*. Specifically, the Permits Division’s propose regulations would not authorize the “taking” of marine mammals associated with vessel movement to, from, and within range complexes.

1.7 Protective Measures the U.S. Navy Proposes to Employ

As required to satisfy the requirements of the Marine Mammal Protection Act of 1972, as amended, the U.S. Navy’s proposes to implement measures that would allow their training activities to have the least practicable adverse impact on marine mammal species or stocks (which includes considerations of personnel safety, practicality of implementation, and impact on the effectiveness of the “military readiness activity”). Those measures are summarized in this section of this Opinion; for a complete description of all of the measures applicable to the proposed exercises, readers should refer to the U.S. Navy’s request for a letter of authorization and the Permit Division’s proposed rule to authorize the “take” of marine mammals pursuant to the Marine Mammal Protection Act of 1972, as amended.

The U.S. Navy does not currently conduct active sonar training in North Atlantic right whale critical habitat with the exception of object detection and navigation off shore Mayport, Florida and Kings Bay, Georgia; helicopter anti-submarine warfare training activities offshore Mayport, Florida; and torpedo exercises in the northeast during the months of August and September. As part of the proposed action, the U.S. Navy does not plan to conduct active sonar activities within the Stellwagen Bank, Monitor, Gray's Reef, Flower Garden Banks, and Florida Keys National Marine Sanctuaries and will avoid these sanctuaries by observing a 5 km (2.7 nautical mile or nm) buffer. In addition, the U.S. Navy proposes to use the following measures.

1.7.1 Personnel Training – Lookouts

The use of shipboard lookouts is a critical component of all Navy standard operating procedures. Navy shipboard lookouts (also referred to as “watchstanders”) are highly qualified and experienced observers of the marine environment. Their duties require that they report all objects sighted in the water to the Officer of the Deck (e.g., trash, a periscope, marine mammals, sea turtles) and all disturbances (e.g., surface disturbance, discoloration) that may be indicative of a threat to the vessel and its crew. There are personnel serving as lookouts on station at all times (day and night) when a ship or surfaced submarine is moving through the water.

For the past few years, the Navy has implemented marine mammal spotter training for its bridge lookout personnel on ships and submarines. This training has been revamped and updated as the Marine Species Awareness Training and is provided to all applicable units. The lookout training program incorporates Marine Species Awareness Training, which addresses the lookout's role in environmental protection, laws governing the protection of marine species, Navy stewardship commitments, and general observation information, including more detailed information for spotting marine mammals. Marine Species Awareness Training has been reviewed by NMFS and acknowledged as suitable training.

1. All bridge personnel, Commanding Officers, Executive Officers, officers standing watch on the bridge, maritime patrol aircraft aircrews, and Mine Warfare helicopter crews will complete Marine Species Awareness Training.
2. Navy lookouts will undertake extensive training to qualify as a watchstander in accordance with the Lookout Training Handbook (NAVEDTRA 12968-D).
3. Lookout training will include on-the-job instruction under the supervision of a qualified, experienced watchstander. Following successful completion of this supervised training period, lookouts will complete the Personal Qualification Standard Program, certifying that they have demonstrated the necessary skills (such as detection and reporting of partially submerged objects).
4. Lookouts will be trained in the most effective means to ensure quick and effective communication within the command structure to facilitate implementation of protective measures if marine species are spotted.

5. Surface lookouts would scan the water from the ship to the horizon and be responsible for all contacts in their sector. In searching the assigned sector, the lookout would always start at the forward part of the sector and search aft (toward the back). To search and scan, the lookout would hold the binoculars steady so the horizon is in the top third of the field of vision and direct the eyes just below the horizon. The lookout would scan for approximately five seconds in as many small steps as possible across the field seen through the binoculars. They would search the entire sector in approximately five-degree steps, pausing between steps for approximately five seconds to scan the field of view. At the end of the sector search, the glasses would be lowered to allow the eyes to rest for a few seconds, and then the lookout would search back across the sector with the naked eye.
6. At night, to increase effectiveness, lookouts would not continuously sweep the horizon with their eyes. Instead, lookouts would scan the horizon in a series of movements that would allow their eyes to come to periodic rests as they scan the sector. When visually searching at night, they would look a little to one side and out of the corners of their eyes, paying attention to the things on the outer edges of their field of vision. Lookouts will also have night vision devices available for use.

1.7.2 Operating Procedures and Collision Avoidance

1. Prior to major exercises, the U.S. Navy proposes to issue a Letter of Instruction, Mitigation Measures Message or Environmental Annex to the Operational Order to further disseminate the personnel training requirement and general marine species mitigation measures.
2. Commanding Officers will make use of marine species detection cues and information to limit interaction with marine species to the maximum extent possible consistent with safety of the ship.
3. While underway, surface vessels will have at least two lookouts with binoculars; surfaced submarines will have at least one lookout with binoculars. Lookouts already posted for safety of navigation and man-overboard precautions may be used to fill this requirement. As part of their regular duties, lookouts will watch for and report to the Officer of the Deck the presence of marine mammals and sea turtles.
4. On surface vessels equipped with a mid-frequency active sonar, pedestal mounted “Big Eye” (20x110) binoculars will be properly installed and in good working order to assist in the detection of marine mammals and sea turtles in the vicinity of the vessel.
5. Personnel on lookout will employ visual search procedures employing a scanning method in accordance with the Lookout Training Handbook (NAVEDTRA 12968-D).
6. After sunset and prior to sunrise, lookouts will employ Night Lookouts Techniques in accordance with the Lookout Training Handbook (NAVEDTRA 12968-D).

7. While in transit, naval vessels will be alert at all times, use extreme caution, and proceed at a “safe speed” so that the vessel can take proper and effective action to avoid a collision with any marine animal and can be stopped within a distance appropriate to the prevailing circumstances and conditions.
8. When whales have been sighted in the area, Navy vessels will increase vigilance and take reasonable and practicable actions to avoid collisions and activities that might result in close interaction of naval assets and marine mammals. Actions may include changing speed and/or direction and are dictated by environmental and other conditions (*e.g.*, safety, weather).
9. Naval vessels will maneuver to keep at least 500-yd (460 m) away from any observed whale and avoid approaching whales head-on. This requirement does not apply if a vessel’s safety is threatened, such as when change of course will create an imminent and serious threat to a person, vessel, or aircraft, and to the extent vessels are restricted in their ability to maneuver. Restricted maneuverability includes, but is not limited to, situations when vessels are engaged in dredging, submerged operations, launching and recovering aircraft or landing craft, minesweeping operations, replenishment while underway and towing operations that severely restrict a vessel’s ability to deviate course. Vessels will take reasonable steps to alert other vessels in the vicinity of the whale.
10. Where feasible and consistent with mission and safety, vessels will avoid closing to within 200-yd (183 m) of sea turtles and marine mammals other than whales (whales addressed above).
11. Floating weeds, algal mats, *Sargassum* rafts, clusters of seabirds, and jellyfish are good indicators of sea turtles and marine mammals. Therefore, increased vigilance in watching for sea turtles and marine mammals will be taken where these are present.
12. Navy aircraft participating in exercises at sea will conduct and maintain, when operationally feasible and safe, surveillance for marine species of concern as long as it does not violate safety constraints or interfere with the accomplishment of primary operational duties. Marine mammal detections will be immediately reported to assigned Aircraft Control Unit for further dissemination to ships in the vicinity of the marine species as appropriate where it is reasonable to conclude that the course of the ship will likely result in a closing of the distance to the detected marine mammal.
13. All vessels will maintain logs and records documenting training operations should they be required for event reconstruction purposes. Logs and records will be kept for a period of 30 days following completion of a major training exercise.

1.7.3 Mitigation Measures Applicable to Vessel Transit During North Atlantic Right Whale Migration

In 1999, a Mandatory Ship Reporting System was implemented by the U.S. Coast Guard, which requires vessels larger than 300 gross registered tons (Department of the Navy ships are exempt) to report their location, course, speed, and destination upon entering the nursery and feeding areas of the right whale. At the same time, ships receive information on locations of right whale sightings, in order to avoid collisions with the animals. In the

southeastern United States, the reporting system is from November 15 through April 15 of each year; the geographical boundaries include coastal waters within roughly 46 kilometers (km) (25 nautical miles [nm]) of shore along a 167 km (90 nm) stretch of the Atlantic coast in Florida and Georgia. In the northeastern United States, the reporting system is year-round and the geographical boundaries include the waters of Cape Cod Bay, Massachusetts Bay, and the Great South Channel east and southeast of Massachusetts; it includes all of Stellwagen Bank National Marine Sanctuary. A portion of the Boston Operating Area falls within these boundaries. Specific naval mitigation measures for each region of the East Coast Range Complexes are discussed in the following subsections.

Northeast Atlantic, Offshore of the Eastern United States

Prior to transiting the Great South Channel or Cape Cod Bay critical habitat areas, ships will obtain the latest right whale sightings and other information needed to make informed decisions regarding safe speed. The Great South Channel critical habitat is defined by the following coordinates: 41°00N, 69°05W; 41°45N, 69°45W; 42°10N, 68°31W; 41°38N, 68°13W. The Cape Cod Bay critical habitat is defined by the following coordinates: 42°04.8N, 70°10W; 42°12N, 70°15W; 42°12N, 70°30W; 41°46.8N, 70°30W.

Ships, surfaced subs and aircraft will report any North Atlantic right whale sightings (if the whale is identifiable as a right whale) off the northeastern U.S. to Patrol and Reconnaissance Wing (COMPATRECONWING). The report will include the time of sighting, lat/long, direction of movement (if apparent) and number and description of the whale(s). In addition, vessels or aircraft that observe whale carcasses will record the location and time of the sighting and report this information as soon as possible to the Regional Environmental Coordinator. All whale strikes must be reported. The report will include the date, time, and location of the strike; vessel course and speed; operations being conducted by the vessel; weather conditions, visibility, and sea state; description of the whale; narrative of incident; and indication of whether photos/videos were taken. Units are encouraged to take photos whenever possible.

Specific mitigation measures the U.S. Navy proposes to employ within the critical habitat or associated area of concern include the following:

1. Vessels will avoid head-on approach to North Atlantic right whale(s) and will maneuver to maintain at least 457 m (500 yd) of separation from any observed whale if deemed safe to do so. These requirements do not apply if a vessel's safety is threatened, such as when change of course would create an imminent and serious threat to person, vessel, or aircraft, and to the extent vessels are restricted in the ability to maneuver.
2. When transiting within the critical habitat or associated area of concern, vessels shall use extreme caution and operate at a safe speed so as to be able to avoid collisions with North Atlantic right whales and other marine mammals, and stop within a distance appropriate to the circumstances and conditions.
3. Speed reductions (adjustments) are required when a whale is sighted by a vessel or when the vessel is within 9 km (5 nm) of a reported new sighting less than one week old.

4. Ships transiting in the Cape Cod Bay and Great South Channel critical habitats will obtain information on recent whale sightings in the vicinity of the critical habitat. Any vessel operating in the vicinity of a North Atlantic right whale shall consider additional speed reductions as per Rule 6 of International Navigational Rules.

Mid-Atlantic, Offshore of the Eastern United States

For the purposes of its proposed mitigation measures, the U.S. Navy defines the mid-Atlantic broadly to include ports south and east of Block Island Sound southward to South Carolina. The U.S. Navy proposes to establish the procedures described below as mitigation measures for Navy vessel transits during North Atlantic right whale migratory seasons near ports located off the western North Atlantic, offshore of the eastern United States. The measures would apply to all Navy vessel transits, including those vessels that would transit to and from East Coast ports and operating areas. Seasonal migration of North Atlantic right whales is generally described by NMFS as occurring from October 15th through April 30th, when right whales migrate between feeding grounds farther north and calving grounds farther south. The measures have been established in accordance with dates identified by NMFS consistent with these seasonal patterns.

NMFS has identified ports located in the western Atlantic Ocean, offshore of the southeastern United States, where vessel transit during North Atlantic right whale migration is of highest concern for potential ship strike. The ports include the Hampton Roads entrance to the Chesapeake Bay, which includes the concentration of Atlantic Fleet vessels in Norfolk, Virginia. Navy vessels are required to use extreme caution and operate at a slow, safe speed consistent with mission and safety during the months indicated in Table 4 and within a 20 nm (37 km) arc (except as noted) of the specified reference points.

During the months identified in Table 4, Navy vessels would practice increased vigilance with respect to avoidance of vessel-whale interactions along the mid-Atlantic coast, including transits to and from any mid-Atlantic ports not specifically identified above. All surface (d) units transiting within 56 km (30 nm) of the coast in the mid-Atlantic would ensure at least two watchstanders are posted, including at least one lookout that has completed required Marine Species Awareness Training training. Furthermore, Navy vessels would not knowingly approach any whale head on and would maneuver to keep at least 500 yards (457 m) away from any observed whale, consistent with vessel safety.

1.7.4 Southeast Atlantic, Offshore of the Eastern United States

1. The following measures would be applicable to the “Consultation Area” in the Jacksonville Range Complex during North Atlantic Right Whale Calving season. Fleet Area Control and Surveillance Facility-Jacksonville provides an information resource through the right whale sightings clearinghouse.

During calving season and within the consultation area (roughly an area to 80 nm seaward from Charleston, South Carolina, south to Sebastian Inlet, Florida) particular measures are in effect in accordance with NMFS’

Table 4. North Atlantic Right Whale Migration Port References

Region	Months	Port Reference Points
South and East of Block Island	September–October and March–April	20 nm seaward of line between 41°4.49N to 71°51.15W and 41°18.58N to 70°50.23W
New York / New Jersey	Sep–Oct and Feb–Apr	40°30.64N to 73°57.76W
Delaware Bay (Philadelphia)	Oct–December and February–March	38°52.13N to 75°1.93W
Chesapeake Bay (Hampton Roads and Baltimore)	November–December and February–April	37°1.11N to 75°57.56W
North Carolina	December–April	34°41.54N to 76°40.20W
South Carolina	October–April	33°11.84N to 79°8.99W 32°43.39N to 79°48.72W

1997 Biological Opinion issued in 1997 (NMFS 1997). The U.S. Navy proposes to continue implementing the following measures from that biological opinion during the North Atlantic right whale calving season (November 15 – April 15):

- 1.1 Naval vessels operating within North Atlantic right whale critical habitat¹ and the Associated Area of Concern² will exercise extreme caution and use slow safe speed, that is, the slowest speed that is consistent with essential mission, training, and operations.
- 1.2 Exercise extreme caution and use slow, safe speed when a whale is sighted by a vessel or when the vessel is within 5 nm of a reported new sighting less than 12 hours old.
- 1.3 Circumstances could arise where, in order to avoid North Atlantic right whale(s), speed reductions could mean vessels must reduce speed to a minimum at which it can safely keep on course (bare steerageway) or vessels could come to an all stop.
- 1.4 During the North Atlantic right whale calving season north-south transits through the critical habitat are prohibited, except for those exercises that necessarily operate at a slow, safe speed. Naval vessel transits through the area shall be in an east-west direction, and shall use the most direct route available during the calving season.
- 1.5 Naval vessel operations in the North Atlantic right whale critical habitat and Associated Area of Concern during the calving season will be undertaken during daylight and periods of good visibility, to the extent practicable and consistent with mission, training, and operation. When

¹ This critical habitat is the area from 31-15N to 30-15N extending from the coast out to 28 km (15 nm), and the area from 28-00N to 30-15N from the coast out to 9 km (5 nm).

² The AAOC is the area extending 5 nm seaward of the designated critical habitat boundaries.

operating in the critical habitat and Associated Area of Concern at night or during periods of poor visibility, vessels will operate as if in the vicinity of a recently reported North Atlantic right whale sighting.

- 1.6 Fleet Area Control and Surveillance Facility-Jacksonville shall coordinate ship/aircraft clearance into the operating area based on prevailing conditions, including water temperature, weather conditions, whale sighting data, mission or event to be conducted and other pertinent information. Commander Submarine Atlantic (COMSUBLANT) will coordinate any submarine operations that may require clearance with Fleet Area Control and Surveillance Facility-Jacksonville. Fleet Area Control and Surveillance Facility-Jacksonville will provide data to ships and aircraft, including U.S. Coast Guard if requested, and will recommend modifying, moving or canceling events as needed to prevent whale encounters. Commander Submarine Group Ten (COMSUBGRU TEN) will provide same information/guidance to subs.
 - 1.7 Prior to transiting or training in the critical habitat ships will contact Fleet Area Control and Surveillance Facility-Jacksonville to obtain latest whale sighting and other information needed to make informed decisions regarding safe speed and path of intended movement. Submarines shall contact Commander Submarine Group Ten for similar information. Ships and aircraft desiring to train/operate inside the critical habitat or within the warning/operating area shall coordinate clearance with Fleet Area Control and Surveillance Facility-Jacksonville. Submarines shall obtain same clearance from CTF-82 (Commander Submarine Atlantic).
 - 1.8 Fleet Area Control and Surveillance Facility-Jacksonville will coordinate local procedures for whale data entry, update, retrieval and dissemination using joint maritime command information system. Ships not yet Officer in Tactical Command Information Exchange subsystem capable, including U.S. Coast Guard, will communicate via satellite communication, high frequency, telephone or international marine/maritime satellite.
 - 1.9 The only type of exercise that may be conducted inside the critical habitat and Associated Area of Concern in calving season are precision anchorage drills and swept channel exercises. In addition, use of the Shipboard Electronic System Evaluation Facility range is authorized with clearance and advice from Fleet Area Control and Surveillance Facility-Jacksonville.
2. North Atlantic Right Whale Early Warning System
 - 2.1 The coastal waters off the Southeast United States support the only known calving ground for the North Atlantic Right Whale. In the mid 1990's, the United States (U.S.) Navy, U.S. Coast Guard, U.S. Army Corps of Engineers, and National Marine Fisheries Service entered into a Memorandum of Agreement pursuant to the Endangered Species Act of 1973, as amended. The Early Warning System is a result of that agreement and is a collaborative effort which involves comprehensive aerial surveys conducted during the North Atlantic Right Whale calving season.

Surveys are flown daily, weather permitting, from December 1st through March 31st. East/west transects are flown from shoreline to approximately 30-35 nm offshore. Aerial surveys are conducted to locate North Atlantic right whales and provide whale detection and reporting information to mariners in the North Atlantic right whale calving ground in an effort to avoid collisions with this endangered species. When a North Atlantic right whale is sighted, information from the aerial survey aircraft is passed to a ground contact. The ground contact e-mails the sighting information to a wide network distribution which includes Fleet Area Control and Surveillance Facility-Jacksonville, the U.S. Coast Guard, U.S. Army Corps of Engineers, and non-profit and commercial interests. Additionally, the ground contact will follow up with a call to Fleet Area Control and Surveillance Facility-Jacksonville to provide further information if necessary. Fleet Area Control and Surveillance Facility-Jacksonville records this valuable information and disseminates to all navy vessels and aircraft operating in the consultation area via the Secret Internet Protocol Router Network system. General sighting information and reporting procedures are broadcasted over the following methods: the NOAA weather radio; U.S. Coast Guard's NAVTEX system and a Broadcast Notice to Mariners over VHF marine-band radio channel 16. The Early Warning System is a wide communication effort to ensure all vessels in the area are aware of the most recent right whale sightings as an avoidance measure.

3. Surface-to-Surface Gunnery (up to and including 5-inch explosive rounds)
 - 3.1 Lookouts will visually survey for floating weeds, algal mats, and *Sargassum* rafts, which may be inhabited by immature sea turtles, in the target area. Intended target area shall not be within 600 yards (548 m) of known or observed floating weeds, algal mats, *Sargassum* rafts, or coral reefs.
 - 3.2 If applicable, target-towing vessels shall maintain a trained lookout for marine mammals and sea turtles. If a marine mammal or sea turtle is sighted in the vicinity, the tow vessel will immediately notify the firing vessel, which will suspend the exercise until the area is clear.
 - 3.3 A 600 yard (548 m) radius buffer zone will be established around the intended target.
 - 3.4 From the intended firing position, trained lookouts will survey the buffer zone for marine mammals and sea turtles prior to commencement and during the exercise as long as practicable. Due to the distance between the firing position and the buffer zone, lookouts are only expected to visually detect breaching whales, whale blows, and large pods of dolphins and porpoises.
 - 3.5 The exercise will be conducted only when the buffer zone is visible and marine mammals and sea turtles are not detected within the target area and the buffer zone.
4. Surface-to-Surface Gunnery (up to and including 5-inch non-explosive rounds)
 - 4.1 Lookouts will visually survey for floating weeds, algal mats, and *Sargassum* rafts which may be inhabited by immature sea turtles in the target area. Intended target area shall not be within 200 yards (182 m) of known or observed floating weeds, algal mats, *Sargassum* rafts, or coral reefs.

- 4.2 A 200 yard (182 m) radius buffer zone will be established around the intended target.
 - 4.3 From the intended firing position, trained lookouts will survey the buffer zone for marine mammals and sea turtles prior to commencement and during the exercise as long as practicable. Due to the distance between the firing position and the buffer zone, lookouts are only expected to visually detect breaching whales, whale blows, and large pods of dolphins and porpoises.
 - 4.4 If applicable, target-towing vessels shall maintain a trained lookout for marine mammals and sea turtles. If a marine mammal or sea turtle is sighted in the vicinity, the tow vessel will immediately notify the firing vessel, which will suspend the exercise until the area is clear.
 - 4.5 The exercise will be conducted only when the buffer zone is visible and marine mammals and sea turtles are not detected within the target area and the buffer zone.
5. Firing Exercise using the Integrated Maritime Portable Acoustic Scoring System or IMPASS (5-in. explosive rounds). Note: This exercise is also known as Firing Exercise II and Naval Surface Fire Support.
- 5.1 Firing Exercise using IMPASS will only be conducted in Areas 1C1/2, 7C/D, 8C/D and 5C/D of the Virginia Capes Range Complex, in Areas 4, 5, 13, or 14 of the Cherry Point Range Complex, and in Areas BB and CC of the Jacksonville Range Complex.
 - 5.2 Pre-exercise monitoring of the target area will be conducted with “Big Eyes” prior to the event, during deployment of the IMPASS sonobuoy array, and during return to the firing position. Ships will maintain a lookout dedicated to visually searching for marine mammals and sea turtles 180° along the ship track line and 360° at each buoy drop-off location.
 - 5.3 “Big Eyes” on the ship will be used to monitor a 600 yd (548 m) buffer zone around the target area for marine mammals/sea turtles during naval-gunfire events. Due to the distance between the firing position and the buffer zone, lookouts are only expected to visually detect breaching whales, whale blows, and large pods of dolphins and porpoises.
 - 5.4 Ships will not fire on the target if any marine mammals or sea turtles are detected within or approaching the 600 yd (548 m) buffer zone until the area is cleared. If marine mammals or sea turtles are present, operations would be suspended. Visual observation will occur for approximately 45 minutes, or until the animal has been observed to have cleared the area and is heading away from the buffer zone.
 - 5.5 Post-exercise monitoring of the entire effect range will take place with “Big Eyes” and the naked eye during the retrieval of the IMPASS sonobuoy array following each firing exercise.
 - 5.6 Firing Exercise with IMPASS will take place during daylight hours only.

- 5.7 Firing Exercise with IMPASS will only be used in Beaufort Sea State three (3)³ or less.
- 5.8 The visibility must be such that the fall of shot is visible from the firing ship during the exercise.
- 5.9 No firing will occur if marine mammals are detected within 70 yd (64 m) of the vessel.

Virginia Capes Range Complex: Historically Firing Exercise using IMPASS occurs in two areas in the Virginia Capes Study Area: the adjacent Areas of 1C1/2, 7C/D & 8C/D, and a separate area to the southeast, Area 5C/D. The locations were established to be far enough from shore to reduce civilian encounters (e.g., diving and recreational fishing), while remaining a reasonable day's distance from the homeport of Norfolk, Virginia of participating ships. Surface ships conducting Firing Exercise with IMPASS do not have strict distance from land restrictions like aircraft that embark from shore-based facilities.

Jacksonville Range Complex: In accordance with the National Marine Fisheries Service's 1997 Biological Opinion issued in (NMFS 1997), the Navy has been conducting Firing Exercise using IMPASS in one location in the Jacksonville Study Area: Areas AA, BB and CC, which are adjacent to one another. Under the Biological Opinion, explosive ordnance could be used only in Areas BB and CC during non-North Atlantic right whale calving season. Recent explosive and non-explosive ordnance exposure analysis concluded there is no seasonal difference in exposure for the North Atlantic right whale between any of the gunnery boxes because there is no difference in densities between these areas; therefore, the restriction on the use of Area AA is unnecessary during calving season. Regardless, under the preferred alternative Area AA would continue to be restricted during North Atlantic right whale calving season to avoid proximity to North Atlantic right whale critical habitat. This restriction is operationally feasible because the additional steaming time from the homeport of ships conducting Firing Exercise with IMPASS (e.g. Naval Station Mayport, Florida) is not significantly greater than the steaming time required to reach Area AA. Further, surface ships conducting Firing Exercises using IMPASS do not have strict distance from land restrictions like those imposed on aircraft that embark from shore-based facilities.

- 6. Surface-to-Air Gunnery (up to and including 5-inch explosive rounds) - Virginia Capes and Jacksonville Only

³ The Beaufort Scale of Wind Force was developed as a means for sailors to gauge wind speeds through visual observations of the sea state. The scale runs from 0 for calm to force 12 for Hurricane. In addition, this specific measure results from technological limitations of the sonobuoy array in higher sea states and is not intended as a measure for minimizing potential effects on the marine environment.

- 6.1 Vessels will orient the geometry of gunnery exercises to prevent debris from falling in the area of sighted marine mammals, sea turtles, algal mats, *Sargassum* rafts, and coral reefs.
- 6.2 Vessels will expedite recovery of any parachute deploying aerial targets to reduce the potential for entanglement of marine mammals and sea turtles.
- 6.3 If applicable, target towing aircraft shall maintain visual observation. If a marine mammal or sea turtle is sighted within the vicinity of the exercise, the tow aircraft will immediately notify the firing vessel in order to secure gunnery firing until the area is clear.
7. Surface-to-Air Gunnery (up to and including 5-inch non-explosive rounds) - Virginia Capes and Jacksonville Only
 - 7.1 Vessels will orient the geometry of gunnery exercises in order to prevent debris from falling in the area of sighted marine mammals, sea turtles, algal mats, *Sargassum* rafts and coral reefs.
 - 7.2 Vessels will expedite the recovery of any parachute deploying aerial targets to reduce the potential for entanglement of marine mammals and sea turtles.
 - 7.3 If applicable, target towing aircraft shall maintain visual observation. If a marine mammal or sea turtle is sighted in the vicinity of the exercise, the tow aircraft will immediately notify the firing vessel in order to stop gunnery firing until the area is clear.
8. Small Arms Training – (such as 9 mm, .45 cal pistol, 12GA Shotgun, 5.56 mm, 7.62 mm, and .50 cal)

Lookouts will visually survey for floating weeds, algal mats, *Sargassum* rafts, marine mammals, and sea turtles. Weapons will not be fired in the direction of known or observed floating weeds, algal mats, *Sargassum* rafts, marine mammals, sea turtles or coral reefs.
9. Small Arms Training – Explosive Hand Grenades (*e.g.* MK3A2 grenades) - Jacksonville Only
 - 9.1 Lookouts will visually survey for floating weeds, algal mats, *Sargassum* rafts, marine mammals, and sea turtles.
 - 9.2 A 200 yard (182 m) radius buffer zone will be established around the intended target. The exercises will be conducted only if the buffer is clear of sighted marine mammals and sea turtles.
10. Air-to-Surface At-Sea Bombing Exercises (250-lbs to 2,000-lbs explosive bombs) - Virginia Capes Only

This activity occurs in 7D and part of 8C in the Virginia Capes Study Area. The location was established to be far enough from shore to reduce civilian encounters (*e.g.*, diving and recreational fishing), while remaining within 150 nm from shore-based facilities (the established flight distance restriction for F-A18 jets during unit level training events).

 - 10.1 Aircraft will visually survey the target and buffer zone for marine mammals and sea turtles prior to and during the exercise. The survey of the impact area will be made by flying at 1,500 ft altitude or

lower, if safe to do so, and at the slowest safe speed. Release of ordnance through cloud cover is prohibited: aircraft must be able to actually see ordnance impact areas. Survey aircraft should employ most effective search tactics and capabilities.

- 10.2 A buffer zone of 5,100-yd (4,663 m) radius will be established around the intended target zone. The exercises will be conducted only if the buffer zone is clear of sighted marine mammals and sea turtles.
 - 10.3 If surface vessels are involved, lookouts will survey for *Sargassum* rafts. Ordnance shall not be targeted to impact within 5,100 yards (4,663 m) of known or observed *Sargassum* rafts or coral reefs.
 - 10.4 At-sea Bombing Exercises using live ordnance will occur during daylight hours only.
11. Air-to-Surface At-Sea Bombing Exercises (non-explosive munitions)
- 11.1 If surface vessels are involved, trained lookouts will survey for *Sargassum* rafts, which may be inhabited by immature sea turtles, and for sea turtles and marine mammals. Ordnance shall not be targeted to impact within 1,000 yards (914 m) of known or observed *Sargassum* Rafts, sea turtles, marine mammals or coral reefs.
 - 11.2 A 1,000 yard (914 m) radius buffer zone will be established around the intended target.
 - 11.3 Aircraft will visually survey the target and buffer zone for marine mammals and sea turtles prior to and during the exercise. The survey of the impact area will be made by flying at 1,500 feet or lower, if safe to do so, and at the slowest safe speed. Release of ordnance through cloud cover is prohibited: aircraft must be able to actually see ordnance impact areas. Survey aircraft should employ most effective search tactics and capabilities.
 - 11.4 The exercise will be conducted only if marine mammals and sea turtles are not visible within the buffer zone.

Jacksonville Range Complex. Releases of inert ordnance within 2 nm of North Atlantic right whales is prohibited. The term “inert ordnance” means ordnance that is not configured to explode. This term includes ordnance that carries an explosive charge, but has not been armed or fused to detonate.

12. Air-to-Surface Gunnery (such as 0.5 cal, 20 mm and 25 mm explosive or non-explosive rounds)
 - 12.1 If surface vessels are involved, lookouts will visually survey for *Sargassum* rafts, which may be inhabited by immature sea turtles, in the target area. Impact should not occur within 200 yards (182 m) of known or observed floating weeds, algal mats, *Sargassum* rafts, or coral reefs.
 - 12.2 A 200 yard (182 m) radius buffer zone will be established around the intended target.
 - 12.3 If surface vessels are involved, lookout(s) will visually survey the buffer zone for marine mammals and sea turtles prior to and during the exercise.

- 12.4 Aerial surveillance of the buffer zone for marine mammals and sea turtles will be conducted prior to commencement of the exercise. Aerial surveillance altitude of 500 feet to 1,500 feet is optimum. Aircraft crew/pilot will maintain visual watch during exercises. Firing through cloud cover is prohibited; aircraft must be able to actually see ordnance impact areas.
- 12.5 The exercise will be conducted only if marine mammals and sea turtles are not visible within the buffer zone.
- 12.6 If applicable, target towing control craft shall maintain a lookout. If a marine mammal or sea turtle is sighted in the vicinity of the exercise, the towing control craft will immediately notify the firing vessel in order to stop gunnery firing until the area is clear.
13. Air-to-Surface Missile Exercises (explosive)
- 13.1 Ordnance shall not be targeted to impact within 1,800 yd (1,646 m) of known or observed *Sargassum* rafts, which may be inhabited by immature sea turtles, or coral reefs.
- 13.2 Aircraft will visually survey the target area for marine mammals and sea turtles. Visual inspection of the target area will be made by flying at 1,500 ft altitude or lower, if safe to do so, and at slowest safe speed. Firing or range clearance aircraft must be able to actually see ordnance impact areas. Explosive ordnance shall not be targeted to impact within 1,800 yd (1,646 m) of sighted marine mammals and sea turtles.
- Virginia Capes Range Complex.** This activity historically have occurred within W-386 (Air-E, F, I, J and Air-K) and W-72A. These locations were established to be far enough from shore to reduce civilian encounters (e.g., diving and recreational fishing), while remaining within 60 nm from shore-based facilities (the established flight distance restriction for helicopters during unit level training events).
- Cherry Point Range Complex.** Aircraft may only conduct this exercise in Air 16 and 17 of W-122.
- Jacksonville Range Complex.** This activity has historically occurred in the Missile Laser Training Range. This location was established to be far enough from shore to reduce civilian encounters (e.g., diving and recreational fishing), while remaining within 60 nm from shore-based facilities (the established flight distance restriction for helicopters during unit level training events).
14. Air-to-Surface Missile Exercises (non-explosive munitions) - Virginia Capes Only
- 14.1 Ordnance shall not be targeted to impact within 1,800 yards (1646 m) of known or observed *Sargassum* rafts, which may be inhabited by immature sea turtles, or coral reefs.
- 14.2 Aircraft will visually survey the target area for marine mammals and sea turtles. Visual inspection of the target area will be made by flying at 1,500 feet or lower, if safe to do so, and at slowest safe speed. Firing or range clearance aircraft must be able to actually see ordnance impact areas.

Ordnance shall not be targeted to impact within 1,800 yards (1,646 m) of sighted marine mammals and sea turtles.

14.3 This activity will only occur in W-386 (Air-K).

15. Air-to-Air Missile Exercises (explosive and non-explosive)

The geometry of missile exercises will be oriented in order to minimize the potential for debris to fall within 1,000 yards (914 m) of sighted marine mammals, sea turtles, algal mats, *Sargassum* rafts, and coral reefs.

16. Mine Neutralization Training Involving Underwater Detonations (up to and including 20-lbs Net Explosive Weight charges)

16.1 Mine neutralization involving underwater detonations occurs in shallow water (0-120 ft or 0-36 m) and is executed by divers using scuba. The National Marine Fisheries Service's 2002 Biological Opinion addressed underwater detonations of up to and including 20-lb explosive charges related to Mine Neutralization training (NMFS 2002). These exercises utilize small boats that deploy from shore-based facilities. Often times these small boats are rigid-hulled inflatable boats which are designed for shallow water and have limited seaworthiness necessitating a nearshore location. The exercise is a one-day event that occurs only during daylight hours therefore the distance from shore is limited.

16.2 Observers will survey the buffer zone, a 700 yd (640 m) radius from detonation location, for marine mammals and sea turtles from all participating vessels during the entire operation. A survey of the buffer zone (minimum of 3 parallel tracklines 219 yd (200 m) apart) using support craft will be conducted at the detonation location 30 minutes prior through 30 minutes post detonation. During late July through October, an additional surface observer will be added to more carefully look for hatchling turtles in the buffer zone. Aerial survey support will be utilized whenever assets are available.

16.3 Detonation operations will be conducted during daylight hours.

16.4 If a sea turtle or marine mammal is sighted within the buffer zone, the animal will be allowed to leave of its own volition. The Navy will suspend detonation exercises and ensure the area is clear for a full 30 minutes prior to detonation.

16.5 Divers placing the charges on mines and dive support vessel personnel will survey the area for sea turtles and marine mammals and will report any sightings to the surface observers. These animals will be allowed to leave of their own volition and the buffer zone will be clear for 30 minutes prior to detonation.

16.6 No detonations will take place within 3.2 nm of an estuarine inlet (e.g., Chesapeake Bay).

16.7 No detonations will take place within 1.6 nm of shoreline.

- 16.8 No detonations will take place within 1,000 ft of any known artificial reef, shipwreck, or live hard-bottom community.
- 16.9 Personnel will record any protected species observations during the exercise as well as measures taken if species are detected within the buffer zone.

Virginia Capes Range Complex: Historically this activity has occurred in shallow water portions of W-50 in the Virginia Capes Study Area per NMFS' 2002 biological opinion. This location is just offshore from NAS Oceana Dam Neck Annex, a restricted-access Naval Installation and overlaps an established Surface Danger Zone for live ordnance use, therefore civilian encounters are minimized. This location has a low bathymetric relief and a sand-silt bottom. This activity will only occur in W-50

Cherry Point Range Complex: Divers may only conduct underwater detonations in the designated Mine Neutralization Box of Area 15 within the Cherry Point Operating Area.

Jacksonville Range Complex: This activity will occur in two locations: Underwater Detonation North (10L) and Underwater Detonation South (12I). These locations are offshore from Naval Weapons Station Charleston, South Carolina, a restricted-access Naval installation. These locations have low bathymetric relief and a sand-silt bottom.

17. Mine Countermeasures – Minesweeping Using Equipment Towed by Helicopters

- 17.1 Use trained lookouts to survey for *Sargassum* rafts, sea turtles and marine mammals prior to and during the exercise.
- 17.2 Establish a 250 yard (229 m) buffer zone around the towed equipment. Exercise will not be conducted if marine mammals or sea turtles are detected within the buffer zone.

18. Inert Mine Shape Deployment

- 18.1 Known shipwrecks will be avoided when deploying inert mine shapes.
- 18.2 Known artificial and oyster reefs will be avoided when deploying inert mine shapes.

19. Anchorage of Ships

- 19.1 These requirements are not applicable if going to an assigned anchorage.
- 19.2 Avoid *Sargassum* rafts.
- 19.3 Ships will not anchor in the vicinity of coral reefs, except in designated anchorages or for safety of ship: vicinity is defined as the anchor swing circle encompassing a portion of a coral reef.
- 19.4 Ships will not anchor in areas of known shipwrecks.

1.8 Mitigation and Monitoring Requirements Proposed by NMFS' Permits Division

The regulations that NMFS' Permits Division proposes to finalize for the Virginia Capes Range Complex, Cherry Point Range Complex, and Jacksonville Range Complex require the U.S. Navy to implement the same general mitigation measures, engage in monitoring activities, and comply with reporting requirements, although there are some differences between the three proposed regulations. The following narrative describes the mitigation, monitoring, and reporting requirements contained in the proposed regulations for the Virginia Capes Range Complex; to preserve space, we follow that presentation with an explanation of how the mitigation, monitoring, and reporting requirements contained in the regulations for Cherry Point and Jacksonville Range Complex differ from those required for the Virginia Capes Range Complex

(1) General Maritime Measures:

(i) Personnel Training – Lookouts

(A) All bridge personnel, Commanding Officers, Executive Officers, officers standing watch on the bridge, maritime patrol aircraft aircrews, and Mine Warfare (MIW) helicopter crews will complete Marine Species Awareness Training (MSAT).

(B) Navy lookouts will undertake extensive training to qualify as a watchstander in accordance with the Lookout Training Handbook (NAVEDTRA 12968-D).

(C) Lookout training will include on-the-job instruction under the supervision of a qualified, experienced watchstander. Following successful completion of this supervised training period, lookouts will complete the Personal Qualification Standard Program, certifying that they have demonstrated the necessary skills (such as detection and reporting of partially submerged objects).

(D) Lookouts will be trained in the most effective means to ensure quick and effective communication within the command structure to facilitate implementation of protective measures if marine species are spotted.

(E) Surface lookouts would scan the water from the ship to the horizon and be responsible for all contacts in their sector. In searching the assigned sector, the lookout would always start at the forward part of the sector and search aft (toward the back). To search and scan, the lookout would hold the binoculars steady so the horizon is in the top third of the field of vision and direct the eyes just below the horizon. The lookout would scan for approximately five seconds in as many small steps as possible across the field seen through the binoculars. They would search the entire sector in approximately five-degree steps, pausing between steps for approximately five seconds to scan the field of view. At the end of the sector search, the glasses would be lowered to allow the eyes to rest for a few seconds, and then the lookout would search back across the sector with the naked eye.

(F) At night, lookouts shall scan the horizon in a series of movements that would allow their eyes to come to periodic rests as they scan the sector. When visually searching at night, they shall look a little to one side and out of the corners of their eyes, paying attention to the things on the outer edges of their field of vision. Lookouts shall also have night vision devices available for use.

(ii) Operating Procedures & Collision Avoidance

(A) Prior to major exercises, a Letter of Instruction, Mitigation Measures Message or Environmental Annex to the Operational Order will be issued to further disseminate the personnel training requirement and general marine species mitigation measures.

(B) Commanding Officers will make use of marine species detection cues and information to limit interaction with marine species to the maximum extent possible consistent with safety of the ship.

(C) While underway, surface vessels will have at least two lookouts with binoculars; surfaced submarines will have at least one lookout with binoculars. Lookouts already posted for safety of navigation and man-overboard precautions may be used to fill this requirement. As part of their regular duties, lookouts will watch for and report to the OOD the presence of marine mammals.

(D) Personnel on lookout will employ visual search procedures employing a scanning method in accordance with the Lookout Training Handbook (NAVEDTRA 12968-D).

(E) After sunset and prior to sunrise, lookouts will employ Night Lookouts Techniques in accordance with the Lookout Training Handbook (NAVEDTRA 12968-D).

(F) While in transit, naval vessels will be alert at all times, use extreme caution, and proceed at a “safe speed” so that the vessel can take proper and effective action to avoid a collision with any marine animal and can be stopped within a distance appropriate to the prevailing circumstances and conditions.

(G) When whales have been sighted in the area, Navy vessels will increase vigilance and implement measures to avoid collisions with marine mammals and avoid activities that might result in close interaction of naval assets and marine mammals. Such measures shall include changing speed and/or direction and would be dictated by environmental and other conditions (e.g., safety or weather).

(H) Naval vessels will maneuver to keep at least 500 yds (460 m) away from any observed whale and avoid approaching whales head-on. This requirement does not apply if a vessel's safety is threatened, such as when change of course will create an imminent and serious threat to a person, vessel, or aircraft, and to the extent vessels are restricted in their ability to maneuver. Vessels shall take reasonable steps to alert other vessels in the vicinity of the whale.

(I) Where feasible and consistent with mission and safety, vessels will avoid closing to within 200-yd (183 m) of marine mammals other than whales (whales addressed above).

(J) Navy aircraft participating in exercises at sea will conduct and maintain, when operationally feasible and safe, surveillance for marine species of concern as long as it does not violate safety constraints or interfere with the accomplishment of primary operational duties. Marine mammal detections will be immediately reported to assigned Aircraft Control Unit for further dissemination to ships in the vicinity of the marine species as appropriate where it is reasonable to conclude that the course of the ship will likely result in a closing of the distance to the detected marine mammal.

(K) All vessels shall maintain logs and records documenting training operations should they be required for event reconstruction purposes. Logs and records will be kept for a period of 30 days following completion of a major training exercise.

(2) Coordination and Reporting Requirements

- (i) The Navy shall coordinate with the local NMFS Stranding Coordinator for any unusual marine mammal behavior and any stranding, beached live/dead, or floating marine mammals that may occur at any time during or within 24 hours after completion of training activities.
- (ii) The Navy shall follow internal chain of command reporting procedures as promulgated through Navy instructions and orders.

(3) Mitigation Measures Applicable to Vessel Transit in the Mid-Atlantic during North Atlantic Right Whale Migration:

- (i) Mid-Atlantic, Offshore of the Eastern United States: The mitigation measures apply to all Navy vessel transits, including those vessels that would transit to and from East Coast ports and OPAREAs.

(A) All Navy vessels are required to use extreme caution and operate at a slow, safe speed consistent with mission and safety (at a speed that does not compromise navigation safety) during the months indicated below and within a 37 km (20 nm) arc (except as noted) of the specified associated reference points:

- (1) South and East of Block Island (37 km (20 NM) seaward of line between 41-4.49° N. lat. 071-51.15° W. long. and 41-18.58° N. lat. 070-50.23° W. long.): Sept-Oct and Mar-Apr.
- (2) New York / New Jersey (40-30.64° N. lat. 073-57.76° W. long.): Sep-Oct and Feb-Apr.
- (3) Delaware Bay (Philadelphia) (38-52.13° N. lat. 075-1.93° W. long.): Oct-Dec and Feb-Mar.
- (4) Chesapeake Bay (Hampton Roads and Baltimore) (37-1.11° N. lat. 075-57.56° W. long.): Nov-Dec and Feb-Apr.
- (5) North Carolina (34-41.54° N. lat. 076-40.20° W. long.): Dec-Apr

(6) South Carolina (33-11.84° N. lat. 079-8.99° W. long. and 32-43.39° N. lat. 079-48.72° W. long.): Oct-Apr

(B) During the months indicated above for mitigation measures applicable to Navy vessel transits in the Mid-Atlantic (paragraph (a)(3)(i)(A) of this section), Navy vessels shall practice increased vigilance with respect to avoidance of vessel-whale interactions along the mid-Atlantic coast, including transits to and from any mid-Atlantic ports not specifically identified in paragraph (a)(3)(i)(A) of this section.

(C) All surface units transiting within 56 km (30 NM) of the coast in the mid-Atlantic shall ensure at least two watchstanders are posted, including at least one lookout who has completed required MSAT training.

(D) Navy vessels shall not knowingly approach any whale head on and shall maneuver to keep at least 457 m (1,500 ft) away from any observed whale, consistent with vessel safety.

(ii) Southeast Atlantic, Offshore of the Eastern United States – for the purposes of the measures below, the “southeast” encompasses sea space from Charleston, South Carolina, southward to Sebastian Inlet, Florida, and from the coast seaward to 148 km (80 NM) from shore. North Atlantic right whale critical habitat is the area from 31-15° N. lat. to 30-15° N. lat. extending from the coast out to 28 km (15 NM), and the area from 28-00° N. lat. to 30-15° N. lat. from the coast out to 9 km (5 NM). All mitigation measures described here that apply to the critical habitat apply from November 15 – April 15 and also apply to an associated area of concern which extends 9 km (5 NM) seaward of the designated critical habitat boundaries.

(A) Prior to transiting or training in the critical habitat or associated area of concern, ships shall contact Fleet Area Control and Surveillance Facility, Jacksonville, to obtain latest whale sighting and other information needed to make informed decisions regarding safe speed (the minimum speed at which mission goals or safety will not be compromised) and path of intended movement. Subs shall contact Commander, Submarine Group Ten for similar information.

(B) The following specific mitigation measures apply to activities occurring within the North Atlantic right whale critical habitat and an associated area of concern which extends 9 km (5 NM) seaward of the designated critical habitat boundaries:

(1) When transiting within the critical habitat or associated area of concern, vessels shall exercise extreme caution and proceed at a slow safe speed. The speed shall be the slowest safe speed that is consistent with mission, training and operations.

(2) Speed reductions (adjustments) are required when a whale is sighted by a vessel or when the vessel is within 9 km (5 NM) of a reported new sighting less than 12 hours old. Circumstances could arise where, in order to avoid North Atlantic right whale(s), speed

reductions could mean vessel must reduce speed to a minimum at which it can safely keep on course or vessels could come to an all stop.

- (3) Vessels shall avoid head-on approaches to North Atlantic right whale(s) and shall maneuver to maintain at least 457 m (500 yd) of separation from any observed whale if deemed safe to do so. These requirements do not apply if a vessel's safety is threatened, such as when a change of course would create an imminent and serious threat to a person, vessel, or aircraft, and to the extent vessels are restricted in the ability to maneuver.
 - (4) Ships shall not transit through the critical habitat or associated area of concern in a North-South direction.
 - (5) Ships, surfaced subs, and aircraft shall report any whale sightings to Fleet Area Control and Surveillance Facility, Jacksonville, by the quickest and most practicable means. The sighting report shall include the time, latitude/longitude, direction of movement and number and description of whale (i.e., adult/calf).
- (iii) Northeast Atlantic, Offshore of the Eastern United States:

(A) Prior to transiting the Great South Channel or Cape Cod Bay critical habitat areas, ships shall obtain the latest North Atlantic right whale sightings and other information needed to make informed decisions regarding safe speed (the minimum speed at which mission goals or safety will not be compromised). The Great South Channel critical habitat is defined by the following coordinates: 41-00° N. lat., 69-05° W. long.; 41-45° N. lat, 69-45° W. long; 42-10° N. lat., 68-31° W. long.; 41-38° N. lat., 68-13° W. long. The Cape Cod Bay critical habitat is defined by the following coordinates: 42-04.8° N. lat., 70-10° W. long.; 42-12° N. lat., 70-15° W. long.; 42-12° N. lat., 70-30° W. long.; 41-46.8° N. lat., 70-30° W. long.

(B) Ships, surfaced subs, and aircraft shall report any North Atlantic right whale sightings (if the whale is identifiable as a right whale) off the northeastern U.S. to Patrol and Reconnaissance Wing (COMPATRECONWING). The report shall include the time of sighting, lat/long, direction of movement (if apparent) and number and description of the whale(s).

(C) Vessels or aircraft that observe whale carcasses shall record the location and time of the sighting and report this information as soon as possible to the cognizant regional environmental coordinator. All whale strikes must be reported. This report shall include the date, time, and location of the strike; vessel course and speed; operations being conducted by the vessel; weather conditions, visibility, and sea state; description of the whale; narrative of incident; and indication of whether photos/videos were taken. Navy personnel are encouraged to take photos whenever possible.

- (D) Specific mitigation measures related to activities occurring within the critical habitat include the following:
- (1) Vessels shall avoid head-on approaches to North Atlantic right whale(s) and shall maneuver to maintain at least 457 m (500 yd) of separation from any observed whale if deemed safe to do so. These requirements do not apply if a vessel's safety is threatened, such as when change of course would create an imminent and serious threat to person, vessel, or aircraft, and to the extent vessels are restricted in the ability to maneuver.
 - (2) When transiting within the critical habitat or associated area of concern, vessels shall use extreme caution and operate at a safe speed (the minimum speed at which mission goals or safety will not be compromised) so as to be able to avoid collisions with North Atlantic right whales and other marine mammals, and stop within a distance appropriate to the circumstances and conditions.
 - (3) Speed reductions (adjustments) are required when a whale is sighted by a vessel or when the vessel is within 9 km (5 NM) of a reported new sighting less than one week old.
 - (4) Ships transiting in the Cape Cod Bay and Great South Channel critical habitats shall obtain information on recent whale sightings in the vicinity of the critical habitat. Any vessel operating in the vicinity of a North Atlantic right whale shall consider additional speed reductions as per Rule 6 of International Navigational Rules.
- (4) Proposed Mitigation Measures for Specific At-sea Training Events – If a marine mammal is killed as a result of the proposed Navy training activities (e.g., mortal wounds inflicted by munition explosions), the Navy shall suspend its activities immediately and report such incident to NMFS.
- (i) Firing Exercise (FIREX) Using the Integrated Maritime Portable Acoustic Scoring System (IMPASS) (5-in. Explosive Rounds)
 - (A) FIREX with IMPASS would only be conducted in the four designated areas specified in the Navy's LOA application in the VACAPES Range Complex.
 - (B) Pre-exercise monitoring of the target area shall be conducted with "Big Eyes" prior to the event, during deployment of the IMPASS sonobuoy array, and during return to the firing position. Ships will be required to maintain a lookout dedicated to visually searching for marine mammals 180° along the ship track line and 360° at each buoy drop-off location.
 - (C) "Big Eyes" on the ship shall be used to monitor a 600 yd (548 m) buffer zone around the target area for marine mammals during naval-gunfire events.
 - (D) Ships shall not fire on the target if any marine mammals are detected within or approaching the 600 yd (548 m) until the area is cleared. If marine mammals are present, operations shall be suspended. Visual observation shall occur for approximately 45 minutes, or

until the animal has been observed to have cleared the area and is heading away from the buffer zone.

(E) Post-exercise monitoring of the entire target area shall take place with “Big Eyes” and the naked eye during the retrieval of the IMPASS sonobuoy array following each firing exercise.

(F) FIREX with IMPASS shall take place during daylight hours only.

(G) FIREX with IMPASS shall only be used in Beaufort Sea State three (3) or less.

(H) The visibility must be such that the fall of shot is visible from the firing ship during the exercise.

(I) No firing shall occur if marine mammals are detected within 70 yd (64 m) of the vessel.

(ii) Air-to-Surface At-Sea Bombing Exercises (250-lbs to 2,000-lbs explosive bombs)

(A) Aircraft shall visually survey the target and buffer zone for marine mammals prior to and during the exercise. The survey of the impact area will be made by flying at 1,500 ft (457 m) altitude or lower, if safe to do so, and at the slowest safe speed.

(B) A buffer zone of 5,100-yd (4,663 m) radius shall be established around the intended target zone. The exercises shall be conducted only when marine mammals are observed to be outside the buffer zone.

(C) At-sea BOMBEXS using live ordnance shall occur during daylight hours only.

(iii) Air-to-Surface Missile Exercises (Explosive)

(A) Aircraft shall initially survey the intended ordnance impact area for marine mammals.

(B) During the actual firing of the weapon, the aircraft involved must be able to observe the intended ordnance impact area to ensure the area is free of marine mammal transiting the range.

(C) Visual inspection of the target area shall be made by flying at 1,500 ft (457 m) altitude or lower, if safe to do so, and at slowest safe speed.

(D) Explosive ordnance shall not be targeted to impact within 1,800 yd (1,646 m) of sighted marine mammals.

(iv) Mine Neutralization Training Involving Underwater Detonations (up to 20-lb charges)

(A) This activity shall only occur in W-50 of the VACAPES Range Complex.

(B) Observers shall survey the Zone of Influence (ZOI), a 700 yd (640 m) radius from detonation location for marine mammals from all participating vessels during the entire operation.

A survey of the ZOI (minimum of 3 parallel tracklines 219 yd [200 m] apart) using support craft shall be conducted at the detonation location 30 minutes prior through 30 minutes post detonation. Aerial survey support shall be utilized whenever assets are available.

(C) Detonation operations shall be conducted during daylight hours only.

(D) If a marine mammal is sighted within the ZOI, the animal shall be allowed to leave of its own volition. The Navy shall suspend detonation exercises and ensure the area is clear of marine mammals for a full 30 minutes prior to detonation.

(E) Divers placing the charges on mines and dive support vessel personnel shall survey the area for marine mammals and shall report any sightings to the surface observers. These animals shall be allowed to leave of their own volition and the ZOI shall be clear of marine mammals for 30 minutes prior to detonation.

(F) No detonations shall take place within 3.2 nm (6 km) of an estuarine inlet (Chesapeake Bay Inlets).

(G) No detonations shall take place within 1.6 nm (3 km) of shoreline.

(H) Personnel shall record any protected species observations during the exercise as well as measures taken if species are detected within the ZOI.

The Permits Division proposes include the following monitoring and reporting requirements in the proposed regulations:

- (a) The Holder of the Letter of Authorization issued pursuant to 50 C.F.R. § 216.106 of this chapter and 50 C.F.R. § 218.7 for activities described in 50 C.F.R. § 218.1(c) is required to cooperate with the NMFS when monitoring the impacts of the activity on marine mammals.
- (b) The Holder of the Authorization must notify NMFS immediately (or as soon as clearance procedures allow) if the specified activity identified in 50 C.F.R. § 218.1(c) is thought to have resulted in the mortality or injury of any marine mammals, or in any take of marine mammals not identified in 50 C.F.R. § 218.2(c).
- (c) The Navy must conduct all monitoring and required reporting under the Letter of Authorization, including abiding by the VACAPES Range Complex Monitoring Plan, which is incorporated herein by reference, and which requires the Navy to implement, at a minimum, the monitoring activities summarized below.
 - (1) Vessel or aerial surveys.
 - (i) The Holder of this Authorization shall visually survey a minimum of 2 explosive events per year, one of which shall be a multiple detonation event. One of the vessel or aerial surveys should involve professionally trained marine mammal observers (MMOs).

- (ii) For specified training events, aerial or vessel surveys shall be used 1-2 days prior to, during (if reasonably safe), and 1-5 days post detonation.
- (iii) Surveys shall include any specified exclusion zone around a particular detonation point plus 2,000 yards beyond the border of the exclusion zone (i.e., the circumference of the area from the border of the exclusion zone extending 2,000 yards outwards). For vessel based surveys a passive acoustic system (hydrophone or towed array) could be used to determine if marine mammals are in the area before and/or after a detonation event.
- (iv) When conducting a particular survey, the survey team shall collect:
 - (A) Location of sighting;
 - (B) Species (if not possible, indicate whale, dolphin or pinniped);
 - (C) Number of individuals;
 - (D) Whether calves were observed;
 - (E) Initial detection sensor;
 - (F) Length of time observers maintained visual contact with marine mammal;
 - (G) Wave height;
 - (H) Visibility;
 - (I) Whether sighting was before, during, or after detonations/exercise, and how many minutes before or after;
 - (J) Distance of marine mammal from actual detonations (or target spot if not yet detonated);
 - (K) Observed behavior - Watchstanders shall 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;
 - (L) Resulting mitigation implementation - Indicate whether explosive detonations were delayed, ceased, modified, or not modified due to marine mammal presence and for how long; and
 - (M) If observation occurs while explosives are detonating in the water, indicate munition type in use at time of marine mammal detection.
- (2) Passive acoustic monitoring
 - (i) Any time a towed hydrophone array is employed during shipboard surveys the towed array shall be deployed during daylight hours for each of the days the ship is at sea.

- (ii) The towed hydrophone array shall be used to supplement the ship-based systematic line-transect surveys (particularly for species such as beaked whales that are rarely seen).
- (iii) The array shall have the capability of detecting low frequency vocalizations for baleen whales (<1,000 kHz) and relatively high frequency (up to 30 kHz) for odontocetes. The use of two simultaneously deployed arrays can also allow more accurate localization and determination of diving patterns.
- (3) Marine mammal observers on Navy platforms
 - (i) As required in 50 C.F.R. § 218.5(c)(1), MMOs selected for aerial or vessel survey shall be placed on a Navy platform during one of the explosive exercises being monitored per year, the other designated exercise shall be monitored by the Navy lookouts/watchstanders.
 - (ii) The MMO must possess expertise in species identification of regional marine mammal species and experience collecting behavioral data.
 - (iii) MMOs shall not be placed aboard Navy platforms for every Navy training event or major exercise, but during specifically identified opportunities deemed appropriate for data collection efforts. The events selected for MMO participation shall take into account safety, logistics, and operational concerns.
 - (iv) MMOs shall observe from the same height above water as the lookouts.
 - (v) The MMOs shall not be part of the Navy's formal reporting chain of command during their data collection efforts; Navy lookouts shall continue to serve as the primary reporting means within the Navy chain of command for marine mammal sightings. The only exception is that if an animal is observed within the shutdown zone that has not been observed by the lookout, the MMO shall inform the lookout of the sighting and the lookout shall take the appropriate action through the chain of command.
 - (vi) The MMOs shall collect species identification, behavior, direction of travel relative to the Navy platform, and distance first observed. Information collected by MMOs be the same as those collected by Navy lookout/watchstanders described in 50 C.F.R. § 218.5(c)(1)(iv).
- (d) The Navy shall complete an Integrated Comprehensive Monitoring Program (ICMP) Plan in 2009. This planning and adaptive management tool shall include:
 - (1) A method for prioritizing monitoring projects that clearly describes the characteristics of a proposal that factor into its priority.
 - (2) A method for annually reviewing, with NMFS, monitoring results, Navy R&D, and current science to use for potential modification of mitigation or monitoring methods.

- (3) A detailed description of the Monitoring Workshop to be convened in 2011 and how and when Navy/NMFS will subsequently utilize the findings of the Monitoring Workshop to potentially modify subsequent monitoring and mitigation.
 - (4) An adaptive management plan.
 - (5) A method for standardizing data collection for VACAPES Range Complex and across range complexes.
- (e) General Notification of Injured or Dead Marine Mammals - Navy personnel shall ensure that NMFS (regional stranding coordinator) is notified immediately (or as soon as clearance procedures allow) if an injured or dead marine mammal is found during or shortly after, and in the vicinity of, any Navy training exercise utilizing underwater explosive detonations. The Navy shall provide NMFS with species or description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available).
- (f) Annual VACAPES Range Complex Monitoring Plan Report - The Navy shall submit a report annually on March 1 describing the implementation and results (through January 1 of the same year) of the VACAPES Range Complex Monitoring Plan. Data collection methods will be standardized across range complexes to allow for comparison in different geographic locations. Although additional information will also be gathered, the MMOs collecting marine mammal data pursuant to the VACAPES Range Complex Monitoring Plan shall, at a minimum, provide the same marine mammal observation data required in the data required in 50 C.F.R. §218.5(g). The VACAPES Range Complex Monitoring Plan Report may be provided to NMFS within a larger report that includes the required Monitoring Plan Reports from VACAPES Range Complex and multiple range complexes.
- (g) Annual VACAPES Range Complex Exercise Report - The Navy shall provide the information described below for all of their explosive exercises. Until the Navy is able to report in full the information below, they shall provide an annual update on the Navy's explosive tracking methods, including improvements from the previous year.
- (i) Total annual number of each type of explosive exercise (of those identified as part of the "specified activity" in this final rule) conducted in the VACAPES Range Complex.
 - (ii) Total annual expended/detonated rounds (missiles, bombs, etc.) for each explosive type.
- (h) VACAPES Range Complex 5-yr Comprehensive Report - The Navy shall submit to NMFS a draft report that analyzes and summarizes all of the multi-year marine mammal information gathered during the VACAPES Range Complex exercises for which annual reports are required (Annual VACAPES Range Complex Exercise Reports and VACAPES Range Complex Monitoring Plan Reports). This report will be submitted at the end of the fourth year of the rule (May 2013), covering activities that have occurred through December 1, 2012.

- (i) The Navy shall respond to NMFS' comments and requests for additional information or clarification on the VACAPES Range Complex Comprehensive Report, the Annual VACAPES Range Complex Exercise Report, or the Annual VACAPES Range Complex Monitoring Plan Report (or the multi-Range Complex Annual Monitoring Plan Report, if that is how the Navy chooses to submit the information) if submitted within 3 months of receipt. These reports will be considered final after the Navy has addressed NMFS' comments or provided the requested information, or three months after the submittal of the draft if NMFS does not comment by then.
- (j) In 2011, the Navy shall convene a Monitoring Workshop in which the Monitoring Workshop participants will be asked to review the Navy's Monitoring Plans and monitoring results and make individual recommendations (to the Navy and NMFS) of ways of improving the Monitoring Plans. The recommendations shall be reviewed by the Navy, in consultation with NMFS, and modifications to the Monitoring Plan shall be made, as appropriate.

Mitigation, Monitoring, and Reporting for the Cherry Point Range Complex

The regulations that NMFS' Permits Division proposes to finalize for the Cherry Point Range Complex require the U.S. Navy to implement the same general mitigation measures (particularly those that are applicable to endangered or threatened species), engage in monitoring activities, and comply with reporting requirements that are the same, in most respects, as the mitigation, monitoring, and reporting requirements contained in the proposed regulations for the Virginia Capes Range Complex. The proposed regulations contain a requirement for ships not to transit through designated critical habitat or an associated area of concern in a north-south direction (Item 3(ii)(B)(4) in the proposed regulations for the Virginia Capes Range Complex). However, the proposed regulations for the Cherry Point Range Complex do not contain a mitigation requirement for Air-to-Surface Bombing Exercises (Item 4(ii) in the proposed regulations for the Virginia Capes Range Complex), or a reference to Chesapeake Bay inlets in reference to mine neutralization activities (Item 4(iv)(F) in the proposed regulations for the Virginia Capes Range Complex).

Mitigation, Monitoring, and Reporting for the Jacksonville Range Complex

The regulations that NMFS' Permits Division proposes to finalize for the Jacksonville Range Complex require the U.S. Navy to implement the same general mitigation measures (particularly those that are applicable to endangered or threatened species), engage in monitoring activities, and comply with reporting requirements that are , in most respects, as the mitigation, monitoring, and reporting requirements contained in the proposed regulations for the Virginia Capes Range Complex, although there are some differences in the strength of the mandate, the proposed regulations for the Jacksonville Range Complex do not contain a mitigation requirement for Air-to-Surface Bombing Exercises (Item 4(ii) in the proposed regulations for the Virginia Capes Range Complex). or a reference to Chesapeake Bay inlets in reference to mine neutralization activities (measure 4(iv)(F) in the proposed regulations for the Virginia Capes Range Complex).

1.9 Interrelated and Interdependent Actions

The section 7 regulations (50 CFR 402.02 and 402.14) require us to assess the direct and indirect effects of proposed actions as well as the direct or indirect effects of other activities that are interrelated or interdependent with the action(s) we consider in a consultation. The section 7 regulations define “interrelated actions” as those actions that are part of a larger action and depend on the larger action for their justification; the regulatory definition of “interdependent actions” is those that have no independent utility apart from the action under consideration (50 CFR 402.02).

Many of the training activities the U.S. Navy proposes to conduct in the Northeast Operating Areas, Virginia Capes Range Complex, Cherry Point Range Complex, and Jacksonville Range Complex are interrelated with active sonar training activities the U.S. Navy conducts along the Atlantic Coast of the United States. For example, mine countermeasures training, composite training unit exercises, and joint task force exercises involve combinations of ordnance discussed earlier in this *Description of the Proposed Action* and the active sonar systems discussed in our 2009 Opinions on the Atlantic Fleet Active Sonar Training. As a result, the active sonar training activities we considered in our 2009 Opinions are interrelated with the proposed actions that are the primary focus of this Opinion. In fact, some of the vessels involved in these activities engage in both mine countermeasures training and employ active sonar as part of the same training activity.

NMFS considered the direct and indirect effects of the U.S. Navy’s Atlantic Fleet Active Sonar Training activities in biological opinions we issued earlier this year. However, those training activities are interrelated with the actions we consider in this consultation because Navy training events that involve some or all of the activities considered in this opinion (gunnery exercises, missile exercises, bombing exercises, mine neutralization, mine countermeasures, etc.) would also involve the use of the active sonar or underwater detonations that were considered in our January 2009 Opinions on Atlantic Fleet Active Sonar Training. For example, some of the vessels involved in these activities engage in both mine countermeasures training and employ active sonar as part of the same training activity. To ensure that this Opinion considers the combined direct and indirect effects of the actions we described earlier in this section as well as the active sonar and underwater detonations we considered in the earlier Opinion, we summarize the description of the Atlantic Fleet Active Sonar Training activities from our earlier Opinion and summarize the results of our effects analyses in this Opinion. The action we considered in our January 2009 Opinions on the Atlantic Fleet Active Sonar Training consisted of three separate but related activities in the areas identified in Figure 4:

1. the U.S. Navy’s proposal to continue conducting mid- and high-frequency active sonar and improved extended echo ranging system training (which includes the explosive source sonobuoy AN/SSQ-110A), maintenance, and research, development, test, and evaluation activities within and adjacent to those operating area that occur within the Atlantic Fleet Active Sonar Training study area, which includes areas along the Atlantic coast of the United States and within the Gulf of Mexico from January 2009 to January 2014
2. the Permits Division’s proposal to promulgate regulations governing the take of marine mammals (50 CFR Part 216) to allow NMFS to issue annual letters of authorization that would allow the U.S. Navy to take

Table 5. Training scenarios and the number of activities associated with those scenarios, by operating area

Training Scenario	Operating Area					Totals
	Northeast	Virginia Capes	Cherry Point	Jacksonville – Charleston	Gulf of Mexico	
Independent Unit-Level Training						
Surface Ship ASW	-	69	91	292	5	457
Surface Ship Object Detection/Navigational Sonar	-	68	-	40	-	108
Helicopter ASW	-	25	25	115	-	165
Submarine ASW	30	10	14	45	1	100
Submarine Object Detection/Navigational Sonar	165	78	-	57	-	300
Maritime Patrol Aircraft ASW (tonal sonobuoy)	238	79	111	356	7	791
Maritime Patrol Aircraft ASW (explosive source sonobuoy)	34	34	34	34	34	170
Surface Ship Mine Warfare Exercise	-	-	-	-	266	266
Coordinated Unit-Level Training						
SEASWITI	-	-	-	4	-	4
IAC	-	0.2	1.4	2.4	1	5
Group Sail	-	3	4	13	-	20
SCC Operations	0.4	-	-	1.6	-	2
RONEX and GOMEX Exercises	-	-	-	-	8	8
Strike Group Training						
ESG and CSG Composite Training Unit Exercise	-	0.2	1.4	2.4	1	5
Joint Task Force Exercise	-	0.2	0.6	1.2	0	2
Maintenance						
Surface Ship Sonar Maintenance	-	61	82	263	4	410
Submarine Sonar Maintenance	30	10	14	45	1	100
Event Totals	497.4	437.6	378.4	1271.6	328	2913

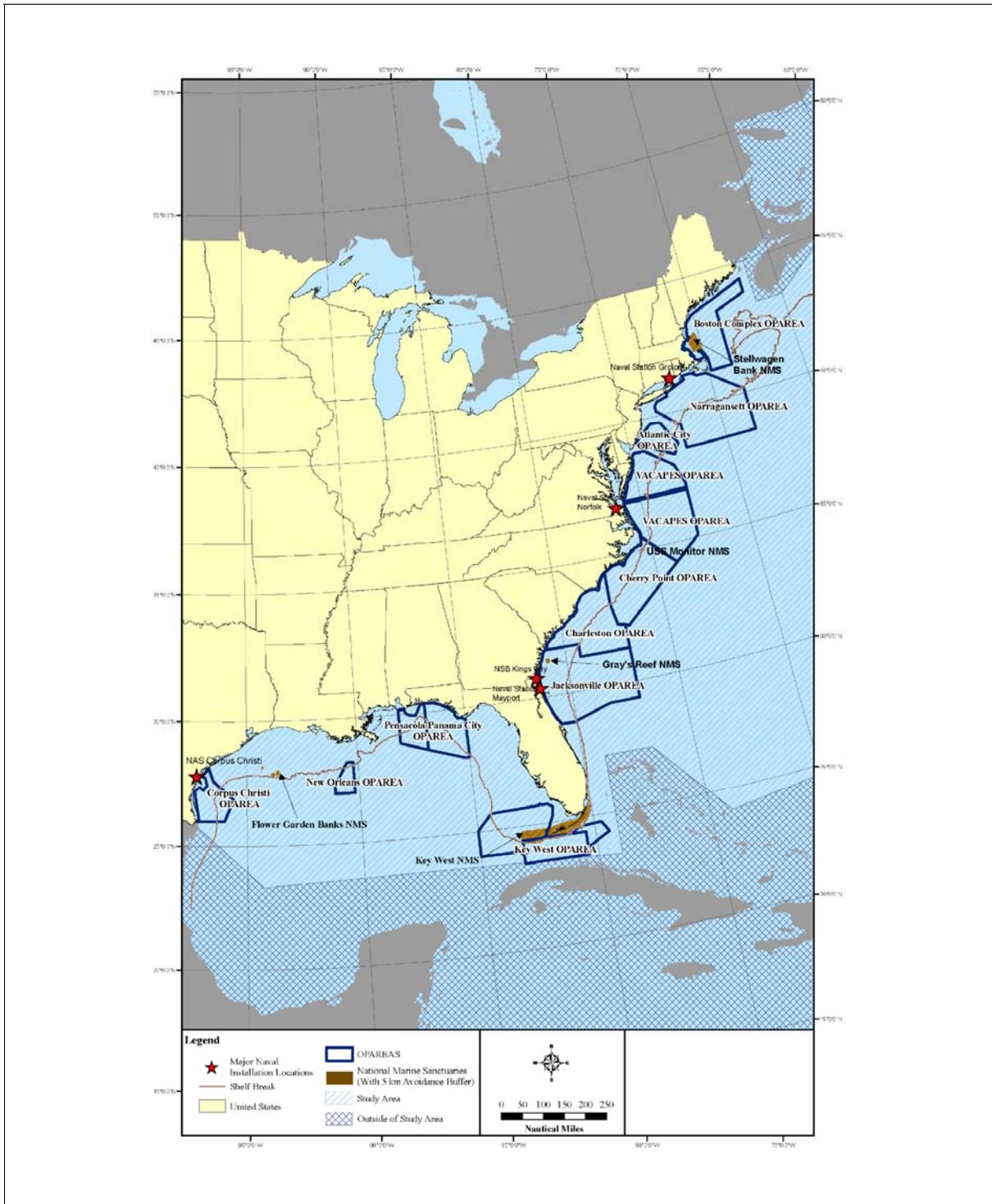


Figure 4. The action area for the U.S. Navy's Atlantic Fleet Active Sonar Training

marine mammals for a five-year period beginning in January 2009 and ending in January 2014 incidental to the U.S. Navy's active sonar training activities along the Atlantic Coast and the Gulf of Mexico.

3. the Permits Division's 2009 Letter of Authorization for the U.S. Navy to "take" marine mammals incidental to the conduct of active sonar training along the Atlantic Coast of the United States and in the Gulf of Mexico January 2009 to January 2010.

1.9.1 Training Scenarios

The training activities considered in the January 2009 Opinions resulted from Independent Unit Level Training (ULT; the term "units" refers to individual ships, submarines and aircraft) activities, Coordinated Unit-Level Training, Strike Group training exercises, Research, Development, Test and Evaluation, and active sonar maintenance. The following narratives summarize the different kinds of activities these training activities involve; for more detailed descriptions of these activities, readers should refer to Table 5 (on the following page) and the U.S. Navy's Final Environmental Impact Statement on Atlantic Fleet Training (U.S. Navy 2008).

1.9.1.1 Independent Unit Level Training Scenarios

Independent Unit-Level training events typically last two to six hours and involve one or two ships or aircraft. Active sonar systems are typically used during only portions of these training events. The U.S. Navy plans to continue conducting about 2,400 unit-level training events each year.

Surface Ship Anti-Submarine Warfare Unit-Level Training

In this training scenario, one or two surface ships (guided missile cruisers, guided missile destroyers, or fast frigates) conduct anti-submarine warfare localization and tracking training using the AN/SQS-53, AN/SQS-56, or AN/SLQ-25 NIXIE. In addition, one MK-39 Expendable Mobile Acoustic Training Target or MK-30 target may be used as a target during an exercise. In some Surface Ship anti-submarine warfare unit-level training events a MK-1, MK-2, MK-3, MK-4, MK-46 torpedo, and a noise acoustic emitter could be used. These training exercises would generally occur in both deep and shallow water areas throughout the eastern and southeastern coast of the United States.

Surface Ship Object Detection/Navigational Unit-Level Training

Under this training scenario, one ship (guided missile cruiser, guided missile destroyer, or fast frigate) conducts object detection and navigational training while transiting in and out of port using either AN/SQS-53 or AN/SQS-56 in the Kingfisher mode. This training would be conducted primarily in the shallow water shipping lanes off the coasts of Norfolk, Virginia and Mayport, Florida.

Helicopter Anti-Submarine Warfare Unit-Level Training

In this training scenario, one SH-60 helicopter conducts anti-submarine warfare training using the AN/AQS-13 or AN/AQS-22 dipping sonar, tonal sonobuoys (e.g., AN/SSQ-62), passive sonobuoy and torpedoes. One MK-39 Expendable Mobile Acoustic Training Target or MK-30 target may also be used as a target per exercise. This activity would be conducted in shallow and deep waters while embarked on a surface ship. Helicopter anti-submarine warfare unit level training events would also be conducted by helicopters deployed from shore-based Jacksonville, Florida, units.

Submarine Anti-Submarine Warfare Unit-Level Training

This training scenario consists of one submarine conducting underwater anti-submarine warfare training using AN/BQQ-10 active sonar systems and torpedoes. In addition, an MK-39 Expendable Mobile Acoustic Training Target or MK-30 target may be used as a target. Submarines would be conducting this training in deep waters throughout the Study Area, within and seaward of existing East Coast Operating Areas. Submarine Object Detection/Navigational Training Unit-Level Training

In this training scenario, individual submarines conduct object detection and navigational training while transiting in and out of port using AN/BQS-15 sonar. In this training scenario, submarines would operating sonar to detect obstructions while they transit. This unit-level training occurs primarily in the established submarine transit lanes outside of Groton, Connecticut; Norfolk, Virginia; and Kings Bay, Georgia.

Maritime Patrol Aircraft Anti-Submarine Warfare Unit-Level Training

In this training scenario, individual maritime patrol aircraft conduct anti-submarine warfare localization and tracking training using tonal (AN/SSQ-62), passive (AN/SSQ-53D/E), explosive source (AN/SSQ-110A) or receiver (AN/SSQ-101) sonobuoys. Additionally, one MK-39 Expendable Mobile Acoustic Training Target or MK-30 target for each training scenario may be used as a target. Maritime Patrol Aircraft anti-submarine warfare unit-level training would occur within and seaward of existing East Coast Operating Areas and occasionally within the Gulf of Mexico Operating Area.

Surface Ship Mine Warfare Unit-Level Training

In this training scenario, individual ships would conduct mine localization training using AN/SSQ-32 and AN/SLQ-48 sonar systems. This training would be conducted in the northern Gulf of Mexico in the Gulf of Mexico Operating Areas, and off the east coast of Texas, in the Corpus Christi Operating Area.

1.9.1.2 Coordinated Unit Level Training

The U.S. Navy plans to continue conducting about 40 coordinated unit-level training events each year. Specific training scenarios include the following activities:

Southeastern Anti-Submarine Warfare Integrated Training Initiative

Southeastern Anti-Submarine Warfare Integrated Training Initiatives (SEASWITI) are exercises with up to two submarines and either two guided missile destroyers and one fast frigate or one guided missile cruiser, one guided missile destroyer, and one fast frigate. The ships and their embarked helicopters would be conducting ASW localization training using the AN/SQS-53, AN/SQS-56, and AN/AQS-13 or AN/AQS-22 dipping sonar. Submarine would also operate AN/BQQ-10 sonar periodically. Up to 24 tonal sonobuoys (e.g., AN/SSQ-62) and two acoustic device countermeasures would also be used in these exercises.

These training scenarios typically occur over 5- to 7-day periods and would occur up to four times over the next twelve months. This training exercise using the AN/AQS-13 or AN/AQS-22 sonar systems would occur in the deep water within or adjacent to the Jacksonville Range Complex. To meet the operational requirements for these

exercises, the western boundary (i.e., training area entry point) of training areas must be no greater than 167 kilometers (km) and 185 km (90 nautical miles [nm] and 100 nm) from port.

Group Sail

Group Sail is a coordinated training scenario with one submarine and either two guided missile destroyers or one guided missile cruiser, one guided missile destroyers and one fast frigate. The ships and their embarked helicopters conduct anti-submarine warfare localization training using AN/SQS-53, AN/SQS-56 and AN/AQS-13 or AN/AQS-22 dipping sonar. Submarine involved in these exercises also operate AN/BQQ-10 sonar periodically. Four tonal sonobuoys and two acoustic device countermeasures (MK-1, MK-2, MK-3, MK-4, noise acoustic emitter, and the AN/SLQ-25A NIXIE) may also be used per scenario. The number of passive sonobuoys deployed can vary. In addition, up to two MK-48 torpedoes could be fired per exercise.

Integrated Anti-Submarine Warfare Course

The Integrated Anti-Submarine Warfare Course (IAC) is a tailored course of instruction designed to improve Sea Combat Commander and Strike Group integrated anti-submarine warfare skill sets. Key components for this course of instruction include coordinated anti-submarine warfare training for the Sea Combat Commander or Anti-Submarine Warfare Commander and staff, key shipboard decision makers, and anti-submarine warfare watch teams. IAC consists of two phases, IAC Phase I and IAC Phase II. IAC Phase I is an approved Navy course of instruction consisting of five days of basic and intermediate level classroom training. IAC Phase II is intended to leverage the knowledge gained during IAC Phase I and build the basic anti-submarine warfare coordination and integration skills of the Strike Group anti-submarine warfare Team. IAC Phase II is a coordinated training scenario that typically involves three guided missile destroyers, one guided missile cruiser and one fast frigate, two to three embarked helicopters, one submarine, and one maritime patrol aircraft searching for, locating, and attacking one submarine.

The scenario consists of two 12-hour events that would occur up to five times over the next twelve months. While the ships are searching for the submarine, the submarine may practice simulated attacks against the ships. The ships and their embarked helicopters conduct anti-submarine warfare localization training using AN/SQS-53, AN/SQS-56, AN/AQS-13 or AN/AQS-22 dipping sonar. Submarines would also operate AN/BQQ-10 sonar periodically. About 36 tonal sonobuoys may also be used per event. Multiple acoustic sources may be active at one time. These events would occur within and seaward of the Virginia Capes, Cherry Point, and Jacksonville Range Complexes. During these exercises, some activities may occur in more than one Operating Area.

Submarine Command Course Operations

This scenario is conducted as training for submarine Executive and Commanding Officers, and involves two submarines conducting anti-submarine warfare training using AN/BQQ-10 sonar systems, as well as four acoustic device countermeasures (MK-1, MK-2, MK-3, MK-4, noise acoustic emitter, and the AN/SLQ-25A NIXIE) per scenario. In addition, up to 36 MK-48 torpedoes could be fired during the duration of an exercise.

Submarine Command Course Operations exercises would occur two times over the next twelve months, last from 3 to 5 days, and typically occur in the Jacksonville-Charleston and Northeast Operating Areas in deep ocean areas.

Since targets may be employed, a support vessel may be required, which limits the western edge of the exercise boundary to within 148 km (80 nm) of a support facility.

1.9.1.3 Strike Group Training

The Expeditionary Strike Group (ESG) and Carrier Strike Group (CSG) consist of multiple ships, aircraft and submarines operating as an integrated force. A typical Expeditionary Strike Group or Carrier Strike Group consists of up to six surface ships, one to five aircraft, and one submarine.

Composite Training Unit Exercise

Composite Training Unit Exercises (COMPTUEX), which were discussed earlier in this section of this Opinion, are designed to provide coordinated training to entire Expeditionary Strike Group and Carrier Strike Group. An Expeditionary Strike Group COMPTUEX consists of a U.S. Navy Expeditionary Strike Group and U.S. Marine Corps units conducting integrated maritime and amphibious operations. Activities that employ active sonar during these exercises include anti-submarine warfare proficiency training, battle problem – area search and strait transit (a simulated choke point exercise), littoral anti-submarine warfare activities, coordinated anti-submarine warfare activities, Improved Extended Echo Ranging (IEER) Systems training. Other activities that occur during these exercises include the insertion of amphibious forces onto a beach, movement of vehicles and troops over land, delivery of troops and equipment from ship to shore via helicopters and fixed-wing maritime patrol aircraft, the use of live-fire and blank munitions from ground-based troops and aircraft, and ship operations. In addition, Navy ships provide indirect Naval Surface Fire Support in support of the landing amphibious forces utilizing non-explosive ordnance.

A Carrier Strike Group COMPTUEX is a major at-sea training event that represents the first time before deployment that an aircraft carrier and its carrier air wing integrate operations with surface and submarine units in an at-sea environment. The Expeditionary Strike Group and Carrier Strike Group consist of multiple ships, aircraft and submarines operating as an integrated force, including up to six surface ships, one to five aircraft, and one submarine, approximately half of which would not be equipped with active sonar sensors.

Sonars employed in these exercises include AN/SQS-53, AN/SQS-56, AN/AQS-13 or AN/AQS-22 dipping sonar, and the AN/BQQ-10 sonar. Up to 218 tonal sonobuoys, 28 explosive source sonobuoys (AN/SSQ-110A), 5 receiver sonobuoys (AN/SSQ-101), and four acoustic device countermeasures (MK-1, MK-2, MK-3, MK-4, noise acoustic emitter, and the AN/SLQ-25A NIXIE) are typically used per exercise. The number of passive sonobuoys deployed during these exercises can vary.

Each Composite Training Unit Exercises lasts about 21 days and up to four of these training exercises would be conducted over the next twelve months along the Atlantic Coast of the United States and one in the Gulf of Mexico. Along the Atlantic Coast, these exercises would occur within and seaward of the Virginia Capes, Cherry Point, and Jacksonville-Charleston Operating Areas. Within the Gulf of Mexico, these exercises would occur adjacent to the Gulf of Mexico Operating Area. Some activities that occur during these exercises might occur in more than one Operating Area.

Joint Task Force Exercise

Joint Task Force Exercises are also major range events that are the culminating exercises in Integrated Phase training for Carrier and Expeditionary Strike Groups. For Expeditionary Strike Groups, Joint Task Force Exercises incorporate Amphibious Ready Group Certification Exercises for amphibious ships and Special Operations Capable Certification for Marine Expeditionary Units. When schedules allow, these exercises may be conducted concurrently for a Carrier Strike Group and an Expeditionary Strike Group. These exercises normally last for 10 days (not including a 3-day force protection exercise that occurs in-port) and are the final at-sea exercise for the Carrier or Expeditionary Strike Groups before they are deployed.

Joint Task Force Exercises are the final fleet exercises before deployment of Carrier and Expeditionary Strike Groups. These exercises would be scheduled after a Carrier Strike Group COMPTUEX to certify that a Strike Group is ready for deployment. Activities conducted during these exercises include littoral anti-submarine warfare activities, coordinated anti-submarine warfare activities, Improved Extended Echo Ranging (IEER) Systems training, and freeplay exercises. They typically include other Defense Department services or Allied forces.

Carrier Strike Group COMPTUEX and Joint Task Force Exercises often take place concurrently to produce exercises that are called Combined Carrier Strike Group COMPTUEX/JTFEX. Typically, four guided missile destroyers, two fast frigates, and three submarines participate in a Joint Task Force Exercises. Sonars employed in this scenario include the AN/SQS-53, AN/SQS-56, AN/AQS-13 or AN/AQS-22 dipping sonar, and the AN/BQQ-10 sonars. Up to 174 tonal sonobuoys (e.g., AN/SSQ-62), 28 explosive source sonobuoys (AN/SSQ-110A), five receiver sonobuoys (AN/SSQ-101), and 2 four acoustic device countermeasures (MK-1, MK-2, MK-3, MK-4, noise acoustic emitter, and the AN/SLQ-25A NIXIE) are typically used per exercise. The number of passive sonobuoys that are deployed during these exercises can vary.

These exercises generally last for 10 days and would occur twice over the next twelve-months in shallow and deep water portions located within and seaward of the Virginia Capes, Cherry Point, and Jacksonville-Charleston Operating Areas.

1.9.1.4 Sustainment Training

Sustainment training consists of a variety of training evolutions designed to sustain readiness as a group, multi-unit, or unit until and following employment. Sustainment training, in port and at sea, allows forces to demonstrate proficiency in operating as part of a joint and coalition combined force and ensures that proficiency is maintained in order to maintain Major Combat Operations Ready. The extent of the sustainment training will vary depending on the unit's length of time in a Major Combat Operations Ready status, as well as the anticipated tasking. During sustainment training, units/groups maintain a Major Combat Operations Ready status until the commencement of the maintenance phase, unless otherwise directed by the Fleet Commander. Unit/group integrity during this period is vital to ensure integrated proficiency is maintained. This is especially vital for strike groups.

1.9.1.5 Maintenance

The U.S. Navy plans to continue conducting about 510 maintenance training events over the next twelve-months. Specific training scenarios include the following:

Surface Ship Sonar Maintenance

This scenario consists of surface ships performing periodic maintenance to the AN/SQS-53 or AN/SQS-56 sonar while in port or at sea. This maintenance takes up to 4 hours. Surface ships would be operating their active sonar systems for maintenance while in shallow water near their homeport, located in either Norfolk, Virginia or Mayport, Florida. However, sonar maintenance could occur anywhere as the system's performance may warrant.

Submarine Sonar Maintenance

A submarine performs periodic maintenance on the AN/BQQ-10 and AN/BQS-15 sonar systems while in port or at sea. This maintenance takes from 45 minutes to 1 hour. Submarines would conduct maintenance to their sonar systems in shallow water near their homeport of either Groton, Connecticut; Norfolk, Virginia; or Kings Bay, Georgia. However, sonar maintenance could occur anywhere as the system's performance may warrant.

1.9.2 Sonar Systems

During anti-submarine warfare and mine warfare training activities, the U.S. Navy uses tactical military sonars that were designed to (1) to search for, detect, localize, classify, and track submarines and (2) search for, detect, localize, and classify mine-like objects. The U.S. Navy typically employs two types of sonars: passive and active:

1. Passive sonars only listen to incoming sounds and, since they do not emit sound energy in the water, lack the potential to acoustically affect the environment.
2. Active sonars generate and emit acoustic energy specifically for the purpose of obtaining information concerning a distant object from the received and processed reflected sound energy. These sonars may produce high-frequency, mid-frequency, or low-frequency active signals.

The simplest active sonars emit omnidirectional pulses or "pings" and calculate the length of time the reflected echoes return from the target object to determine the distance between the sonar source and a target. More sophisticated active sonar emits an omnidirectional ping and then scans a steered receiving beam to calculate the direction and distance of a target. More advanced sonars transmit multiple preformed beams, listening to echoes from several directions simultaneously and providing efficient detection of both direction and range.

Because passive sonars do not introduce energy into the marine environment, we do not discuss them further in this consultation (readers interested in these sonar systems should refer to Appendix C of the U.S. Navy's Final Environmental Impact Statement for AFAST). The active sources that would be used in training activities along the Atlantic Coast of the United States and in the Gulf of Mexico include:

Sonar Systems Associated with Surface Ships

A variety of surface ships participate in Navy training exercises, including guided missile cruisers, destroyers, guided missile destroyers, and frigates. Some ships (e.g., aircraft carriers) do not have any onboard active sonar systems, other than fathometers. Others, like guided missile cruisers, are equipped with active as well as passive sonars for submarine detection and tracking. The primary surface ship sonars considered are

1. The AN/SQS-53 which is a large, active-passive, bow-mounted sonar that has been operational since 1975. AN/SQS-53 is the U.S. Navy's most powerful surface ship sonar and is installed on Ticonderoga (22 units) and Arleigh Burke I/II/IIIa (51 units) class vessels in the U.S. Navy (Polmar 2001, D'Spain *et al.* 2006). This sonar transmits at a center frequency of 3.5 kHz at sources levels of 235 dB_{RMS} re: 1 μPa at 1 meter. The sonar has pulse durations between 1 and 2 seconds, with about 24-second intervals between pulses. AN/SQS-53 operates at depths of about 7 meters.

The AN/SQS-53 is a computer-controlled, hull-mounted surface-ship sonar that has both active and passive operating capabilities, providing precise information for anti-submarine warfare weapons control and guidance. The system is designed to perform direct-path anti-submarine warfare search, detection, localization, and tracking from a hull-mounted transducer array. The AN/SQS-53 sonar is installed on Arleigh Burke Class guided missile destroyers and Ticonderoga Class guided missile cruisers. The AN/SQS-53 Kingfisher is a modification that provides a surface ship with the ability to detect mine-like objects.

2. The AN/SQS-56 system is a lighter active-passive bow-mounted sonar that has been operational since 1977. AN/SQS-56 is installed on FFG-7 (33 units) class guided missile frigates in the U.S. Navy (Polmar 2001, D'Spain *et al.* 2006). This sonar transmits at a center frequency of 7.5 kHz and a source level of 225 dB_{RMS} re: 1 μPa at 1 meter source level. This sonar also has pulse durations between 1 and 2 seconds, with about 24-second intervals between pulses. AN/SQS-56 operates at depths of about 6 meters.

Sonar Systems Associated with Submarines

Tactical military submarines (i.e. 29 attack submarines as of 2008) equipped with hull-mounted mid-frequency use active sonar to detect and target enemy submarines and surface ships. The predominant active sonar system mounted on submarine is AN/BQQ-10 sonar that is used to detect and target enemy submarines and surface ships. Two other systems — AN/BQQ-5 and AN/BSY-1/2 — have operational parameters that would affect marine mammals in ways that are similar to the AN/BQQ-10. In addition, Seawolf Class attack submarines, Virginia Class attack submarines, Los Angeles Class attack submarines, and Ohio Class nuclear guided missile submarines also have the AN/BQS-15 sonar system, which uses high-frequency for under-ice navigation and mine-hunting.

1. AN/BQQ-10 (also known as Advanced Rapid Commercial-Off-the-Shelf Insertion— a four-phase program for transforming existing submarine sonar systems (i.e., AN/BQQ -5) from legacy systems to more capable and flexible active and passive systems with enhanced processing using commercial-off-the-shelf components. The system is characterized as mid-frequency active sonar, although the exact frequency range is classified. The AN/BQQ-10 is installed on Seawolf Class SSNs, Virginia Class SSNs, Los Angeles Class SSNs, and Ohio Class SSBN/nuclear guided missile submarines (SSGNS). The BQQ-10 systems installed on Ohio Class SSBNs do not have an active sonar capability.
2. AN/BQQ-5 – a bow- and hull-mounted passive and active search and attack sonar system. The system includes the TB-16 and TB-23 or TB-29 towed arrays and Combat Control System MK 2. This sonar system is characterized as mid-frequency active sonar, although the exact frequency range is classified. The AN/BQQ-5 (Figure C-4) sonar system is installed on Los Angeles Class nuclear attack submarines (SSNs) and Ohio Class ballistic missile nuclear submarines (SSBNs), although the AN/BQQ-5 systems installed on Ohio Class

SSBNs do not have an active sonar capability. The AN/BQQ-5 system is being phased out on all submarines in favor of the AN/BQQ-10 sonar.

Sonar Systems Associated with Aircraft.

Aircraft sonar systems that typically operate during Navy training exercises include sonobuoys and dipping sonar. Current dipping sonar systems used by the Navy are either AN/SQS-22 or AN/AQS -13. AN/AQS -13 is an older and less powerful dipping sonar system (maximum source level 215 dB re $\mu\text{Pa}\cdot\text{s}^2$ at 1m) than the AN/AQS -22 (maximum source level 217 dB re $\mu\text{Pa}\cdot\text{s}^2$ at 1m). In its modeling, the Navy assumed that all dipping sonar were AN/AQS -22. P-3 aircraft may deploy sonobuoys while helicopters may deploy sonobuoys or dipping sonars (the latter are used by carrier-based helicopters). Sonobuoys are expendable devices used by aircraft for the detection of underwater acoustic energy and for conducting vertical water column temperature measurements. Dipping sonar is an active or passive sonar device lowered on cable by helicopters to detect or maintain contact with underwater targets. In addition, the U.S. Navy employs tonal sonobuoys (DICASS, AN/SSQ-62) and the Improved Extended Echo Ranging (IEER) System discussed earlier.

1. The AN/SSQ-62C Directional Command Activated Sonobuoy System (DICASS) sonar system is part of a sonobuoy that operates under direct command of fixed-wing aircraft or helicopters. The system can determine the range and bearing of the target relative to the sonobuoys position and can deploy to various depths within the water column. After it enters the water, the sonobuoy transmits sonar pulses (continuous waveform or linear frequency modulation) upon command from the aircraft. The echoes from the active sonar signal are processed in the buoy and transmitted to the receiving station onboard the launching aircraft.
2. AN/SSQ-110A Explosive Source Sonobuoy – a commandable, air-dropped, high source level explosive sonobuoy. The AN/SSQ-110A explosive source sonobuoy is composed of two sections, an active (explosive) section and a passive section. The upper section is called the “control buoy” and is similar to the upper electronics package of the AN/SSQ-62 DICASS sonobuoy. The lower section consists of two signal underwater sound explosive payloads of Class A explosive weighing 1.9 kg (4.2 lbs) each. The arming and firing mechanism is hydrostatically armed and detonated. Once in the water, the signal underwater sound charges explode, creating a loud acoustic signal. The echoes from the explosive charge are then analyzed on the aircraft to determine a submarine’s position. The AN/SSQ-110A explosive source sonobuoy is deployed by maritime patrol aircraft.
3. AN/SSQ-125 Advanced Extended Echo Ranging (AEER) Sonobuoy - a third generation of multi-static active acoustic search systems to be developed under the Extended Echo Ranging family of the systems and is being developed as the replacement for the AN/SSQ-110A. The AN/SSQ-125 sonobuoy is composed of two sections, the control section and the active source section. The control section is similar to the upper electronics package of the AN/SSQ-62 DICASS sonobuoy. The lower section consists of the active sonar source. The echoes from pings of the sonar are then analyzed on the aircraft to determine a submarine’s position. The AN/SSQ-125 sonobuoy will be deployed by maritime patrol aircraft.

Torpedoes

Torpedoes (primarily MK-46 and MK-48) are the primary anti-submarine warfare weapon used by surface ships, aircraft, and submarines. The guidance systems of these weapons can be autonomous or electronically controlled from the launching platform through an attached wire. The autonomous guidance systems are acoustically based. They operate either passively, exploiting the emitted sound energy by the target, or actively ensonifying the target and using the received echoes for guidance.

In addition to these torpedoes, the U.S. Navy employs Acoustic Device Countermeasures in several of their training exercises. These countermeasures (which include MK-1, MK-2, MK-3, MK-4, noise acoustic emitter, and the AN/SLQ-25A NIXIE) act as decoys by making sounds that simulate submarines to avert localization or torpedo attacks.

1.9.3 Mine Warfare Sonar Systems

The U.S. Navy uses a variety of different sonar systems during mine warfare training exercises. These sonar systems are typically high-frequency sonars (i.e., greater than 10 kHz) that detect, locate, and characterize moored and bottom mines and can be deployed by helicopters, unmanned underwater vehicles, surf zone crawlers, or surface ships. The majority of mine warfare systems are deployed by helicopters and typically operate at high (greater than 200 kHz) frequencies. The types of tactical acoustic sources used during mine warfare sonar training activities include the following:

SURFACE SHIP SONARS. Guided missile destroyers, fast frigates, and guided missile cruisers can use their hull-mounted sonars (AN/SQS-53 and AN/SQS-56) in the object detection (Kingfisher) mode. These ships, as well as mine hunters, may utilize over-the-side unmanned underwater vehicle systems containing sonar sensor packages to detect and classify mine shapes. Navy minesweepers use the AN/SQQ-32, a variable depth mine detection and classification high-frequency active sonar system. In addition, mine hunters are equipped with underwater acoustic communication systems.

SUBMARINE SONARS. Submarines can use a sail-mounted sonar, AN/BQS-15, to detect mines and objects. In addition, they employ the AN/BLQ-11 Long Term Mine Reconnaissance System which is an unmanned underwater vehicle that, when in operation, can be launched and recovered through the torpedo tubes by all classes of submarines. It can be equipped with mid-frequency active sonar to detect mines and is intended to extend a submarine's reach for mine reconnaissance missions.

In addition, the U.S. Navy employs active sonar systems from aircraft as part of its mine warfare scenarios. Two systems in particular – AN/AQS-14, which is an active-controlled, helicopter-towed mine-hunting active sonar and AN/AQS-24 which is an upgraded version of AN/AQS-14 – operate above 200 kHz.

1.9.4 Location of Training Activities

The U.S. Navy's Final Environmental Impact Statement for Atlantic Fleet Active Sonar Training (AFAST) identified specific areas where different training activities would occur. Some of those areas have been included in the narratives for specific training scenarios; the other locations are as follows:

Anti-submarine Warfare Training Areas

Anti-submarine warfare activities for all platforms could occur within and adjacent to existing East Coast operating area beyond 22.2 km (12 nm) with the exception of sonar dipping activities, however, most anti-submarine warfare training involving submarines or submarine targets would occur in waters greater than 183 m (600 ft) deep due to safety concerns about running aground at shallower depths.

Helicopter Anti-Submarine Warfare Unit-Level Training Areas

Helicopter anti-submarine warfare Unit-Level Training is the only anti-submarine warfare activity that could occur within 22 km (12 nm) of shore. This activity would be conducted by helicopters embarked on a surface ship in the waters of the East Coast Operating Areas. Helicopter anti-submarine warfare Unit-Level Training events are also conducted by helicopters deployed from shore-based Jacksonville, Florida, units. These helicopter units use established sonar dipping areas off of Mayport, Florida, which are located in territorial waters and within the southeast North Atlantic right whale critical habitat.

Torpedo Exercise Areas

Torpedo Exercises could occur anywhere within and adjacent to East Coast and Gulf of Mexico Operating Areas. The exception is in the Northeast Operating Area where the North Atlantic right whale critical habitat is located. Torpedo Exercise areas that meet current operational requirements for proximity to torpedo and target recovery support facilities were established during earlier Endangered Species Act Section 7 consultations with the National Marine Fisheries Service. As a result of these consultations, Torpedo Exercise activities in the northeast North Atlantic right whale critical habitat are limited to these established areas.

Torpedo firing activities would be occurring within the Virginia Capes and Gulf of Mexico Operating Areas, and within and seaward of the Northeast Operating Area. Due to operational requirements for torpedo recovery operations, support facilities must be located within 148 km (80 nm) of the torpedo exercise area.

Mine Warfare Training Areas

Mine Warfare Training could occur in territorial or non-territorial waters. Independent and Coordinated Mine Warfare Unit-Level Training activities would be conducted within and adjacent to the Pensacola and Panama City Operating Areas in the northern Gulf of Mexico and off the east coast of Texas in the Corpus Christi Operating Area. Squadron or Gulf of Mexico Exercises would be conducted in both deep and shallow water training areas.

Object Detection/Navigational Training Areas

Surface Ship training would be conducted primarily in the shallow water port entrance and exit lanes for Norfolk, Virginia and Mayport, Florida. The transit lane servicing Mayport, Florida, crosses through the southeast North Atlantic right whale critical habitat. Submarine training would occur primarily in the established submarine transit lanes entering/exiting Groton, Connecticut; Norfolk, Virginia; and Kings Bay, Georgia. The transit lane servicing Kings Bay, Georgia, crosses through the southeast North Atlantic right whale critical habitat.

Surface Ship Sonar Maintenance Areas

Surface ships would be operating their active sonar systems for maintenance while pier side within their homeports, located in either Norfolk, Virginia or Mayport, Florida. Additionally open ocean sonar maintenance could occur anywhere within the non-territorial waters of the AFAST Study Area as the system's performance may warrant.

Submarine Sonar Maintenance Areas

Submarines would conduct maintenance to their sonar systems pier side in their homeports of either Groton, Connecticut; Norfolk, Virginia; or Kings Bay, Georgia. Additionally, sonar maintenance could occur anywhere within the waters of the AFAST Study Area as the system's performance may warrant.

1.9.5 Mitigation Measures the U.S. Navy Employs During Active Sonar Training

To satisfy the requirements of the Marine Mammal Protection Act of 1972, as amended, the U.S. Navy proposed to implement measures that would allow their training activities to have the least practicable adverse impact on marine mammal species or stocks (which includes considerations of personnel safety, practicality of implementation, and impact on the effectiveness of the "military readiness activity"). Those measures were summarized in NMFS' January 2009 Opinion on the U.S. Navy's Atlantic Fleet Active Sonar Training and re-summarized here; for a complete description of all of the measures applicable to the proposed exercises, readers should refer to the U.S. Navy's request for a letter of authorization and the Permit Division's regulations.

The U.S. Navy does not currently conduct active sonar training in North Atlantic right whale critical habitat with the exception of object detection and navigation off shore Mayport, Florida and Kings Bay, Georgia; helicopter anti-submarine warfare training activities offshore Mayport, Florida; and torpedo exercises in the northeast during the months of August and September. As part of the proposed action, the U.S. Navy does not plan to conduct active sonar activities within the Stellwagen Bank, Monitor, Gray's Reef, Flower Garden Banks, and Florida Keys National Marine Sanctuaries and will avoid these sanctuaries by observing a 5 km (2.7 nautical mile or nm) buffer. In addition, the U.S. Navy proposes to use the following measures:

1.0 *Measures Applicable to Hull-Mounted Surface and Submarine Active Sonar.*

1.1 Personnel Training

- 1.1.1 All lookouts onboard platforms involved in ASW training events will review the NMFS approved MSAT material prior to MFA sonar use.
- 1.1.2 All Commanding Officers, Executive Officers, and officers standing watch on the Bridge will have reviewed the MSAT material prior to a training event employing the use of MFA sonar.
- 1.1.3 Navy lookouts will undertake extensive training in order to qualify as a watchstander in accordance with the Lookout Training Handbook (NAVEDTRA 12968-D).
- 1.1.4 Lookout training will include on-the-job instruction under the supervision of a qualified, experienced watchstander. Following successful completion of this supervised training period, Lookouts will complete the Personal Qualification Standard program, certifying

that they have demonstrated the necessary skills (such as detection and reporting of partially submerged objects). This does not preclude personnel being trained as lookouts from being counted as those listed in previous measures so long as supervisors monitor their progress and performance.

- 1.1.5 Lookouts will be trained in the most effective means to ensure quick and effective communication within the command structure in order to facilitate implementation of protective measures if marine species are spotted.

1.2 Lookout and Watchstander Responsibilities

- 1.2.1 On the bridge of surface ships, there will always be at least three personnel on watch whose duties include observing the water surface around the vessel.
- 1.2.2 In addition to the three personnel on watch noted previously, all surface ships participating in ASW exercises will have at least two additional personnel on watch as lookouts at all times during the exercise.
- 1.2.3 Personnel on lookout and officers on watch on the bridge will have at least one set of binoculars available for each person to aid in the detection of marine mammals.
- 1.2.4 On surface vessels equipped with MFA sonar, pedestal mounted “Big Eye” (20x110) binoculars will be present and in good working order to assist in the detection of marine mammals in the vicinity of the vessel.
- 1.2.5 Personnel on lookout will employ visual search procedures employing a scanning methodology in accordance with the Lookout Training Handbook (NAVEDTRA 12968-D).
- 1.2.6 After sunset and prior to sunrise, lookouts will employ Night Lookouts Techniques in accordance with the Lookout Training Handbook.
- 1.2.7 At night, lookouts would not sweep the horizon with their eyes, because eyes do not see well when they are moving. Lookouts would scan the horizon in a series of movements that would allow their eyes to come to periodic rests as they scan the sector. When visually searching at night, they would look a little to one side and out of the corners of their eyes, paying attention to the things on the outer edges of their field of vision. Lookouts will also have night vision devices available for use.
- 1.2.8 Personnel on lookout will be responsible for reporting all objects or anomalies sighted in the water (regardless of the distance from the vessel) to the Officer of the Deck, since any object or disturbance (e.g., trash, periscope, surface disturbance, discoloration) in the water may be indicative of a threat to the vessel and its crew or indicative of a marine species that may need to be avoided as warranted.

1.3 Operating procedures

- 1.3.1 Commanding Officers will make use of marine species detection cues and information to limit interaction with marine species to the maximum extent possible consistent with safety of the ship.
- 1.3.2 All personnel engaged in passive acoustic sonar operation (including aircraft, surface ships, or submarines) will monitor for marine mammal vocalizations and report the detection of any marine mammal to the appropriate watch station for dissemination and appropriate action.
- 1.3.3 During MFA sonar operations, personnel will utilize all available sensor and optical systems (such as night vision goggles) to aid in the detection of marine mammals.
- 1.3.4 Navy aircraft participating in exercises at sea will conduct and maintain, when operationally feasible and safe, surveillance for marine species of concern as long as it does not violate safety constraints or interfere with the accomplishment of primary operational duties.
- 1.3.5 Aircraft with deployed sonobuoys will use only the passive capability of sonobuoys when marine mammals are detected within 200 yards of the sonobuoy.
- 1.3.6 Marine mammal detections will be immediately reported to assigned Aircraft Control Unit (if participating) for further dissemination to ships in the vicinity of the marine species as appropriate where it is reasonable to conclude that the course of the ship will likely result in a closing of the distance to the detected marine mammal.
- 1.3.7 Safety Zones—When marine mammals are detected by any means (aircraft, shipboard lookout, or acoustically), the Navy will ensure that MFA transmission levels are limited to at least 6 decibels (dB) below normal operating levels if any detected animals are within 1,000 yards of the sonar dome (the bow)
 - (i) Ships and submarines will continue to limit maximum MFA transmission levels by this 6-dB factor until the marine mammal has been seen to leave the area, has not been detected for 30 minutes, or the vessel has transited more than 2,000 yards beyond the location of the last detection.
 - (ii) The Navy will ensure that MFA sonar transmissions will be limited to at least 10 dB below the equipment's normal operating level if any detected animals are within 500 yards of the sonar dome. Ships and submarines will continue to limit maximum ping levels by this 10-dB factor until the marine mammal has been seen to leave the area, has not been detected for 30 minutes, or the vessel has transited more than 2,000 yards beyond the location of the last detection.
 - (iii) The Navy will ensure that MFA sonar transmissions will cease if any detected animals are within 200 yards of the sonar dome. MFA sonar will not resume until the animal has been seen to leave the area, has not been detected for 30 minutes,

or the vessel has transited more than 2,000 yards beyond the location of the last detection.

- (iv) Special conditions applicable for dolphins and porpoises only: If, after conducting an initial maneuver to avoid close quarters with dolphins or porpoises, the Officer of the Deck concludes that dolphins or porpoises are deliberately closing to ride the vessel's bow wave, no further mitigation actions are necessary while the dolphins or porpoises continue to exhibit bow wave riding behavior.
- (v) If the need for MFA sonar power-down should arise as detailed in "Safety Zones" above, the ship or submarine shall follow the requirements as though they were operating MFA sonar at 235 dB—the normal operating level (i.e., the first power-down will be to 229 dB, regardless of at what level above 235 dB the MFA sonar was being operated).

- 1.3.8 Prior to start up or restart of MFA sonar, operators will check that the Safety Zone radius around the sound source is clear of marine mammals.
- 1.3.9 MFA sonar levels (generally)—the ship or submarine will operate MFA sonar at the lowest practicable level, not to exceed 235 dB, except as required to meet tactical training objectives.
- 1.3.10 If the need for power-down should arise, as detailed in —Safety Zones (above), Navy staff would follow the requirements as though they were operating at 235 dB - the normal operating level (i.e., the first power-down would be to 229 dB, regardless of the level above 235 db the sonar was being operated).
- 1.3.11 Prior to start up or restart of active sonar, operators would check that the safety zone radius around the sound source is clear of marine mammals.
- 1.3.12 Sonar levels (generally) – The Navy would operate sonar at the lowest practicable level, not to exceed 235 dB, except as required to meet tactical training objectives.
- 1.3.13 Helicopters would observe/survey the vicinity of an ASW exercise for 10 minutes before the first deployment of active (dipping) sonar in the water.
- 1.3.14 Helicopters would not dip their sonar within 183 m (200 yd) of a marine mammal and would cease pinging if a marine mammal closes within 183 m (200 yd) after pinging has begun.
- 1.3.15 Submarine sonar operators would review detection indicators of close-aboard marine mammals prior to the commencement of ASW operations involving active mid-frequency sonar.

2.0 *Mitigation measures associated with events using EER/IEER Sonobuoys*

- a. AN/SSQ-110A Pattern Deployment:

- Crews will conduct visual reconnaissance of the drop area prior to laying their intended sonobuoy pattern. This search should be conducted below 1500 feet (ft) at a slow speed when operationally feasible and weather conditions permit. In dual aircraft operations, crews may conduct coordinated area clearances.
 - Crews shall conduct a minimum of 30 minutes of visual and aural monitoring of the search area prior to commanding the first post (source/receiver sonobuoy pair) detonation. This 30 minute observation period may include pattern deployment time.
 - For any part of the briefed pattern where a post will be deployed within 1000 yards (yds) of observed marine mammal activity, crews will deploy the receiver ONLY and monitor while conducting a visual search. When marine mammals are no longer detected within 1000 yds of the intended post position, crews will collocate the AN/SSQ-110A sonobuoy (source) with the receiver.
 - When operationally feasible, crews will conduct continuous visual and aural monitoring of marine mammal activity, including monitoring of their aircraft sensors from first sensor placement to checking off-station and out of RF range of the sensors.
- b. AN/SSQ-110A Pattern Employment:
- (i) Aural Detection:
 - Aural detection of marine mammals cues the aircrew to increase the diligence of their visual surveillance.
 - If, following aural detection, no marine mammals are visually detected, then the crew may continue multi-static active search.
 - (ii) Visual Detection:
 - If marine mammals are visually detected within 1000 yds of the AN/SSQ-110A sonobuoy intended for use, then that payload shall not be detonated. Aircrews may utilize this post once the marine mammals have not been re-sighted for 30 minutes or are observed to have moved outside the 1000 yd safety zone.
 - Aircrews may shift their multi-static active search to another post, where marine mammals are outside the 1000 yd safety zone.
- c. AN/SSQ-110A Scuttling Sonobuoys:
- (i) Aircrews shall make every attempt to manually detonate the unexploded charges at each post in the pattern prior to departing the operations area by using the “Payload 1 Release” command followed by the “Payload 2 Release” command. Aircrews shall refrain from using the “Scuttle” command when two payloads remain at a given post. Aircrews will ensure a 1000 yd safety zone, visually clear of marine mammals, is maintained around each post as is done during active search operations.

- (ii) Aircrews shall only leave posts with unexploded charges in the event of a sonobuoy malfunction, an aircraft system malfunction, or when an aircraft must immediately depart the area due to issues such as fuel constraints, inclement weather, and in-flight emergencies. In these cases, the sonobuoy will self-scuttle using the secondary method or tertiary method.

Aircrews ensure all payloads are accounted for. Sonobuoys that cannot be scuttled shall be reported as unexploded ordnance via voice communications while airborne and, upon landing, via Naval message.

- (iii) Mammal monitoring shall continue until out of their aircraft sensor range.

3.0 Special Conditions Applicable to Bow-riding Dolphins

If, after conducting an initial maneuver to avoid close quarters with dolphins, the ship concludes that dolphins are deliberately closing in on the ship to ride the vessel's bow wave, no further mitigation actions would be necessary because dolphins are out of the main transmission axis of the active sonar while in the shallow-wave area of the vessel bow.

4.0 Planning Awareness Areas

The Navy has designated several Planning Awareness Areas (PAAS) based on areas of high productivity that have been correlated with high concentrations of marine mammals (such as persistent oceanographic features like upwellings associated with the Gulf Stream front where it is deflected off the east coast near the Outer Banks), and areas of steep bathymetric contours that are frequented by deep diving marine mammals such as beaked whales and sperm whales. While developing the PAAS, U.S. Fleet Forces (USFF) was able to consider these factors because of geographic flexibility in conducting ASW training. USFF is not tied to a specific range support structure for the majority of the training for AFAST. Additionally, the topography and bathymetry along the East Coast and in the Gulf of Mexico is unique in that there is a wide continental shelf leading to the shelf break affording a wider range of training opportunities.

- 4.1 The Navy shall avoid planning major exercises in the specified PAAS where feasible. Should national security require the conduct of more than four major exercises (Composite Training Unit Exercise [COMPTUEX], Joint Task Force Exercise [JTFEX], Southeastern ASW Integrated Training Initiative [SEASWITI], or similar scale event) in these areas (meaning all or a portion of the exercise) per year the Navy shall provide NMFS with prior notification and include the information in any associated after-action or monitoring reports.

- 4.2 To the extent operationally feasible, the Navy plans to conduct no more than one of the four above-mentioned major exercises (COMPTUEX, JTFEX, SEASWITI, or similar scale event) per year in the Gulf of Mexico. Based on operational requirements, the exercise area for this one exercise may include the De Soto Canyon. If national security needs require more than one major exercise to be conducted in the PAAS which includes portions of the DeSoto Canyon, the Navy would provide NMFS with prior notification and include the information in any associated after-action or monitoring reports.

- 4.3 The PAAs will be included in the Navy's Protective Measures Assessment Protocol (PMAAP) (implemented by the Navy for use in the protection of the marine environment) for unit level situational awareness (i.e., exercises other than COMPTUEX, JTFEX, SEASWITI). The goal of PMAAP is to raise awareness in the fleet and ensure common sense and informed oversight are injected into planning processes for testing and training evolutions.
- 4.4 Helicopter Dipping Sonar in North Atlantic right whale Critical Habitat
- 4.4.1 Helicopter Dipping Sonar is one of the two activity types that has been identified as planned to occur in the southern North Atlantic right whale critical habitat. Historically, only maintenance of helicopter dipping sonars occurs within a portion of the North Atlantic right whale critical habitat. Tactical training with helicopter dipping sonar does not typically occur in the North Atlantic right whale critical habitat area at any time of the year. The critical habitat area is used on occasion for post maintenance operational checks and equipment testing due to its proximity to shore. Unless otherwise dictated by national security needs, the Navy will minimize helicopter dipping sonar maintenance within the southeast North Atlantic right whale critical habitat from November 15 to April 15.
- 4.5 Object Detection Exercises in North Atlantic right whale Critical Habitat
- 4.5.1 Object detection training requirements are another type of activity that have been identified as planned to occur in the southern North Atlantic right whale critical habitat. The Navy recognizes the significance of the North Atlantic right whale calving area and has explored ways of affecting the least practicable impact (which includes a consideration of practicality of implementation and impacts to training fidelity) to right whales. Navy units will incorporate data from the Early Warning System (EWS) into exercise pre-planning efforts. USFF contributes more than \$150,000 annually for aerial surveys that support the EWS, a communication network that assists afloat commands to avoid interactions with right whales. Fleet Area Control and Surveillance Facility, Jacksonville (FACSFAC JAX) houses the Whale Fusion Center, which disseminates the latest right whale sighting information to Navy ships, submarines, and aircraft. Through the Fusion Center, FACSFAC JAX coordinates ship and aircraft movement into the right whale critical habitat and the surrounding operating areas based on season, water temperature, weather conditions, and frequency of whale sightings and provides right whale reports to ships, submarines and aircraft, including coast guard vessels and civilian shipping. The Navy proposes to:
- 4.5.2 Reduce the time spent conducting object detection exercises in the North Atlantic right whale critical habitat.
- 4.5.3 Prior to conducting surface ship object detection exercises in the southeast North Atlantic right whale critical habitat during the time of November 15 to April 15, ships will contact FACSFAC JAX to obtain the latest right whale sighting information. FACSFAC JAX will advise ships of all reported whale sightings in the vicinity of the critical habitat and Associated Area of Concern. To the extent operationally feasible, ships will avoid conducting training in the vicinity of recently sighted right whales. Ships will maneuver to maintain at least 457 m (500 yd) separation from any observed whale, consistent with the safety of the ship.

5.0 Mitigation Measures Related To Vessel Transit And North Atlantic Right Whales

In 1999, a Mandatory Ship Reporting System was implemented by the U.S. Coast Guard, which requires vessels larger than 300 gross registered tons (Department of the Navy ships are exempt) to report their location, course, speed, and destination upon entering the nursery and feeding areas of the right whale. At the same time, ships receive information on locations of right whale sightings, in order to avoid collisions with the animals. In the southeastern United States, the reporting system is from November 15 through April 15 of each year; the geographical boundaries include coastal waters within roughly 46 kilometers (25 nautical miles of shore along a 167 km (90 nm) stretch of the Atlantic coast in Florida and Georgia. In the northeastern United States, the reporting system is year-round and the geographical boundaries include the waters of Cape Cod Bay, Massachusetts Bay, and the Great South Channel east and southeast of Massachusetts; it includes all of Stellwagen Bank National Marine Sanctuary. A portion of the Boston OPAREA falls within these boundaries. Specific naval mitigation measures for each region of the AFAST Study Area are discussed in the following subsections.

5.1 Mid-Atlantic, Offshore of the Eastern United States

For purposes of these measures, the mid-Atlantic is defined broadly to include ports south and east of Block Island Sound southward to South Carolina. The procedure described below would be established as mitigation measures for Navy vessel transits during Atlantic right whale migratory seasons near ports located off the western North Atlantic, offshore of the eastern United States. The mitigation measures would apply to all Navy vessel transits, including those vessels that would transit to and from East Coast ports and OPAREAS. Seasonal migration of right whales is generally described by NMFS as occurring from October 15th through April 30th, when right whales migrate between feeding grounds farther north and calving grounds farther south. The Navy mitigation measures have been established in accordance with rolling dates identified by NMFS consistent with these seasonal patterns. NMFS has identified ports located in the western Atlantic Ocean, offshore of the southeastern United States, where vessel transit during right whale migration is of highest concern for potential ship strike. The ports include the Hampton Roads entrance to the Chesapeake Bay, which includes the concentration of Atlantic Fleet vessels in Norfolk, Virginia. Navy vessels are required to use extreme caution and operate at a slow, safe speed consistent with mission and safety during the months (indicated in Table 5-1 of the Final EIS for Atlantic Fleet Active Sonar Training) and within a 37 kilometer (20 nautical mile) arc (except as noted) of the specified reference points. During the indicated months, Navy vessels would practice increased vigilance with respect to avoidance of vessel-whale interactions along the mid-Atlantic coast, including transits to and from any mid-Atlantic ports not specifically identified above. All surface(d) units transiting within 56 km (30 nm) of the coast in the mid-Atlantic would ensure at least two watchstanders are posted, including at least one lookout that has completed required MSAT training. Furthermore, Navy vessels would not knowingly approach any whale head on and would maneuver to keep at least 457 m (500 yd) away from any observed whale, consistent with vessel safety.

5.2 Southeast Atlantic, Offshore of the Eastern United States

For purposes of these measures, the southeast encompasses sea space from Charleston, South Carolina, southward to Sebastian Inlet, Florida, and from the coast seaward to 148 km (80 nm) from shore. The mitigation measures described in this section were developed specifically to protect the North Atlantic right whale during its calving season (Typically from November 15 through April 15). During this period, North Atlantic right whales give birth and nurse their calves in and around a federally designated critical habitat off the coast of Georgia and Florida.

This critical habitat is the area from 31-15N to 30-15N extending from the coast out to 28 km (15 nm), and the area from 28-00N to 30-15N from the coast out to 9 km (5 nm). All mitigation measures that apply to the critical habitat also apply to an associated area of concern which extends 9 km (5 nm) seaward of the designated critical boundaries. Prior to transiting or training in the critical habitat or associated area of concern, ships will contact Fleet Area Control and Surveillance Facility, Jacksonville, to obtain latest whale sighting and other information needed to make informed decisions regarding safe speed and path of intended movement. Subs shall contact Commander, Submarine Group Ten for similar information. Specific mitigation measures related to activities occurring within the critical habitat or associated area of concern include the following:

- 5.2.1 When transiting within the critical habitat or associated area of concern, vessels will exercise extreme caution and proceed at a slow safe speed. The speed will be the slowest safe speed that is consistent with mission, training and operations.
- 5.2.2 Speed reductions (adjustments) are required when a whale is sighted by a vessel or when the vessel is within 9 km (5 nm) of a reported new sighting less than 12 hours old.
- 5.2.3 Additionally, circumstances could arise where, in order to avoid North Atlantic right whale(s), speed reductions could mean vessel must reduce speed to a minimum at which it can safely keep on course or vessels could come to an all stop.
- 5.2.4 Vessels will avoid head-on approach to North Atlantic right whale(s) and will maneuver to maintain at least 457 m (500 yd) of separation from any observed whale if deemed safe to do so. These requirements do not apply if a vessel's safety is threatened, such as when change of course would create an imminent and serious threat to person, vessel, or aircraft, and to the extent vessels are restricted in the ability to maneuver.
- 5.2.5 Ships shall not transit through the critical habitat or associated area of concern in a North-South direction.
- 5.2.6 Ship, surfaced subs, and aircraft will report any whale sightings to Fleet Area Control and Surveillance Facility, Jacksonville, by most convenient and fast means. Sighting report will include the time, latitude/longitude, direction of movement and number and description of whale (i.e., adult/calf).

5.3 Northeast Atlantic, Offshore of the Eastern United States

The protective measures described in this section apply to aircraft operating in the Boston OPAREA (Warning Areas W-102, W-103, and W-104), as well as ships operating within the entire Atlantic

Fleet area of responsibility (AOR), except those areas off the southeastern U.S. already covered in previous discussion.

Prior to transiting the Great South Channel or Cape Cod Bay critical habitat areas, ships will obtain the latest right whale sightings and other information needed to make informed decisions regarding safe speed. The Great South Channel critical habitat is defined by the following coordinates: 41-00N, 69-05W; 41-45N, 69-45W; 42-10N, 68-31W; 41-38N, 68-13W. The Cape Cod Bay critical habitat is defined by the following coordinates: 42-04.8N, 70-10W; 42-12N, 70-15W; 42-12N, 70-30W; 41-46.8N, 70-30W. Ships, surfaced subs, and aircraft will report any North Atlantic right whale sightings (if the whale is identifiable as a right whale) off the northeastern U.S. to Patrol and Reconnaissance Wing (COMPATRECONWING). The report will include the time of sighting, lat/long, direction of movement (if apparent) and number and description of the whale(s). In addition, vessels or aircraft that observe whale carcasses will record the location and time of the sighting and report this information as soon as possible to the cognizant regional environmental coordinator. All whale strikes must be reported. Report will include the date, time, and location of the strike; vessel course and speed; operations being conducted by the vessel; weather conditions, visibility, and sea state; description of the whale; narrative of incident; and indication of whether photos/videos were taken. Units are encouraged to take photos whenever possible. Specific mitigation measures related to activities occurring within the critical habitat or associated area of concern include the following:

- 5.31 Vessels will avoid head-on approach to North Atlantic right whale(s) and will maneuver to maintain at least 457 m (500 yd) of separation from any observed whale if deemed safe to do so. These requirements do not apply if a vessel's safety is threatened, such as when change of course would create an imminent and serious threat to person, vessel, or aircraft, and to the extent vessels are restricted in the ability to maneuver.
 - 5.3.2 When transiting within the critical habitat or associated area of concern, vessels shall use extreme caution and operate at a safe speed so as to be able to avoid collisions with North Atlantic right whales and other marine mammals, and stop within a distance appropriate to the circumstances and conditions.
 - 5.3.3 Speed reductions (adjustments) are required when a whale is sighted by a vessel or when the vessel is within 9 km (5 NM) of a reported new sighting less than one week old.
 - 5.3.4 Ships transiting in the Cape Cod Bay and Great South Channel critical habitats will obtain information on recent whale sightings in the vicinity of the critical habitat. Any vessel operating in the vicinity of a North Atlantic right whale shall consider additional speed reductions as per Rule 6 of International Navigational Rules.
- 5.4 Additional Mitigation for Torpedo Exercises (TORPEXS) in the Northeast North Atlantic right whale Critical Habitat. TORPEXS in locations other than the Northeast will utilize the measures described in Section 5.1. TORPEXS conducted in the five TORPEXS training areas off of Cape Cod, which may occur in right whale critical habitat, will implement the following measures:

- 5.4.1 All torpedo-firing operations shall take place during daylight hours.
- 5.4.2 During the conduct of each test, visual surveys of the test area shall be conducted by all vessels and aircraft involved in the exercise to detect the presence of marine mammals. Additionally, trained observers shall be placed on the submarine, spotter aircraft, and the surface support vessel. All participants will be required to report sightings of any marine mammals, including negative reports, prior to torpedo firings. Reporting requirements will be outlined in the test plans and procedures written for each individual exercise, and will be emphasized as part of pre-exercise briefings conducted with all participants.
- 5.4.3 Observers shall receive NMFS -approved training in field identification, distribution, and relevant behaviors of marine mammals of the western north Atlantic. Currently, this training is provided by a professor at the University of Rhode Island, Graduate School of Oceanography. Observers shall fill out Standard Sighting Forms and the data will be housed at the Naval Undersea Warfare Center Division Newport (NUWC DIVNPT). Any sightings of North Atlantic right whales shall be immediately communicated to the Sighting Advisory System (SAS). All platforms shall have onboard a copy of the following:
- 5.4.4 The Guide to Marine Mammals and Turtles of the U.S. Atlantic and Gulf of Mexico (Wynne and Schwartz 1999).
- 5.4.5 The NMFS Critical Sightings Program placard.
- 5.4.6 Right Whales, Guidelines to Mariners placard.
- 5.4.7 In addition to the visual surveillance discussed above, dedicated aerial surveys shall be conducted utilizing a fixed-wing aircraft. An aircraft with an overhead wing (i.e., Cessna Skymaster or similar) will be used to facilitate a clear view of the test area. Two trained observers, in addition to the pilot, shall be embarked on the aircraft. Surveys will be conducted at an approximate altitude of 305 m (1,000 feet [ft]) flying parallel track lines at a separation of 1.85 km (1 nm), or as necessary to facilitate good visual coverage of the sea surface. While conducting surveillance, the aircraft shall maintain an approximate speed of 185 kilometers per hour (km/hr) (100 knots [kn]). Since factors that affect visibility are highly dependent on the specific time of day of the survey, the flight operator will have the flexibility to adjust the flight pattern to reduce glare and improve visibility. The entire test site will be surveyed initially, but once preparations are being made for an actual test launch, survey effort will be concentrated over the vicinity of the individual test location. Further, for approximately ten minutes immediately prior to launch, the aircraft will racetrack back and forth between the launch vessel and the target vessel.
- 5.4.8 Commencement of an individual torpedo test scenario shall not occur until observers from all vessels and aircraft involved in the exercise have reported to the Officer in Tactical Command (OTC) and the OTC has declared that the range is clear of marine

mammals. Should protected animals be present within or seen moving toward the test area, the test shall be either delayed or moved as required to avoid interference with the animals.

5.4.9 The TORPEX will be suspended if the Beaufort Sea State exceeds 3 or if visibility precludes safe operations.

5.4.10 Vessel speeds:

- During transit through the North Atlantic right whale critical habitat, surface vessels and submarines shall maintain a speed of no more than 19 km/hr (10 kn) while not actively engaged in the exercise procedures.
- During TORPEX operations, a firing vessel will likely not exceed 19 km/hr (10 kn). When a submarine is used as a target, vessel speeds would not likely exceed 33 km/hr (18 kn). However, on occasion, when surface vessels are used as targets, the vessel may exceed 33 km/hr (18 kn) in order to fully test the functionality of the torpedoes. This increased speed would occur for a short period of time (e.g., 10 to 15 minutes) to evade the torpedo when fired upon.
- In the event of an animal strike, or if an animal is discovered that appears to be in distress, a report will immediately be promulgated through the appropriate Navy chain of Command.

1.9.6 Scope of the MMPA Regulations for Atlantic Fleet Active Sonar Training

On 27 January 2009, NMFS' Permits Division finalized regulations (50 CFR 216, Supart V) that authorize the U.S. Navy to "take" marine mammals within the AFAST Study Area, which extends east from the Atlantic Coast of the U.S. to 45 degrees West longitude and south from the Atlantic and Gulf of Mexico Coasts to approximately 23 degrees North latitude, excluding the Bahamas. The "taking" of marine mammals (as that term is defined for the purposes of the Marine Mammal Protection Act) by the Navy is only authorized if it occurs incidental to the use of the following mid-frequency active sonar (MFAS) sources, high frequency active sonar (HFAS) sources, or explosive sonobuoys for U.S. Navy anti-submarine warfare (ASW), mine warfare (MIW) training, maintenance, or research, development, testing, and evaluation (RDT&E) in the amounts indicated below (+/- 10 percent):

1. AN/SQS-53 (hull-mounted sonar) – up to 16070 hours over the course of 5 years (an average of 3214 hours per year)
2. AN/SQS -56 (hull-mounted sonar) – up to 8420 hours over the course of 5 years (an average of 1684 hours per year)
3. AN/SQS -56 or 53 (hull mounted sonar in object detection mode) – up to 1080 hours over the course of 5 years (an average of 216 hours per year)
4. AN/BQQ-10 or 5 (submarine sonar) – up to 49880 pings over the course of 5 years (an average of 9976 pings per year)(an average of 1 ping per two hours during training events, 60 pings per hour for maintenance)

5. AN/AQS-22 or 13 (helicopter dipping sonar) – up to 14760 dips over the course of 5 years (an average of 2952 dips per year – 10 pings per five-minute dip)
6. SSQ-62 (Directional Command Activated Sonobuoy System (DICASS) sonobuoys) – up to 29265 sonobuoys over the course of 5 years (an average of 5853 sonobuoys per year)
7. MK-48 (heavyweight torpedoes) – up to 160 torpedoes over the course of 5 years (an average of 32 torpedoes per year)
8. MK-46 or 54 (lightweight torpedoes) – up to 120 torpedoes over the course of 5 years (an average of 24 torpedoes per year)
9. AN/SSQ-110A (IEER explosive sonobuoy) and AN/SSQ-125 (AEER sonar sonobuoy) – up to 4360 sonobuoys, between these 2 sources, over the course of 5 years (an average of 872 buoys per year)
10. AN/SQQ-32 (over the side mine-hunting sonar) – up to 22370 hours over the course of 5 years (an average of 4474 hours per year)
11. AN/SLQ-25 (NIXIE – towed countermeasure) – up to 1660 hours over the course of 5 years (an average of 332 hours per year)
12. AN/BQS-15 (submarine navigation) – up to 2250 hours over the course of 5 years (an average of 450 hours per year)
13. MK-1 or 2 or 3 or 4 (Submarine-fired Acoustic Device Countermeasure (ADC)) - up to 1125 ADCs over the course of 5 years (an average of 225 ADCs per year)
14. Noise Acoustic Emitters (NAE – Sub-fired countermeasure) - up to 635 NAEs over the course of 5 years (an average of 127 NAEs per year)

Notwithstanding the forms of takings contemplated in the proposed regulations and authorized by future Letters of Authorization, the proposed regulations do not authorize persons connected with the activities in the regulations to:

1. “Take” any marine mammal not specified in 50 C.F.R. § 218.242(c);
2. “Take” any of the marine mammals identified in the regulations other than by incidental take;
3. “Take” a marine mammal identified in the regulations if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or
4. Violate, or fail to comply with, the terms, conditions, and requirements of the proposed regulations or future Letters of Authorization issued under the proposed regulations.

1.9.7 Mitigation Requirements NMFS’ Permits Division Requires for Active Sonar Training

The January 2009 regulations (50 CFR 216, Subpart V) NMFS’ Permits Division finalized, pursuant to the MMPA, that require the U.S. Navy to implement mitigation measures while engaged in active sonar training along the Atlantic coast that include (but are not limited to) the following:

1. *Mitigation Measures for ASW and MIW training:*

- i All lookouts onboard platforms involved in ASW training events shall review the NMFS-approved Marine Species Awareness Training (MSAT) material prior to use of mid-frequency active sonar.
- ii All Commanding Officers, Executive Officers, and officers standing watch on the Bridge shall have reviewed the MSAT material prior to a training event employing the use of mid-frequency active sonar.
- iii Navy lookouts shall undertake extensive training in order to qualify as a watchstander in accordance with the Lookout Training Handbook (NAVEDTRA, 12968-D).
- iv Lookout training shall include on-the-job instruction under the supervision of a qualified, experienced watchstander. Following successful completion of this supervised training period, Lookouts shall complete the Personal Qualification Standard program, certifying that they have demonstrated the necessary skills (such as detection and reporting of partially submerged objects).
- v Lookouts shall be trained in the most effective means to ensure quick and effective communication within the command structure in order to facilitate implementation of mitigation measures if marine species are spotted.
- vi On the bridge of surface ships, there shall be at least three people on watch whose duties include observing the water surface around the vessel.
- vii All surface ships participating in ASW exercises shall, in addition to the three personnel on watch noted previously, have at all times during the exercise at least two additional personnel on watch as lookouts.
- viii Personnel on lookout and officers on watch on the bridge shall have at least one set of binoculars available for each person to aid in the detection of marine mammals.
- ix On surface vessels equipped with mid-frequency active sonar, pedestal mounted “Big Eye” (20x110) binoculars shall be present and in good working order.
- x Personnel on lookout shall employ visual search procedures employing a scanning methodology in accordance with the Lookout Training Handbook (NAVEDTRA 12968-D). Surface lookouts should scan the water from the ship to the horizon and be responsible for all contacts in their sector. In searching the assigned sector, the lookout should always start at the forward part of the sector and search aft (toward the back). To search and scan, the lookout should hold the binoculars steady so the horizon is in the top third of the field of vision and direct the eyes just below the horizon. The lookout should scan for approximately five seconds in as many small steps as possible across the field seen through the binoculars. They should search the entire sector in approximately five-degree steps, pausing between steps for approximately five seconds to scan the field of view. At the end of the sector search, the glasses should be lowered to allow the eyes to rest for a few seconds, and then the lookout should search back across the sector with the naked eye.
- xi After sunset and prior to sunrise, lookouts shall employ Night Lookouts Techniques in accordance with the Lookout Training Handbook. At night, lookouts should not sweep the horizon with their eyes because this method is not effective when the vessel is moving. Lookouts should scan the horizon in a series of movements that should allow their eyes to come to periodic rests as they scan

- the sector. When visually searching at night, they should look a little to one side and out of the corners of their eyes, paying attention to the things on the outer edges of their field of vision.
- xii Personnel on lookout shall be responsible for informing the Officer of the Deck all objects or anomalies sighted in the water (regardless of the distance from the vessel) to the Officer of the Deck, since any object or disturbance (e.g., trash, periscope, surface disturbance, discoloration) in the water may be indicative of a threat to the vessel and its crew or indicative of a marine species that may need to be avoided as warranted.
 - xiii Commanding Officers shall make use of marine species detection cues and information to limit interaction with marine species to the maximum extent possible consistent with safety of the ship.
 - xiv All personnel engaged in passive acoustic sonar operation (including aircraft, surface ships, or submarines) shall monitor for marine mammal vocalizations and report the detection of any marine mammal to the appropriate watch station for dissemination and appropriate action.
 - xv Units shall use training lookouts to survey for marine mammals prior to commencement and during the use of active sonar.
 - xvi During mid-frequency active sonar training activities, personnel shall utilize all available sensor and optical systems (such as Night Vision Goggles) to aid in the detection of marine mammals.
 - xvii Navy aircraft participating in exercises at sea shall conduct and maintain, when operationally feasible and safe, surveillance for marine mammals as long as it does not violate safety constraints or interfere with the accomplishment of primary operational duties.
 - xviii Aircraft with deployed sonobuoys shall use only the passive capability of sonobuoys when marine mammals are detected within 200 yards (182 m) of the sonobuoy.
 - xix Marine mammal detections shall be reported immediately to assigned Aircraft Control Unit (if participating) for further dissemination to ships in the vicinity of the marine species as appropriate where it is reasonable to conclude that the course of the ship will likely result in a closing of the distance to the detected marine mammal.
 - xx Safety Zones - When marine mammals are detected by any means (aircraft, shipboard lookout, or acoustically) the Navy shall ensure that MFAS transmission levels are limited to at least 6 dB below normal operating levels if any detected marine mammals are within 1000 yards (914 m) of the sonar dome (the bow).
 - (A) Ships and submarines shall continue to limit maximum transmission levels by this 6-dB factor until the marine mammal has been seen to leave the area, has not been detected for 30 minutes, or the vessel has transited more than 2,000 yards (1828 m) beyond the location of the last detection.
 - (B) Should a marine mammal be detected within or closing to inside 457 m (500 yd) of the sonar dome, active sonar transmissions shall be limited to at least 10 dB below the equipment's normal operating level. Ships and submarines shall continue to limit maximum ping levels by this 10-dB factor until the marine mammal has been seen to

- leave the area, has not been detected for 30 minutes, or the vessel has transited more than 2000 yards (1828 m) beyond the location of the last detection.
- (C) Should the marine mammal be detected within or closing to inside 183 m (200 yd) of the sonar dome, active sonar transmissions shall cease. Sonar shall not resume until the marine mammal has been seen to leave the area, has not been detected for 30 minutes, or the vessel has transited more than 2,000 yards (1828 m) beyond the location of the last detection.
- (D) If the need for power-down should arise as detailed in “Safety Zones” above, Navy shall follow the requirements as though they were operating at 235 dB – the normal operating level (i.e., the first power-down will be to 229 dB, regardless of at what level above 235 dB sonar was being operated).
- xxi Prior to start up or restart of active sonar, operators shall check that the Safety Zone radius around the sound source is clear of marine mammals.
- xxii Sonar levels (generally) - Navy shall operate sonar at the lowest practicable level, not to exceed 235 dB, except as required to meet tactical training objectives.
- xxiii Helicopters shall observe/survey the vicinity of an ASW Exercise for 10 minutes before the first deployment of active (dipping) sonar in the water.
- xxiv Helicopters shall not dip their sonar within 200 yards (183 m) of a marine mammal and shall cease pinging if a marine mammal closes within 200 yards (183 m) after pinging has begun.
- xxv Submarine sonar operators shall review detection indicators of close-aboard marine mammals prior to the commencement of ASW training activities involving active mid-frequency sonar.
- xxvi Night vision devices shall be available to all ships and air crews, for use as appropriate.
- xxvii Dolphin bowriding - if, after conducting an initial maneuver to avoid close quarters with dolphins, the ship concludes that dolphins are deliberately closing in on the ship to ride the vessel’s bow wave, no further mitigation actions would be necessary because dolphins are out of the main transmission axis of the active sonar while in the shallow-wave area of the vessel bow.
- xxviii TORPEXS conducted in the northeast North Atlantic right whale critical habitat (as designated in 50 CFR Part 226) shall implement the following measures.
- (A) All torpedo-firing operations shall take place during daylight hours.
- (B) During the conduct of each test, visual surveys of the test area shall be conducted by all vessels and aircraft involved in the exercise to detect the presence of marine mammals. Additionally, trained observers shall be placed on the submarine, spotter aircraft, and the surface support vessel. All participants shall report sightings of any marine mammals, including negative reports, prior to torpedo firings. Reporting requirements shall be outlined in the test plans and procedures written for each individual exercise, and shall be emphasized as part of pre-exercise briefings conducted with all participants.

- (C) Observers shall receive NMFS -approved training in field identification, distribution, and relevant behaviors of marine mammals of the western north Atlantic. Observers shall fill out Standard Sighting Forms and the data shall be housed at the Naval Undersea Warfare Center Division Newport (NUWCDIVNPT). Any sightings of North Atlantic right whales shall be immediately communicated to the Sighting Advisory System (SAS). All platforms shall have onboard a copy of:
- (1) The Guide to Marine Mammals and Turtles of the US Atlantic and Gulf of Mexico (Wynne and Schwartz 1999)
 - (2) The NMFS Critical Sightings Program placard
 - (3) Right Whales, Guidelines to Mariners placard
- (D) In addition to the visual surveillance discussed above, dedicated aerial surveys shall be conducted utilizing a fixed-wing aircraft. An aircraft with an overhead wing (i.e., Cessna Skymaster or similar) shall be used to facilitate a clear view of the test area. Two trained observers, in addition to the pilot, shall be embarked on the aircraft. Surveys shall be conducted at an approximate altitude of 1000 ft (305 m) flying parallel track lines at a separation of 1 nm (1.85 km), or as necessary to facilitate good visual coverage of the sea surface. While conducting surveillance, the aircraft shall maintain an approximate speed of 100 knots (185 km/hr). Since factors that affect visibility are highly dependent on the specific time of day of the survey, the flight operator will have the flexibility to adjust the flight pattern to reduce glare and improve visibility. The entire test site shall be surveyed initially, but once preparations are being made for an actual test launch, survey effort shall be concentrated over the vicinity of the individual test location. Further, for approximately ten minutes immediately prior to launch, the aircraft shall racetrack back and forth between the launch vessel and the target vessel.
- (E) Commencement of an individual torpedo test scenario shall not occur until observers from all vessels and aircraft involved in the exercise have reported to the Officer in Tactical Command (OTC) and the OTC has declared that the range is clear of marine mammals. Should marine mammals be present within or seen moving toward the test area, the test shall be either delayed or moved as required to avoid interference with the animals.
- (F) The TORPEX shall be suspended if the Beaufort Sea State exceeds 3 or if visibility precludes safe operations.
- (G) Vessel speeds:
- (1) During transit through the northeastern North Atlantic right whale critical habitat, surface vessels and submarines shall maintain a speed of no more than 10 knots (19 km/hr) while not actively engaged in the exercise procedures.

(2) During TORPEX operations, a firing vessel should, where feasible, not exceed 10 knots. When a submarine is used as a target, vessel speeds should, where feasible, not exceed 18 knots. However, on occasion, when surface vessels are used as targets, the vessel may exceed 18 kts in order to fully test the functionality of the torpedoes. This increased speed would occur for a short period of time (e.g., 10-15 minutes) to evade the torpedo when fired upon.

(H) In the event of an animal strike, or if an animal is discovered that appears to be in distress, the Navy shall immediately report the discovery through the appropriate Navy chain of Command.

xxviii The Navy shall abide by the following additional measures:

(A) The Navy shall avoid planning major exercises in the specified planning awareness areas (PAAs - see Figure 2 of regulations) where feasible. Should national security require the conduct of more than four major exercises (COMPTUEX, JTFEX, SEASWITI, or similar scale event) in these areas (meaning all or a portion of the exercise) per year the Navy shall provide NMFS with prior notification and include the information in any associated after-action or monitoring reports.

(B) The Navy shall conduct no more than one of the four above-mentioned major exercises (COMPTUEX, JTFEX, SEASWITI or similar scale event) per year in the Gulf of Mexico to the extent operationally feasible. If national security needs require more than one major exercise to be conducted in the Gulf of Mexico PAAs, the Navy shall provide NMFS with prior notification and include the information in any associated after-action or monitoring reports.

(C) The Navy shall include the PAAs in the Navy's Protective Measures Assessment Protocol (PMAP) (implemented by the Navy for use in the protection of the marine environment) for unit level situational awareness (i.e., exercises other than COMPTUEX, JTFEX, SEASWITI) and planning purposes.

(D) Helicopter Dipping Sonar - Unless otherwise dictated by national security needs, the Navy shall minimize helicopter dipping sonar activities within the southeastern areas of North Atlantic right whale critical habitat (as designated in 50 CFR Part 226) from November 15 – April 15.

(E) Object Detection Exercises – The Navy shall implement the following measures regarding object detection activities in the southeastern areas of the North Atlantic right whale critical habitat:

(1) The Navy shall reduce the time spent conducting object detection exercises in the NARW critical habitat;

(2) Prior to conducting surface ship object detection exercises in the southeastern areas of the North Atlantic right whale critical habitat during the time of

November 15 – April 15, ships shall contact FACSFACJAX to obtain the latest North Atlantic right whale sighting information. FACSFACJAX shall advise ships of all reported whale sightings in the vicinity of the critical habitat and associated areas of concern (which extend 9 km (5 nm) seaward of the designated critical habitat boundaries). To the extent operationally feasible, ships shall avoid conducting training in the vicinity of recently sighted North Atlantic right whales. Ships shall maneuver to maintain at least 500 yards separation from any observed whale, consistent with the safety of the ship.

- xxvii The Navy shall abide by the letter of the “Stranding Response Plan for Major Navy Training Exercises in the AFAST Study Area” to include the following measures:
- (A) Shutdown Procedures– When an Uncommon Stranding Event (USE – defined in § 216.241) occurs during a Major Training Exercise (MTE, including SEASWITI, IAC, Group Sails, JTFEX, or COMPTUEX) in the AFAST Study Area, the Navy shall implement the procedures described below.
- (1) The Navy shall implement a Shutdown (as defined § 218.241(b)) when advised by a NMFS Office of Protected Resources Headquarters Senior Official designated in the AFAST Stranding Communication Protocol that a USE involving live animals has been identified and that at least one live animal is located in the water. NMFS and Navy will maintain a dialogue, as needed, regarding the identification of the USE and the potential need to implement shutdown procedures.
 - (2) Any shutdown in a given area shall remain in effect in that area until NMFS advises the Navy that the subject(s) of the USE at that area die or are euthanized, or that all live animals involved in the USE at that area have left the area (either of their own volition or herded).
 - (3) If the Navy finds an injured or dead animal of any species other than North Atlantic right whale floating at sea during an MTE, the Navy shall notify NMFS immediately or as soon as operational security considerations allow. The Navy shall provide NMFS with species or description of the animal (s), the condition of the animal (s) including carcass condition if the animal(s) is/are dead, location, time of first discovery, observed behaviors (if alive), and photo or video (if available). Based on the information provided, NMFS shall determine if, and advise the Navy whether a modified shutdown is appropriate on a case-by-case basis.
 - (4) If the Navy finds an injured (or entangled) North Atlantic right whale floating at sea during an MTE, the Navy shall implement shutdown procedures (14 or 17 nm, for East Coast and Gulf of Mexico, respectively) around the animal immediately (without waiting for notification from NMFS). The Navy shall then

notify NMFS (pursuant to the AFAST Communication Protocol) immediately or as soon as operational security considerations allow. The Navy shall provide NMFS with species or description of the animal (s), the condition of the animal (s) including carcass condition if the animal(s) is/are dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available). Subsequent to the discovery of the injured whale, any Navy platforms in the area shall report any North Atlantic right whale sightings to NMFS (or to a contact that can alert NMFS as soon as possible). Based on the information provided, NMFS may initiate/organize an aerial survey (by requesting the Navy's assistance pursuant to the memorandum of agreement (MOA) (see (xxix)(C) below) or by other available means) to see if other North Atlantic right whales are in the vicinity. Based on the information provided by the Navy and, if necessary, the outcome of the aerial surveys, NMFS shall determine whether a continued shutdown is appropriate on a case-by-case basis. Though it will be determined on a case-by-case basis after Navy/NMFS discussion of the situation, NMFS anticipates that the shutdown will continue within 14 or 17 nm (for East Coast and Gulf of Mexico, respectively) of a live, injured/entangled North Atlantic right whale until the animal dies or has not been seen for at least 3 hours (either by NMFS staff attending the injured animal or Navy personnel monitoring the area around where the animal was last sighted).

- (5) If the Navy finds a dead North Atlantic right whale floating at sea during an MTE, the Navy shall notify NMFS (pursuant to AFAST Stranding Communication Protocol) immediately or as soon as operational security considerations allow. The Navy shall provide NMFS with species or description of the animal (s), the condition of the animal (s) including carcass condition if the animal(s) is/are dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available). Subsequent to the discovery of the dead whale, if the Navy is operating sonar in the area they shall use increased vigilance (in looking for North Atlantic right whales) and all platforms in the area shall report sightings of North Atlantic right whales to NMFS as soon as possible. Based on the information provided, NMFS may initiate/organize an aerial survey (by requesting the Navy's assistance pursuant to the MOA (see (xxix)(C) below) or by other available means) to see if other North Atlantic right whales are in the vicinity. Based on the information provided by the Navy and, if necessary, the outcome of the aerial surveys, NMFS will determine whether any additional mitigation measures are necessary on a case-by-case basis.
- (6) In the event, following a USE, that: a) qualified individuals are attempting to herd animals back out to the open ocean and animals are not willing to leave, or b) animals are seen repeatedly heading for the open ocean but turning back to shore, NMFS and the Navy shall coordinate (including an investigation of other

potential anthropogenic stressors in the area) to determine if the proximity of MFAS/HFAS training activities or explosive detonations, though farther than 14 nm from the distressed animal(s), is likely contributing to the animals' refusal to return to the open water. If so, NMFS and the Navy will further coordinate to determine what measures are necessary to improve the probability that the animals will return to open water and implement those measures as appropriate.

- (B) Within 72 hours of NMFS notifying the Navy of the presence of a USE, the Navy shall provide available information to NMFS (per the AFAST Communication Protocol) regarding the location, number and types of acoustic/explosive sources, direction and speed of units using MFAS/HFAS, and marine mammal sightings information associated with training activities occurring within 80 nm (148 km) and 72 hours prior to the USE event. Information not initially available regarding the 80 nm (148 km), 72 hour period prior to the event will be provided as soon as it becomes available. The Navy will provide NMFS investigative teams with additional relevant unclassified information as requested, if available.
- (C) Memorandum of Agreement (MOA) – The Navy and NMFS shall develop a MOA, or other mechanism consistent with federal fiscal law requirements (and all other applicable laws), that will establish a framework whereby the Navy can (and provide the Navy examples of how they can best) assist NMFS with stranding investigations in certain circumstances.

2 Mitigation for IEER - The following are protective measures for use with Improved Extended Echo Ranging (IEER) given an explosive source generates the acoustic wave used in this sonobuoy.

- i Navy crews shall conduct aerial visual reconnaissance of the drop area prior to laying their intended sonobuoy pattern. This search should be conducted below 500 yards (457 m) at a slow speed, if operationally feasible and weather conditions permit. In dual aircraft training activities, crews are allowed to conduct coordinated area clearances.
- ii For IEER (AN/SSQ-110A), Navy crews shall conduct a minimum of 30 minutes of visual and acoustic monitoring of the search area prior to commanding the first post detonation. This 30-minute observation period may include pattern deployment time.
- iii For any part of the briefed pattern where a post (source/receiver sonobuoy pair) will be deployed within 1,000 yards (914 m) of observed marine mammal activity, the Navy shall deploy the receiver ONLY and monitor while conducting a visual search. When marine mammals are no longer detected within 1,000 yards (914 m) of the intended post position, co-locate the explosive source sonobuoy (AN/SSQ-110A) (source) with the receiver.
- iv When operationally feasible, crews will conduct continuous visual and aural monitoring of marine mammal activity. This is to include monitoring of own-aircraft sensors from first sensor placement to checking off station and out of communication range of these sensors.

- v Aural Detection: If the presence of marine mammals is detected aurally, then that shall cue the aircrew to increase the diligence of their visual surveillance. Subsequently, if no marine mammals are visually detected, then the crew may continue multi-static active search.
 - vi Visual Detection:
 - (A) If marine mammals are visually detected within 1,000 yards (914 m) of the explosive source sonobuoy (AN/SSQ-110A) intended for use, then that payload shall not be detonated. Aircrews may utilize this post once the marine mammals have not been re-sighted for 30 minutes, or are observed to have moved outside the 1,000 yards (914 m) safety buffer.
 - (B) Navy Aircrews may shift their multi-static active search to another post, where marine mammals are outside the 1,000 yards (914 m) safety buffer.
 - vii For IEER (AN/SSQ-110A), Navy Aircrews shall make every attempt to manually detonate the unexploded charges at each post in the pattern prior to departing the operations area by using the “Payload 1 Release” command followed by the “Payload 2 Release” command. Aircrews shall refrain from using the “Scuttle” command when two payloads remain at a given post. Aircrews shall ensure that a 1,000 yard (914 m) safety buffer, visually clear of marine mammals, is maintained around each post as is done during active search operations.
 - viii Aircrews shall only leave posts with unexploded charges in the event of a sonobuoy malfunction, an aircraft system malfunction, or when an aircraft must immediately depart the area due to issues such as fuel constraints, inclement weather, and in-flight emergencies. In these cases, the sonobuoy will self-scuttle using the secondary or tertiary method.
 - ix The Navy shall ensure all payloads are accounted for. Explosive source sonobuoys (AN/SSQ-110A) that cannot be scuttled shall be reported as unexploded ordnance via voice communications while airborne, then upon landing via naval message.
 - x Marine mammal monitoring shall continue until out of own-aircraft sensor range.
3. Mitigation Measures related to Vessel Transit and North Atlantic Right Whales
- i Mid-Atlantic, Offshore of the Eastern United States
 - (A) All Navy vessels are required to use extreme caution and operate at a slow, safe speed consistent with mission and safety during the months indicated below and within a 37 km (20 nm) arc (except as noted) of the specified associated reference points:
 - (1) South and East of Block Island (37 km (20 NM) seaward of line between 41-4.49 N. lat. 071-51.15 W. long. and 41-18.58 N. lat. 070-50.23 W. long): Sept-Oct and Mar-Apr
 - (2) New York / New Jersey (40-30.64 N. lat. 073-57.76 W. long.): Sep–Oct and Feb-Apr.

- (3) Delaware Bay (Philadelphia) (38-52.13 N. lat. 075-1.93 W. long.): Oct–Dec and Feb–Mar.
 - (4) Chesapeake Bay (Hampton Roads and Baltimore) (37-1.11 lat. 075-57.56 W. long.): Nov-Dec and Feb–Apr.
 - (5) North Carolina (34-41.54 N. lat. 076-40.20 W. long.): Dec-Apr
 - (6) South Carolina (33-11.84 N. lat. 079-8.99 W. long. and 32-43.39 N. lat. 079-48.72 W. long.): Oct-Apr
- (B) During the months indicated in (A), above, Navy vessels shall practice increased vigilance with respect to avoidance of vessel-whale interactions along the mid-Atlantic coast, including transits to and from any mid-Atlantic ports not specifically identified above.
- (C) All surface units transiting within 56 km (30 NM) of the coast in the mid-Atlantic shall ensure at least two watchstanders are posted, including at least one lookout who has completed required MSAT training.
- (D) Navy vessels shall not knowingly approach any whale head on and shall maneuver to keep at least 457 m (1,500 ft) away from any observed whale, consistent with vessel safety.
- ii. Southeast Atlantic, Offshore of the Eastern United States – for the purposes of the measures below (within (ii)), the “southeast” encompasses sea space from Charleston, South Carolina, southward to Sebastian Inlet, Florida, and from the coast seaward to 148 km (80 nm) from shore. North Atlantic right whale critical habitat is the area from 31-15 N. lat. to 30-15 N. lat. extending from the coast out to 28 km (15 nm), and the area from 28-00 N. lat. to 30-15 N. lat. from the coast out to 9 km (5 nm). All mitigation measures described here that apply to the critical habitat also apply to an associated area of concern which extends 9 km (5 nm) seaward of the designated critical habitat boundaries.
- (A) Prior to transiting or training in the critical habitat or associated area of concern, ships shall contact Fleet Area Control and Surveillance Facility, Jacksonville, to obtain latest whale sighting and other information needed to make informed decisions regarding safe speed and path of intended movement. Subs shall contact Commander, Submarine Group Ten for similar information.
- (B) The following specific mitigation measures apply to activities occurring within the critical habitat and an associated area of concern which extends 9 km (5 nm) seaward of the designated critical habitat boundaries:
- (1) When transiting within the critical habitat or associated area of concern, vessels shall exercise extreme caution and proceed at a slow safe speed. The speed shall be the slowest safe speed that is consistent with mission, training and operations.

- (2) Speed reductions (adjustments) are required when a whale is sighted by a vessel or when the vessel is within 9 km (5 nm) of a reported new sighting less than 12 hours old. Circumstances could arise where, in order to avoid North Atlantic right whale(s), speed reductions could mean vessel must reduce speed to a minimum at which it can safely keep on course or vessels could come to an all stop.
- (3) Vessels shall avoid head-on approaches to North Atlantic right whale(s) and shall maneuver to maintain at least 457 m (500 yd) of separation from any observed whale if deemed safe to do so. These requirements do not apply if a vessel's safety is threatened, such as when a change of course would create an imminent and serious threat to a person, vessel, or aircraft, and to the extent vessels are restricted in the ability to maneuver.
- (4) Ships shall not transit through the critical habitat or associated area of concern in a North-South direction.
- (5) Ships, surfaced subs, and aircraft shall report any whale sightings to Fleet Area Control and Surveillance Facility, Jacksonville, by the quickest and most practicable means. The sighting report shall include the time, latitude/longitude, direction of movement and number and description of whale (i.e., adult/calf).

iii Northeast Atlantic, Offshore of the Eastern United States

- (A) Prior to transiting the Great South Channel or Cape Cod Bay critical habitat areas, ships shall obtain the latest North Atlantic right whale sightings and other information needed to make informed decisions regarding safe speed. The Great South Channel critical habitat is defined by the following coordinates: 41-00 N. lat., 69-05 W. long.; 41-45 N. lat., 69-45 W. long.; 42-10 N. lat., 68-31 W. long.; 41-38 N. lat., 68-13 W. long. The Cape Cod Bay critical habitat is defined by the following coordinates: 42-04.8 N. lat., 70-10 W. long.; 42-12 N. lat., 70-15 W. long.; 42-12 N. lat., 70-30 W. long.; 41-46.8 N. lat., 70-30 W. long.
- (B) Ships, surfaced subs, and aircraft shall report any North Atlantic right whale sightings (if the whale is identifiable as a right whale) off the northeastern U.S. to Patrol and Reconnaissance Wing (COMPATRECONWING). The report shall include the time of sighting, lat/long, direction of movement (if apparent) and number and description of the whale(s).
- (C) Vessels or aircraft that observe whale carcasses shall record the location and time of the sighting and report this information as soon as possible to the cognizant regional environmental coordinator. All whale strikes must be reported. This report shall include the date, time, and location of the strike; vessel course and speed; operations being conducted by the vessel; weather conditions, visibility, and sea state; description of the

whale; narrative of incident; and indication of whether photos/videos were taken. Navy personnel are encouraged to take photos whenever possible.

- (D) Specific mitigation measures related to activities occurring within the critical habitat include the following:
- (1) Vessels shall avoid head-on approaches to North Atlantic right whale(s) and shall maneuver to maintain at least 457 m (500 yd) of separation from any observed whale if deemed safe to do so. These requirements do not apply if a vessel's safety is threatened, such as when change of course would create an imminent and serious threat to person, vessel, or aircraft, and to the extent vessels are restricted in the ability to maneuver.
 - (2) When transiting within the critical habitat or associated area of concern, vessels shall use extreme caution and operate at a safe speed so as to be able to avoid collisions with North Atlantic right whales and other marine mammals, and stop within a distance appropriate to the circumstances and conditions.
 - (3) Speed reductions (adjustments) are required when a whale is sighted by a vessel or when the vessel is within 9 km (5 nm) of a reported new sighting less than one week old.
 - (4) Ships transiting in the Cape Cod Bay and Great South Channel critical habitats shall obtain information on recent whale sightings in the vicinity of the critical habitat. Any vessel operating in the vicinity of a North Atlantic right whale shall consider additional speed reductions as per Rule 6 of International Navigational Rules.

The Permits Division included the following monitoring and reporting requirements in its final regulations of the Atlantic Fleet Active Sonar Training activities the U.S. Navy plans to conduct along the Atlantic Coast of the United States and the Gulf of Mexico:

- a As outlined in the AFAST Stranding Communication Plan, the Navy must notify NMFS immediately (or as soon as clearance procedures allow) if the specified activity identified in § 216.240(c) is thought to have resulted in the mortality or injury of any marine mammals, or in any take of marine mammals not identified in 50 C.F.R. § 218.242(c).
- b The Navy must conduct all monitoring and required reporting under the Letter of Authorization, including abiding by the letter of the AFAST Monitoring Plan.
- c The Navy shall complete an Integrated Comprehensive Monitoring Plan (ICMP) in 2009. This planning and adaptive management tool shall include:
 - (1) A method for prioritizing monitoring projects that clearly describes the characteristics of a proposal that factor into its priority.

- (2) A method for annually reviewing, with NMFS, monitoring results, Navy R&D, and current science to use for potential modification of mitigation or monitoring methods.
 - (3) A detailed description of the Monitoring Workshop to be convened in 2011 and how and when Navy/NMFS will subsequently utilize the findings of the Monitoring Workshop to potentially modify subsequent monitoring and mitigation.
 - (4) An adaptive management plan
 - (5) A method for standardizing data collection for AFAST across Range Complexes
- d General Notification of Injured or Dead Marine Mammals - Navy personnel shall ensure that NMFS (regional stranding coordinator) is notified immediately (or as soon as clearance procedures allow) if an injured or dead marine mammal is found during or shortly after, and in the vicinity of, any Navy training exercise utilizing MFAS, HFAS, or underwater explosive detonations. The Navy shall provide NMFS with species or description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available). The Navy shall consult the Stranding Response Plan to obtain more specific reporting requirements for specific circumstances.
- e Annual AFAST Monitoring Plan Report - The Navy shall submit a report annually on October 1 describing the implementation and results (through August 1 of the same year) of the AFAST Monitoring Plan, described above. Data collection methods will be standardized across range complexes to allow for comparison in different geographic locations. Although additional information will be gathered, the marine mammal observers (MMOs) collecting marine mammal data pursuant to the AFAST Monitoring Plan shall, at a minimum, provide the same marine mammal observation data required in the data required in 218.85(f)(1). The AFAST Monitoring Plan Report may be provided to NMFS within a larger report that includes the required Monitoring Plan Reports from AFAST and multiple Range Complexes
- f Annual AFAST Exercise Report - The Navy shall submit an Annual AFAST Exercise Report on October 1 of every year (covering data gathered through August 1 of the same year). This report shall contain information identified in subsections 50 C.F.R. 216.245(f)(1) – (f)(5).
- (1) MFAS/HFAS Major Training Exercises - This section shall contain the following information for the major training exercises for reporting (MTERS), which include the Southeastern ASW Integrated Training Initiative (SEASWITI), Integrated ASW Course (IAC), Composite Training Unit Exercises (COMPTUEX), and Joint Task Force Exercises (JTFEX) conducted in the AFAST Study Area:
 - (i) Exercise Information (for each MTER):
 - (A) Exercise designator
 - (B) Date that exercise began and ended
 - (C) Location
 - (D) Number and types of active sources used in the exercise
 - (E) Number and types of passive acoustic sources used in exercise

- (F) Number and types of vessels, aircraft, etc., participating in exercise
- (G) Total hours of observation by watchstanders
- (H) Total hours of all active sonar source operation
- (I) Total hours of each active sonar source (along with explanation of how hours are calculated for sources typically quantified in alternate way (buoys, torpedoes, etc.)).
- (J) Wave height (high, low, and average during exercise)
- (ii) Individual marine mammal sighting info (for each sighting in each MTER)
 - (A) Location of sighting
 - (B) Species (if not possible – indication of whale/dolphin/pinniped)
 - (C) Number of individuals
 - (D) Calves observed (y/n)
 - (E) Initial Detection Sensor
 - (F) Indication of specific type of platform observation made from (including, for example, what type of surface vessel, i.e., FFG, DDG, or CG)
 - (G) Length of time observers maintained visual contact with marine mammal
 - (H) Wave height (in feet)
 - (I) Visibility
 - (J) Sonar source in use (y/n).
 - (K) Indication of whether animal is <200yd, 200-500yd, 500-1000yd, 1000-2000yd, or >2000yd from sonar source in (x) above.
 - (L) Mitigation Implementation – Whether operation of sonar sensor was delayed, or sonar was powered or shut down, and how long the delay was.
 - (M) If source in use (J) is hullmounted, true bearing of animal from ship, true direction of ship's travel, and estimation of animal's motion relative to ship (opening, closing, parallel)
 - (N) Observed behavior – Watchstanders shall report, in plain language and without trying to categorize in any way, the observed behavior of the animals (such as animal closing to bow ride, paralleling course/speed, floating on surface and not swimming, etc.)
- (iii) An evaluation (based on data gathered during all of the MTERS) of the effectiveness of mitigation measures designed to avoid exposing to MFAS. This evaluation shall identify

the specific observations that support any conclusions the Navy reaches about the effectiveness of the mitigation.

- (2) ASW Summary - This section shall include the following information as summarized from both MTEs and non-major training exercises (i.e., unit-level exercises):
 - (i) Total annual hours of each type of sonar source (along with explanation of how hours are calculated for sources typically quantified in alternate way (buoys, torpedoes, etc.))
 - (ii) Cumulative Impact Report - To the extent practicable, the Navy, in coordination with NMFS, shall develop and implement a method of annually reporting non-major (i.e., other than MTEs) training exercises utilizing hull-mounted sonar. The report shall present an annual (and seasonal, where practicable) depiction of non-major training exercises geographically across the AFAST Study Area. To the extent practicable, this report will also include the total number of sonar hours (from helicopter dipping sonar and object detection exercises) conducted within the southern NARW critical habitat plus 5 nm buffer area). The Navy shall include (in the AFAST annual report) a brief annual progress update on the status of the development of an effective and unclassified method to report this information until an agreed-upon (with NMFS) method has been developed and implemented.
- (3) IEER Summary. This section shall include an annual summary of the following IEER information:
 - (i) Total number of IEER events conducted in AFAST
 - (ii) Total expended/detonated rounds (buoys)
 - (iii) Total number of self-scuttled IEER rounds
- g Sonar Exercise Notification - The Navy shall submit to the NMFS Office of Protected Resources (specific contact information to be provided in LOA) either an electronic (preferably) or verbal report within fifteen calendar days after the completion of any major exercise (COMPTUEX, JTFEX, or SEASWITI) indicating:
 - (1) Location of the exercise
 - (2) Beginning and end dates of the exercise
 - (3) Type of exercise (e.g., COMPTUEX or SEASWITI)
- i AFAST 5-yr Comprehensive Report - The Navy shall submit to NMFS a draft report that analyzes and summarizes all of the multi-year marine mammal information gathered during ASW and explosive exercises for which annual reports are required (Annual AFAST Exercise Reports and AFAST Monitoring Plan Reports). This report will be submitted at the end of the fourth year of the rule (November 2012), covering activities that have occurred through June 1, 2012.
- j Comprehensive National ASW Report - By June 2014, the Navy shall submit a draft Comprehensive National Report that analyzes, compares, and summarizes the active sonar data gathered (through January 1, 2014) from the watchstanders and pursuant to the implementation of the Monitoring Plans for the AFAST,

SOCAL, the HRC, the Marianas Range Complex, the Northwest Training Range, the Gulf of Alaska, and the East Coast Undersea Warfare Training Range.

- k The Navy shall respond to NMFS comments and requests for additional information or clarification on the AFAST Comprehensive Report, the draft National ASW report, the Annual AFAST Exercise Report, or the Annual AFAST Monitoring Plan Report (or the multi-Range Complex Annual Monitoring Plan Report, if that is how the Navy chooses to submit the information) if submitted within 3 months of receipt. These reports will be considered final after the Navy has addressed NMFS' comments or provided the requested information, or three months after the submittal of the draft if NMFS does not comment by then.
- q In 2011, the Navy shall convene a Monitoring Workshop in which the Monitoring Workshop panelists will be asked to review the Navy's Monitoring Plans and monitoring results and make individual recommendations (to the Navy and NMFS) of ways of improving the Monitoring Plans. The recommendations shall be reviewed by the Navy, in consultation with NMFS, and modifications to the Monitoring Plan shall be made, as appropriate.

2.0 Approach to the Assessment

2.1 Overview of NMFS' Assessment Framework

Section 7(a)(2) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1536(a)(2)), requires Federal agencies, in consultation with and with the assistance of the National Marine Fisheries Service and U.S. Fish and Wildlife Service, to insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of endangered species or threatened species or result in the destruction or adverse modification of critical habitat that has been designated for those species. When the National Marine Fisheries Service consults with Federal agencies to help them comply with this requirement of law, we first assess the direct and indirect effects of the proposed federal action to determine whether the proposal is likely to (a) appreciably increase a species' extinction probability (or reduce their probability of being conserved or recovered) or (b) appreciably reduce the conservation value of critical habitat that has been designated for one or more of those species. If we conclude that one of these outcomes is likely, we work with the Federal agency, applicant, or both, to develop alternatives that avoid this likelihood.

NMFS uses a series of sequential analyses to assess the effects of federal actions on endangered and threatened species and designated critical habitat. The first step of our analyses identify those physical, chemical, or biotic aspects of proposed actions that are likely to have individual, interactive, or cumulative direct and indirect effect on the environment (we use the term "potential stressors" for these aspects of an action). As part of this step, we identify the spatial extent of any potential stressors and recognize that the spatial extent of those stressors may change with time (the spatial extent of these stressors is the "action area" for a consultation).

To begin the second step of our analyses, we determine whether endangered species, threatened species, or designated critical habitat are likely to occur in the same space and at the same time as these potential stressors. If we conclude that such co-occurrence is likely, we then try to estimate the nature of that co-occurrence (these represent our *exposure analyses*). In this step of our analyses, we try to identify the number, age (or life stage), and gender of the individuals that are likely to be exposed to an Action's effects and the populations or subpopulations those individuals represent.

Once we identify which listed resources (endangered and threatened species and designated critical habitat) are likely to be exposed to potential stressors associated with an action and the nature of that exposure, in the third step

of our analyses we examine the scientific and commercial data available⁴ to determine whether and how those listed resources are likely to respond given their exposure (these represent our *response analyses*). The final steps of our analyses — establishing the risks those responses pose to listed resources — are different for listed species and designated critical habitat (these represent our *risk analyses*).

RISK ANALYSES FOR ENDANGERED AND THREATENED SPECIES. Our jeopardy determinations must be based on an action's effects on the continued existence of threatened or endangered species as those "species" have been listed, which can include true biological species, subspecies, or distinct population segments of vertebrate species. Because the continued existence of listed species depends on the fate of the populations that comprise them, the viability (that is, the probability of extinction or probability of persistence) of listed species depends on the viability of the populations that comprise the species. Similarly, the continued existence of populations are determined by the fate of the individuals that comprise them; populations grow or decline as the individuals that comprise the population live, die, grow, mature, migrate, and reproduce (or fail to do so).

Our risk analyses reflect these relationships between listed species and the populations that comprise them, and the individuals that comprise those populations. Our risk analyses begin by identifying the probable risks actions pose to listed individuals that are likely to be exposed to an action's effects. Our analyses then integrate those individuals risks to identify consequences to the populations those individuals represent. Our analyses conclude by determining the consequences of those population-level risks to the species those populations comprise.

We measure risks to listed individuals using the individual's "fitness," which are changes in an individual's growth, survival, annual reproductive success, or lifetime reproductive success. In particular, we examine the scientific and commercial data available to determine if an individual's probable response to an Action's effects on the environment (which we identify in our *response analyses*) are likely to have consequences for the individual's fitness.

When individual, listed plants or animals are expected to experience reductions in fitness, we would expect those reductions to also reduce the abundance, reproduction rates, or growth rates (or increase variance in one or more of these rates) of the populations those individuals represent (see Stearns 1992). Reductions in one or more of these variables (or one of the variables we derive from them) is a *necessary* condition for reductions in a population's viability, which is itself a *necessary* condition for reductions in a species' viability. Therefore, when listed plants or animals exposed to an Action's effects are *not* expected to experience reductions in fitness, we would not expect that Action to have adverse consequences on the viability of the populations those individuals represent or the species those populations comprise (for example, see Anderson 2000, Mills and Beatty 1979, Stearns 1992). As a result, if we conclude that listed plants or animals are *not* likely to experience reductions in their fitness, we would conclude our assessment because an Action that is not likely to affect the fitness of individuals is not likely to jeopardize the continued existence of listed species.

⁴ Although section 7(a)(2) of the Endangered Species Act of 1973, as amended, requires us to use the best scientific and commercial data available, at this stage of our analyses, we consider all lines of evidence. We summarize how we identify the "best scientific and commercial data available" in a subsequent subsection titled "Evidence Available for the Consultation"

If, however, we conclude that listed plants or animals are likely to experience reductions in their fitness, our assessment tries to determine if those fitness reductions are likely to be sufficient to reduce the viability of the populations those individuals represent (measured using changes in the populations' abundance, reproduction, spatial structure and connectivity, growth rates, or variance in these measures to make inferences about the population's extinction risks). In this step of our analyses, we use the population's base condition (established in the *Environmental Baseline* and *Status of Listed Resources* sections of this Opinion) as our point of reference. Finally, our assessment tries to determine if changes in population viability are likely to be sufficient to reduce the viability of the species those populations comprise. In this step of our analyses, we use the species' status (established in the *Status of the Species* section of this Opinion) as our point of reference and we use our understanding of the general patterns and processes by which species become extinct to help inform our decision about whether changes in the performance of one or more populations are likely to affect the viability of the species those populations comprise.

When we consider the potential effects of actions on populations of endangered or threatened species or on the species themselves, that consideration is informed by our understanding of the patterns, processes, and causal agents that are known to have resulted in the extinction of numerous populations and species in the past. Several studies of population and species extinctions reveal similar patterns those entities follow on their path to extinction and as they recover from extinction (for example, see Channell and Lomolino 2000; Fagan *et al.* 1999, 2001; Fagan and Holmes 2006; Gaston 1994, Lomolino and Channell 1995, 1998; McKinney 1997, O'Grady *et al.* 2004). Specifically, most populations or species appear to experience similar patterns of instability, decline, collapse (primarily range contraction or erosion), and small population dynamics before they become extinct; we consider those patterns qualitatively and quantitatively (when data are available and suitable for formal analysis) when we assess the status of endangered and threatened species and the potential effects of proposed actions on that status.

RISK ANALYSES FOR DESIGNATED CRITICAL HABITAT. Our "destruction or adverse modification" determinations must be based on an action's effects on the conservation value of habitat that has been designated as critical to threatened or endangered species⁵. If an area encompassed in a critical habitat designation is likely to be exposed to the *direct or indirect consequences of the proposed action on the natural environment*, we ask if primary or secondary constituent elements included in the designation (if there are any) or physical, chemical, or biotic phenomena that give the designated area value for the conservation are likely to respond to that exposure.

In this step of our assessment, we identify (a) the spatial distribution of stressors and subsidies produced by an action; (b) the temporal distribution of stressors and subsidies produced by an action; (c) changes in the spatial distribution of the stressors with time; (d) the intensity of stressors in space and time; (e) the spatial distribution of constituent elements of designated critical habitat; and (f) the temporal distribution of constituent elements of designated critical habitat.

⁵ We are aware that several courts have ruled that the definition of destruction or adverse modification that appears in the section 7 regulations at 50 CFR 402.02 is invalid and do not rely on that definition for the determinations we make in this Opinion. Instead, as we explain in the text, we use the "conservation value" of critical habitat for our determinations which focuses on the designated area's ability to contribute to the conservation of the species for which the area was designated.

If primary or secondary constituent elements of designated critical habitat (or physical, chemical, or biotic phenomena that give the designated area value for the conservation of listed species) are likely to respond given exposure to the *direct or indirect consequences of the proposed action on the natural environment*, we ask if those responses are likely to be sufficient to reduce the quantity, quality, or availability of those constituent elements or physical, chemical, or biotic phenomena.

In this step of our assessment, we must identify or make assumptions about (a) the habitat's probable condition before any exposure as our point of reference (that is part of the impact of the *Environmental Baseline* on the conservation value of the designated critical habitat); (b) the ecology of the habitat at the time of exposure; (c) where the exposure is likely to occur; and (d) when the exposure is likely to occur; (e) the intensity of exposure; (f) the duration of exposure; and (g) the frequency of exposure.

In this step of our assessment, we recognize that the conservation value of critical habitat, like the base condition of individuals and populations, is a dynamic property that changes over time in response to changes in land use patterns, climate (at several spatial scales), ecological processes, changes in the dynamics of biotic components of the habitat, etc. For these reasons, some areas of critical habitat might respond to an exposure when others do not. We also consider how designated critical habitat is likely to respond to any interactions and synergisms between or cumulative effects of pre-existing stressors and proposed stressors.

If the quantity, quality, or availability of the primary or secondary constituent elements of the area of designated critical habitat (or physical, chemical, or biotic phenomena) are reduced, we ask if those reductions are likely to be sufficient to reduce the conservation value of the designated critical habitat for listed species in the action area. In this step of our assessment, we combine information about the contribution of constituent elements of critical habitat (or of the physical, chemical, or biotic phenomena that give the designated area value for the conservation of listed species, particularly for older critical habitat designations that have no constituent elements) to the conservation value of those areas of critical habitat that occur in the action area, given the physical, chemical, biotic, and ecological processes that produce and maintain those constituent elements in the action area. We use the conservation value of those areas of designated critical habitat that occur in the action area as our point of reference for this comparison. For example, if the critical habitat in the action area has limited current value or potential value for the conservation of listed species that limited value is our point of reference for our assessment.

If the conservation value of designated critical habitat in an action area is reduced, the final step of our analyses ask if those reductions are likely to be sufficient to reduce the conservation value of the entire critical habitat designation. In this step of our assessment, we combine information about the constituent elements of critical habitat (or of the physical, chemical, or biotic phenomena that give the designated area value for the conservation of listed species, particularly for older critical habitat designations that have no constituent elements) that are likely to experience changes in quantity, quality, and availability given exposure to an action with information on the physical, chemical, biotic, and ecological processes that produce and maintain those constituent elements in the action area. We use the conservation value of the entire designated critical habitat as our point of reference for this comparison. For example, if the designated critical habitat has limited current value or potential value for the conservation of listed species that limited value is our point of reference for our assessment.

A NOTE ON “SIGNIFICANCE.” In biological opinions, we distinguish among different kinds of “significance” (as that term is commonly used for NEPA analyses). First, we focus on potential physical, chemical, or biotic stressors that are “significant” in the sense of “salient” in the sense of being distinct from ambient or background. We then ask if

- (1) (a) exposing individuals to those potential stressors is likely to represent a “significant” adverse experience in the life of individuals that have been exposed; (b) exposing individuals to those potential stressors is likely to cause the individuals to experience “significant” physical, chemical, or biotic responses; and (c) any “significant” physical, chemical, or biotic response are likely to have “significant” consequence for the fitness of the individual animal; and
- (2) (a) exposing the physical, chemical, or biotic phenomena that we identified constituent elements in a critical habitat designation or, in the case of critical habitat designations that do not identify constituent elements, those physical, chemical or biotic phenomena that give designated critical habitat value for the conservation of endangered or threatened species is likely to represent a “significant” change in the quantity, quality, or availability of the physical, chemical, or biotic resource and (b) any “significant” change in the quantity, quality, or availability of a physical, chemical, or biotic resource is likely to “significantly” reduce the conservation value of the designated critical habitat.

In all of these cases, the term “significant” means “clinically or biotically significant” rather than statistically significant because the presence or absence of statistical significance do not imply the presence or absence of clinical significance (Achinstein 2001, Johnson 1999, Royall 2004).

For populations (or sub-populations, demes, etc.), we are concerned about whether the number of individuals that are likely to experience “significant” reductions in fitness and the nature of any fitness reductions are likely to have a “significant” consequence for the viability (= probability of demographic, ecological, or genetic extinction) of the population(s) those individuals represent. Here “significant” also means “clinically or biotically significant” rather than statistically significant.

For “species” (the entity that has been listed as endangered or threatened, not the biological species concept), we are concerned about whether the number of populations that are likely to experience “significant” reductions in viability (= increases in their extinction probabilities) and the nature of any reductions in viability are likely to have “significant” consequence for the viability (= probability of demographic, ecological, or genetic extinction) of the “species” those population comprise. Here, again, “significant” also means “clinically or biotically significant” rather than statistically significant.

For designated critical habitat, we are concerned about whether the area that has been designated is likely to experience “significant” reductions in the quantity, quality, or availability of physical, chemical, or biotic resources is likely to result in “significant” reductions in the conservation value (usually measured using the concept of “carrying capacity”) of the entire area contained in the designation.

2.2 Application of this Approach in this Consultation

The U.S. Navy proposes to undertake in the Northeast Operating Area, the Virginia Capes Range Complex, the Cherry Point Range Complex, the Jacksonville Range Complex, and King Bay, Georgia, consist of the following primary stressors:

1. the risk of collisions with vessels involved in the U.S. Navy's proposed training activities and the proposed Transit Protection System at King's Bay, Georgia;
2. underwater detonations associated with the U.S. Navy's proposed training activities;
3. expended ordnance associated with the U.S. Navy's proposed training activities;
4. disturbance associated with the movement of Navy vessels and aircraft involved in the training activities the U.S. Navy plans to conduct;
5. chemicals in explosive charges and other ordnance employed during training activities.
6. mid- and high-frequency active sonar employed during the Atlantic Fleet Active Sonar Training activities that are interrelated with the proposed actions;
7. the explosive source associated with the Improved Extended Echo Ranging (IEER) System that are also employed during the Atlantic Fleet Active Sonar Training activities that are interrelated with the proposed actions; and
8. parachutes associated with some of the sonobuoys employed during the Atlantic Fleet Active Sonar Training activities that are interrelated with the proposed actions

Our section 7 consultation considered the number of endangered or threatened marine animals (that is, those marine animals that are under the jurisdiction of the National Marine Fisheries Service) that might be exposed to these different stressors, the nature of those exposures, the animal's probable responses upon being exposed, and the risks those responses might pose to individual animals, the populations those individuals represent, and the species those populations comprise.

2.2.1 Exposure Analyses

As discussed in the introduction to this section of this Opinion, exposure analyses are designed to identify the listed resources that are likely to co-occur with these effects in space and time and the nature of that co-occurrence. Our exposure analyses are designed to identify the number, age (or life stage), and gender of the individuals that are likely to be exposed to an Action's effects and the populations or subpopulations those individuals represent.

For our exposure analyses, NMFS relied solely on the results of models the U.S. Navy conducted for their NEPA compliance documents for the training activities considered in this Opinion (U.S. Navy 2008a, 2008b, 2008c). However, before we used the results, we critically evaluated the exposure models the U.S. Navy and Permits Division used to estimate the number of instances in which marine mammals and sea turtles might be exposed to those activities. Based on that evaluation, we concluded that those exposure models would tend to overestimate the number of exposure events because (1) the U.S. Navy's models assume that estimates of the mean density of marine mammals per square kilometer developed for a season or year would also represent the mean density of those species

at time intervals shorter than a season or year; that assumption would tend to overestimate the number of marine mammals that are likely to be exposed to Navy training activities because we would expect to encounter a greater number of marine mammals if we remained at a location for a year than we would encounter if we only remained in the same location for only three hours, three days, or three weeks. As the duration of an exercise or other training activity becomes shorter (for example, moving from a major training exercise to a unit-level training exercise), the U.S. Navy's exposure models would increasingly overestimate the number of marine mammals we would actually expect to occur in a particular area; (2) the U.S. Navy's models assume that the density of marine mammals is effectively constant throughout at-sea Operating Areas rather than assuming that they are patchily distributed (that is, they exist as social groups of various sizes) throughout the action area; that assumption would also tend to overestimate the number of marine mammals that might be exposed to a training activity. Despite the limitations of the U.S. Navy's models, by relying on models that tend to overestimate the number of exposure events associated with the training activities the U.S. Navy proposes to conduct along the Atlantic Coast of the United States, we are confident that we continue to provide the benefit of uncertainty to endangered and threatened species.

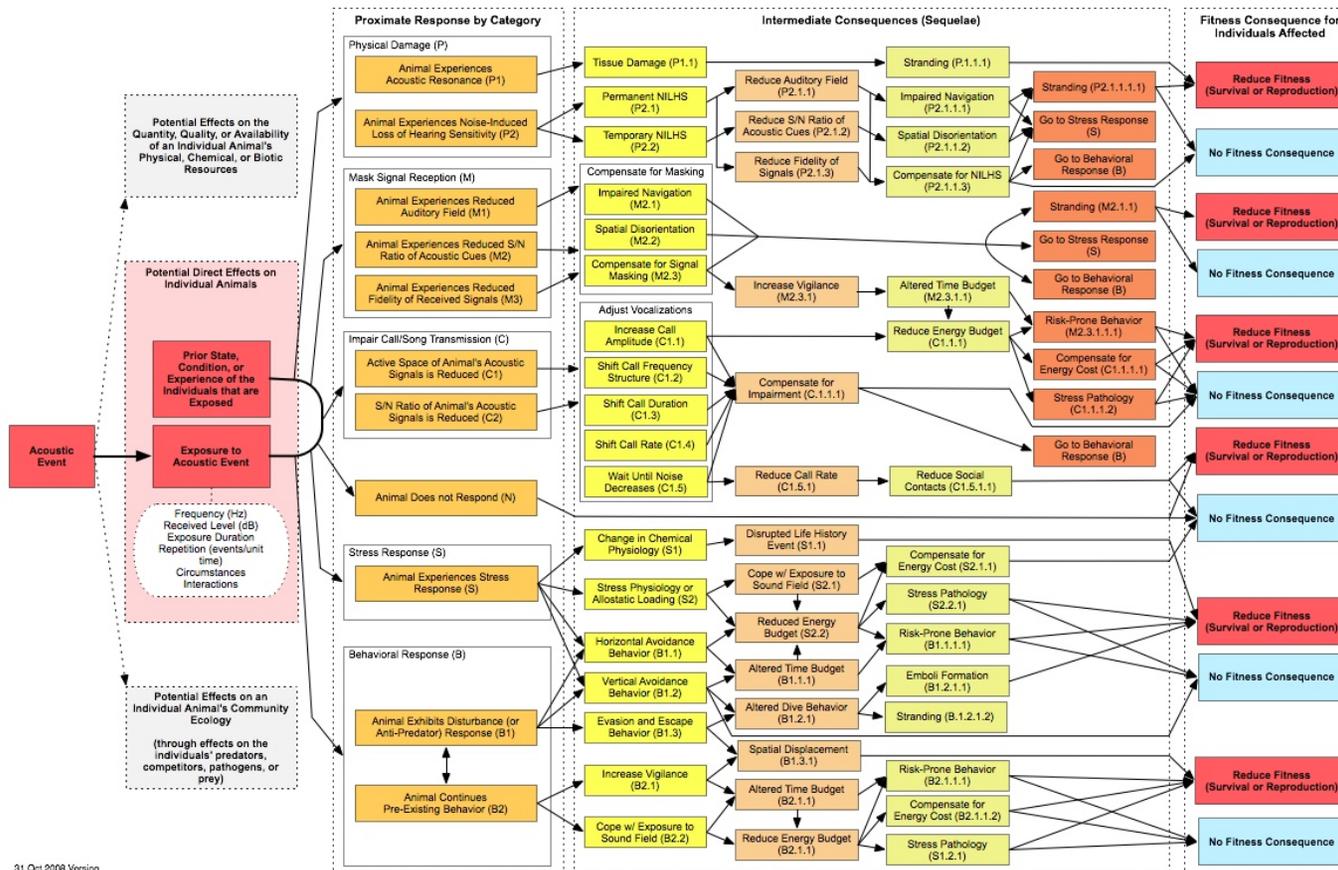
2.2.2 Response Analyses

As discussed in the introduction to this section of this Opinion, our response analyses are designed to identify the physical, physiological, and behavioral responses of endangered or threatened species that are likely to be exposed to stressors produced by an action. Because the responses of animals to a potential stressor are influenced by the animal's pre-existing physical, physiological, or behavioral state, our response analyses consider the *Status of the Species* and the impacts of the *Environmental Baseline*.

The potential stressors associated with the training exercises the U.S. Navy proposes to conduct along the Atlantic Coast of the United States are likely to produce two general classes of responses:

1. responses that are influenced by an animal's assessment of whether a potential stressor poses a threat or risk (see Figure 4: Animal Does Not Respond, Stress Response, and Behavioral Response). For example, an animal's behavioral response to active sonar or an approaching vessel would depend on whether (a) an animal detects some physical, visual, or acoustic cue from the sonar or vessel and (b) the animal classifies those cues as a potential threat (Blumstein and Bouskila 1996). The results of that assessment, which is influenced by the animal's physical and physiological state, can trigger physiological stress responses or lead to the animal to execute a behavioral response from its behavioral repertoire using a decision-making process that weighs the costs and benefits of alternative behaviors and recognizes the existing of trade-offs (Beale 2007, Blumstein and Bouskila 1996).
2. responses that are not influenced by the animal's assessment of whether a potential stressor poses a threat or risk (see Figure 3: Physical Damage, Mask Signal Reception, and Impair Call/Song Transmission).

Figure 4 illustrates the structure of our response analyses and shows the relationships between exposures, responses, and potential fitness consequences to individual animals that experience or exhibit particular responses or sets of responses (also see Southall *et al.* 2008 for an earlier version of this figure). This figure, and the analyses that are



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Figure 5. Conceptual model of the potential responses of endangered and threatened species upon being exposed to active sonar and the pathways by which those responses might affect the fitness of individual animals that have been exposed. See text contained in "Application of this Approach" and "Response Analyses" for an explanation and supporting literature.

based on it, was derived from an extensive review of the scientific and commercial data available from published and unpublished documents (we present the specific references in our *Response Analyses*). The procedures we used to identify those data are presented in a subsequent sub-section of this section; the specific studies, papers, and data that support our response analyses are presented in the *Response Analyses* section of this Opinion.

We used empirical Bayesian analysis to estimate the probability of one or more of the proximate responses identified in Figure 4 given an exposure event from the data that were available. Bayes rule (also called Bayes' theorem) calculates the probability of an event given prior knowledge of the event's probability using the equation

$$\text{Prob}(R_i|D) = [\text{Pr}(D|R_i) \times \text{Pr}(R_i)] / \sum [\text{Pr}(D|R_j) \times \text{Pr}(R_j)]$$

Where R represents the set of mutually exclusive and exhaustive physical, physiological, and behavioral responses to an exposure with probabilities, $\text{Pr}(R_i)$, $\text{Pr}(R_j)$ represents alternatives to that particular response, and D represents the data on responses. In this formulation, $\text{Pr}(R_i)$ in the numerator, represents the prior probability of a response which we derived from (1) the number of reports in the literature, that is, the number of papers that reported a particular response (here we distinguished between the number of reports for all cetaceans, the number of reports for all odontocetes, and the number of reports for all mysticetes) and (2) an uninformed prior, which assumed that all responses that had non-zero values were equally probable.

To apply this procedure to our response analyses for active sonar exposure, we formed the set of potential responses using the "proximate responses" identified in Figure 4 (see Table 6). Then we identified the number of instances in which animals were reported to have exhibited one or more of those proximate responses based on published studies or studies available as gray literature. For example, Nowacek *et al* (2004) reported one instance in which North Atlantic right whales exposed to alarm stimuli did not respond to the stimulus and several instances in which right whales exhibited "disturbance" responses. We coded these two responses (no response and disturbance response) separately.

For the response analyses we would include in any Opinions we prepare on any Letters of Authorization the Permit Division issues, we would multiply our exposure estimates (which provided us with the number of instances of exposure) by these posterior probabilities (which identify the probability of a particular response given an exposure) to estimate the number of animals in the exposed population that might respond with particular responses. If, for the purposes of illustration, we assumed that 100 fin whales might be exposed to active sonar and further assumed that their probability of no responding, avoidance responses, and evasive response was 0.5414, 0.0650, and 0.0440, respectively, we would assume that 54 of the 100 fin whales would not respond to the exposure, 6 might respond by avoiding the sound field, and 4 might respond by evading the sound field.

To estimate the number of animals that might be "taken" in any Opinions we prepare on any Letters of Authorization the Permit Division issues, we would classify the responses as one or more form of "take" (for example, we would distinguish between *avoidance*, or an animal that shifts its position before a perceived predatory stimulus has an

opportunity to attack, and *evasion*, or an escape response to a perceived attack) and use the method we described in the preceding paragraph to estimate the amount of “take.”

Table 6. Grouping of proximate responses (identified in Figure 3) into categories for response analyses

	Proximate Response	Grouping for Bayesian Analyses
1	No response	No Response
2	Acoustic resonance	Physical Trauma
3	Noise-induced hearing loss (P)	Not used for formal analyses
4	Noise-induced hearing loss (T)	Not used for formal analyses
5	Reduced auditory field (reduced active space)	Not used for formal analyses
6	Signal masking	Not used for formal analyses
7	Increase call amplitude of vocalizations	Vocal Adjustments
8	Shift frequency structure of vocalizations	
9	Shift call duration of vocalizations	
10	Shift call rate of vocalizations	
11	Shift timing of vocalizations	
12	Physiological stress	Not used for formal analyses
13	Avoid sound field	Avoidance Response
14	Avoid received levels in sound field	
15	Abandon area of exercise	Evasive Response
16	Increase vigilance	Not used for formal analyses
17	Exhibit "disturbance" behavior	Behavioral Disturbance
18	Continue current behavior (coping)	No Response
19	Unspecified behavioral responses (adverse)	Unspecified behavioral responses (adverse)
20	Unspecified behavioral responses (not adverse)	Unspecified behavioral responses (not adverse)
21	Behaviors that cannot be classified	Not used for formal analyses

2.2.3 Risk Analyses

As discussed in the *Introduction* to this section of the Opinion, the final steps of our analyses — establishing the risks those responses pose to endangered and threatened species or designated critical habitat — begin by identifying the probable risks actions pose to listed individuals that are likely to be exposed to an action’s effects. Our analyses then integrate those individuals risks to identify consequences to the populations those individuals represent. Our analyses conclude by determining the consequences of those population-level risks to the species those populations comprise.

We measure risks to listed individuals using the individual’s “fitness,” which are changes in an individual’s growth, survival, annual reproductive success, or lifetime reproductive success. In particular, we examine the scientific and commercial data available to determine if an individual’s probable response to an Action’s effects on the environment (which we identify in our *response analyses*) are likely to have consequences for the individual’s fitness.

When individual, listed plants or animals are expected to experience reductions in fitness, we would expect those reductions to also reduce the abundance, reproduction rates, or growth rates (or increase variance in one or more of these rates) of the populations those individuals represent (see Stearns 1992). If we conclude that listed plants or animals are *not* likely to experience reductions in their fitness, we would conclude our assessment.

Our risk analyses reflect these relationships between listed species and the populations that comprise them, and the individuals that comprise those populations. Our risk analyses begin by identifying the probable risks actions pose to listed individuals that are likely to be exposed to an action's effects. Our analyses then integrate those individuals risks to determine if the number of individuals that experience reduced fitness (or the magnitude of any reductions) is likely to be sufficient to reduce the viability of the populations those individuals represent (measured using changes in the populations' abundance, reproduction, spatial structure and connectivity, growth rates, or variance in these measures to make inferences about the population's probability of becoming demographically, ecologically, or genetically extinct in 10, 25, 50, or 100 years). In this step of our analyses, we use the population's base condition (established in the *Environmental Baseline* and *Status of Listed Resources* sections of this Opinion) as our point of reference.

Our risk analyses conclude by determining whether changes in the viability of one or more population is or is not likely to be sufficient to reduce the viability of the species (measured using probability of demographic, ecological, or genetic extinction in 10, 25, 50, or 100 years) those populations comprise. For these analyses, we combine our knowledge of the patterns that accompanied the decline, collapse, or extinction of populations and species that are known to have declined, collapsed, or become extinct in the past as well as a suite of population viability models.

When we conduct these analyses, our assessment is designed to establish that a decline, collapse, or extinction of an endangered or threatened species is not likely; we do not conduct these analyses to establish that such an outcome is likely. In this step of our analyses, we use the species' status (established in the *Status of the Species* section of this Opinion) as our point of reference.

2.3 Evidence Available for the Consultation

To conduct these analyses, we considered all lines of evidence available through published and unpublished sources that represent evidence of adverse consequences or the absence of such consequences. Over the past decade, the body of scientific information on the effects of the stressors we associate with U.S. Navy training activities on marine mammals and other marine life has increased substantially. For example, numerous investigators have studied the behavioral responses of marine mammals to vessel approaches (Au and Green 1990, Au and Perryman 1982, Bain *et al.* 2006, Bauer 1986, Bejder 1999, 2006a, 2006b; Bryant *et al.* 1984, Corkeron 1995, David 2002, Erbé 2000, Félix 2001, Magalhães *et al.* 2002, Goodwin and Cotton 2004, Hewitt 1985, Lusseau 2003, 2006; Lusseau and Bejder 2007, Ng and Leung 2003, Nowacek *et al.* 2001, Richter *et al.* 2003, 2006; Scheidat *et al.* 2004, Simmonds 2005, Watkins 1986, Williams and Ashe 2007, Williams *et al.* 2002, 2006a, 2006b; Würsig *et al.* 1998). In addition, several investigators have studied the potential responses of marine mammals and other marine organisms to human-generated sounds in marine environments or have integrated and synthesized the results of these studies (for example, Abgrail *et al.* 2008, Bowles *et al.* 1994; Croll *et al.* 1999, 2001; Frankel and Clark 1998; Gisiner 1998, McCauley and Cato 2001; NRC 1994 1996, 2000, 2003, 2005; Norris 1994; Reeves 1992, Richardson

et al. 1995, Southall *et al.* 2007, Tyack 2000, 2007; Wright *et al.* 2007). We supplemented information from these sources with information from after-action-reports the U.S. Navy provided on training exercises it conducted between 2006 and 2008 off the Southeastern United States (U.S. Navy 2006b, 2007c, 2007e, 2008c, 2008d).

To supplement that body of knowledge, we conducted electronic literature searches using the Library of Congress' *First Search* and *Dissertation Abstracts* databases, SCOPUS, *Web of Science*, and Cambridge Abstract's *Aquatic Sciences and Fisheries Abstracts* (ASFA) database services. The *First Search* databases provide access to general biological literature, master's theses, and doctoral dissertations back to 1980; ASFA provides access to journal articles, magazine articles, and conference proceedings back to 1964. Our searches specifically focus on the *ArticleFirst*, *BasicBiosis*, *Dissertation Abstracts*, *Proceedings* and *ECO* databases, which index the major journals dealing with issues of ecological risk (for example, the journals *Environmental Toxicology and Chemistry*, *Human and Ecological Risk Assessment*), marine mammals (*Journal of Mammalogy*, *Canadian Journal of Zoology*, *Journal of Zoology*, *Marine Mammal Science*), sea turtles (*Copeia*, *Herpetologia*, *Journal of Herpetology*), ecology (*Ambio*, *Bioscience*, *Journal of Animal Ecology*, *Journal of Applied Ecology*, *Journal of the Marine Biological Association of the UK*, *Marine Pollution Bulletin*, *Oikos*), bioacoustics (*Bioacoustics*, *Journal of the Acoustical Society of America*), and animal behavior (*Advances in the Study of Behavior*, *Animal Behavior*, *Behavior*, *Behavioral Ecology and Sociobiology*, *Ethology*). We manually searched issues of the *Journal of Cetacean Research and Management* and *Reports of the International Whaling Commission*.

Our prior experience demonstrated that electronic searches produce the lowest number of false positive results (references produced by a search that are not relevant) and false negative results (references not produced by a search that are relevant) if we use paired combinations of the keywords: ship strike, collision, disturbance, Navy, military exercise, detonations, underwater detonations, expended ordnance, explosive ordnance disposal, sonar, mid-frequency sonar, acoustic, marine acoustic, sound, and noise paired with the keywords cetacean, dolphin, marine mammal, pinniped, porpoise, sea turtle, whale, and sturgeon. To expand these searches, we modified these keyword pairs with the keywords effect, impact, mortality event, response, behavior (including the spelling "behaviour" as well as "behavior"), stranding, unusual mortality event. To collect data for our exposure analyses, we used the keyword: encounter rate paired with marine mammal, cetacean, and whale.

We supplemented the results of these electronic searches by acquiring all of the references we had gathered that, based on a reading of their titles or abstracts, appeared to comply with the keywords presented in the preceding paragraph. If a reference's title did not allow us to eliminate it as irrelevant to this inquiry, we acquired it. We continued this process until we gathered all (100 percent) of the relevant references cited by the introduction and discussion sections of the relevant papers, articles, books, and reports and all of the references cited in the materials and methods, and results sections of those documents. We did not conduct hand searches of published journals for this consultation. We organized the results of these searches using commercial bibliographic software.

To supplement our searches, we examined the literature that was cited in documents and any articles we collected through our electronic searches. If, based on a reading of the title or abstract of a reference, the reference appeared to comply with the keywords presented in the preceding paragraph, we acquired the reference. If a reference's title did not allow us to eliminate it as irrelevant to this inquiry, we acquired it. We continued this process until we identified all (100 percent) of the relevant references cited by the introduction and discussion sections of the relevant papers,

articles, books, and reports and all of the references cited in the materials and methods, and results sections of those documents. We did not conduct hand searches of published journals for this consultation. We organized the results of these searches using commercial bibliographic software.

From each document, we extracted the following: when the information for the study or report was collected, the study design, which species the study gathered information on, the sample size, acoustic source(s) associated with the study (noting whether it was part of the study design or was correlated with an observation), other stressors associated with the study, study objectives, and study results, by species. We estimated the probability of responses from the following information: the known or putative stimulus; exposure profiles (intensity, frequency, duration of exposure, and nature) where information is available; and the entire distribution of responses exhibited by the individuals that have been exposed. Because the response of individual animals to stressors would often vary with time (for example, no responses may be apparent for minutes or hours followed by sudden responses and vice versa) we also noted any temporal differences in responses to an exposure.

We ranked the results of these searches based on the quality of their study design, sample sizes, level of scrutiny prior to and during publication, and study results. We ranked carefully-designed field experiments (for example, experiments that control variables, such as other sources of sound in an area, that might produce the same behavioral responses) higher than field experiments were not designed to control those variables. We ranked carefully-designed field experiments higher than computer simulations. Studies that were based on large sample sizes with small variances were generally ranked higher than studies with small sample sizes or large variances.

Despite the information that is available, this assessment involved a large amount of uncertainty about the the relative frequency of ship strikes and the effects of those strikes on individual animals, how marine animals are likely to respond to surface and subsurface activities such as those the U.S. Navy proposes to conduct along the Atlantic Coast, basic hearing capabilities of marine mammals; how marine mammals use sounds as environmental cues, how they perceive acoustic features of their environment; the importance of sound to the normal behavioral and social ecology of marine mammals; the mechanisms by which human-generated sounds affect the behavior and physiology (including the non-auditory physiology) of marine mammals, and the circumstances that are likely to produce outcomes that have adverse consequences for individual marine mammals and marine mammal populations (see NRC 2000 for further discussion of these unknowns).

2.4 Treatment of “Cumulative Impacts” (in the sense of NEPA)

Several organizations have argued that several of our previous biological opinions on the U.S. Navy’s use of active sonar failed to consider the “cumulative impact” (in the NEPA sense of the term) of active sonar on the ocean environment and its organisms, particularly endangered and threatened species and critical habitat that has been designated for them (for example, see NRDC 2007 and Ocean Mammal Institute 2007). In each instance, we have had to explain how biological opinions consider “cumulative impacts” (in the NEPA sense of the term).

The U.S. Council on Environmental Quality defined “cumulative effects” (which we refer to as “cumulative impacts” to distinguish between NEPA and ESA uses of the same term) as “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable

future actions regardless of what agency (Federal or non-federal) or person undertakes such other actions” (40 CFR 1508.7). The effects analyses of biological opinions considered the “impacts” on listed species and designated critical habitat that result from the incremental impact of an action by identifying natural and anthropogenic stressors that affect endangered and threatened species throughout their range (the *Status of the Species*) and within an Action Area (the *Environmental Baseline*, which articulate the pre-existing *impacts* of activities that occur in an Action Area, including the past, contemporaneous, and future *impacts* of those activities). We assess the effects of a proposed action by adding their direct and indirect effects to the *impacts* of the activities we identify in an *Environmental Baseline* (50 CFR 402.02), in light of the impacts of the status of the listed species and designated critical habitat throughout their range; as a result, the results of our effects analyses are equivalent to those contained in the “cumulative impact” sections of NEPA documents.

2.5 A Brief Background on Sound

Sound is a wave of pressure variations propagating through a medium (for the sonar considered in this Opinion, the medium is marine water). Pressure variations are created by compressing and relaxing the medium. Sound measurements can be expressed in two forms: *intensity* and *pressure*. Acoustic intensity is the average rate of energy transmitted through a unit area in a specified direction and is expressed in watts per square meter (W/m^2). Acoustic intensity is rarely measured directly, it is derived from ratios of *pressures*; the standard reference pressure for underwater sound is 1 microPascal (μPa); for airborne sound, the standard reference pressure is 20 μPa (Richardson *et al.* 1995).

Acousticians have adopted a logarithmic scale for sound intensities, which is denoted in decibels (dB). Decibel measurements represent the ratio between a measured pressure value and a reference pressure value (in this case 1 μPa or, for airborne sound, 20 μPa). The logarithmic nature of the scale means that each 10 dB increase is a ten-fold increase in power (e.g., 20 dB is a 100-fold increase, 30 dB is a 1,000-fold increase). The term “sound pressure level” implies a decibel measure and a reference pressure that is used as the denominator of the ratio. Throughout this Opinion, we use 1 microPascal (denoted re: 1 μPa) as a standard reference pressure unless noted otherwise.

It is important to note that decibels underwater and decibels in air are not the same and cannot be directly compared. Because of the different densities of air and water and the different decibel standards in water and air, a sound with the same intensity (i.e., power) in air and in water would be approximately 63 dB quieter in air.

Sound frequency is measured in cycles per second, or Hertz (abbreviated Hz), and is analogous to musical pitch; high-pitched sounds contain high frequencies and low-pitched sounds contain low frequencies. Natural sounds in the ocean span a huge range of frequencies: from earthquake noise at 5 Hz to harbor porpoise clicks at 150,000 Hz. These sounds are so low or so high in pitch that humans cannot even hear them; acousticians call these infrasonic and ultrasonic sounds, respectively. A single sound may be made up of many different frequencies together. Sounds made up of only a small range of frequencies are called “narrowband”, and sounds with a broad range of frequencies are called “broadband”; airguns are an example of a broadband sound source and sonars are an example of a narrowband sound source.

When considering the influence of various kinds of noise on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Most dolphins, for instance, have excellent hearing at very high frequencies between 10,000 and 100,000 Hz. Their sensitivity at lower frequencies below 1000 Hz; however, is quite poor. On the other hand, the hearing sensitivity of most sea turtles appear to be best at frequencies between about 200 Hz and 700 Hz. As a result, sea turtles might be expected to suffer more harmful effects from loud, low frequency noise than would dolphins.

Because ears adapted to function underwater are physiologically different from human ears, comparisons using decibels would still not be adequate to describe the effects of a sound on a whale. When sound travels away from its source, its loudness decreases as the distance traveled by the sound increases. Thus, the loudness of a sound at its source is higher than the loudness of that same sound a kilometer distant. Acousticians often refer to the loudness of a sound at its source as the *source level* and the loudness of sound elsewhere as the *received level*. For example, a humpback whale 3 kilometers from an airgun that has a source level of 230 dB may only be exposed to sound that is 160 dB loud. As a result, it is important not to confuse source levels and received levels when discussing the loudness of sound in the ocean.

As sound moves away from a source, its propagation in water is influenced by various physical characteristics, including water temperature, depth, salinity, and surface and bottom properties that cause refraction, reflection, absorption, and scattering of sound waves. Oceans are not homogeneous and the contribution of each of these individual factors is extremely complex and interrelated. The physical characteristics that determine the sound's speed through the water would change with depth, season, geographic location, and with time of day (as a result, in actual sonar operations, crews would measure oceanic conditions, such as sea water temperature and depth, to calibrate models that determine the path the sonar signal would take as it travels through the ocean and how strong the sound signal would be at given range along a particular transmission path).

Sound tends to follow many paths through the ocean, so that a listener would hear multiple, delayed copies of transmitted signals (Richardson *et al.* 1995). Echoes are a familiar example of this phenomenon in air. In order to determine what the paths of sound transmission are, one rule is to seek paths that deliver the sound to the receiver the fastest. These are called acoustic rays. If the speed of sound were constant throughout the ocean, acoustic rays would consist of straight-line segments, with reflections off the surface and the bottom. However, because the speed of sound varies in the ocean, most acoustic rays are curved.

Sound speed in seawater is general about 1,500 meters per second (5,000 feet per second) although this speed varies with water density, which is affected by water temperature, salinity (the amount of salt in the water), and depth (pressure). The speed of sound increases as temperature and depth (pressure), and to a lesser extent, salinity, increase. The variation of sound speed with depth of the water is generally presented by a "sound speed profile," which varies with geographic latitude, season, and time of day.

In shallow waters of coastal regions and on continental shelves, sound speed profiles become influenced by surface heating and cooling, salinity changes, and water currents. As a result, these profiles tend to be irregular and unpredictable, and contain numerous gradients that last over short time and space scales. As sound travels through the ocean, the intensity associated with the wavefront diminishes, or attenuates. This decrease in intensity is referred

to as propagation loss, also commonly called transmission loss. In general, in a homogeneous lossless medium, sound intensity decreases as the square of the range due to simple spherical spreading. In other words, a source level of 235 dB would have decreased in intensity to a received level of 175 dB after about 914 meters (1,000 yards).

2.6 Action Area

The action area for this biological opinion encompasses the marine and coastal waters along the Atlantic Coast of the United States (see Figures 1, 2, and 3). Specifically, the action area includes waters within and adjacent to the Boston Complex Operating Area, the Narragansett Operating Area, Atlantic City Operating Area, Virginia Capes operating Areas, Cherry Point Operating Area, Jacksonville-Charleston Operating Areas, Key West Operating Area, Pensacola-Panama City Operating Area, New Orleans operating Area, and Corpus Christi Operating Area.

We assume that any activities that are likely to occur landward of the mean higher high water line — including activities that may affect threatened or endangered species of sea turtle landward of the mean higher high water line — are addressed in separate section 7 consultations with the U.S. Fish and Wildlife Service.

3.0 Status of Listed Resources

NMFS has determined that the following species and critical habitat designations may occur in this action area for the proposed training activities in the Northeast Operating Areas, Virginia Capes Range Complex, Cherry Point Range Complex, and Jacksonville Range Complex:

Blue whale	<i>Balaenoptera musculus</i>	Endangered
Fin whale	<i>Balaenoptera physalus</i>	Endangered
Humpback whale	<i>Megaptera novaeangliae</i>	Endangered
North Atlantic right whale	<i>Eubalaena japonica</i>	Endangered
Sei whale	<i>Balaenoptera borealis</i>	Endangered
Sperm whale	<i>Physeter macrocephalus</i>	Endangered
Green sea turtle	<i>Chelonia mydas</i>	Threatened
Hawksbill sea turtle	<i>Eretmochelys imbricata</i>	Endangered
Kemp's ridley sea turtle	<i>Lepidochelys kempii</i>	Endangered
Leatherback sea turtle	<i>Dermochelys coriacea</i>	Endangered
Loggerhead sea turtle	<i>Caretta caretta</i>	Threatened
Atlantic salmon (Gulf of Maine)	<i>Salmo salar</i>	Endangered
Smalltooth sawfish	<i>Pristis pectinata</i>	Endangered
Shortnose sturgeon	<i>Acipenser brevirostrum</i>	Endangered

Critical habitat has also been designated for the northern right whale in the Atlantic Ocean in Cape Cod Bay, Great South Channel, and off Georgia and Florida (50 CFR 226.13). Critical habitat for green sea turtles has been designated on Culebra Island, Puerto Rico (63 FR 46693), for hawksbill sea turtles on Mona and Monita Islands, Puerto Rico (63 FR 46693), and for leatherback sea turtles on Sandy Point on Saint Croix in the U.S. Virgin Islands (44 FR 17710).

3.1 Species Not Considered Further in this Opinion

As described in the Approach to the Assessment, NMFS uses two criteria to identify those endangered or threatened species or critical habitat that are not likely to be adversely affected by the proposed training and operations in the U.S. Navy Range Complexes along the Atlantic Coast of the United States and in the Gulf of Mexico from June 2009 to June 2014. The first criterion was *exposure* or some reasonable expectation of a co-occurrence between one or more potential stressor associated with the U.S. Navy's activities and a particular listed species or designated critical habitat: if we conclude that a listed species or designated critical habitat is not likely to be

exposed to U.S. Navy's activities, we must also conclude that the critical habitat is not likely to be adversely affected by those activities. The second criterion is the probability of a *response* given exposure, which considers *susceptibility*: species that may be exposed to sound transmissions from active sonar, for example, but are likely to be unaffected by the sonar (at sound pressure levels they are likely to be exposed to) are also not likely to be adversely affected by the sonar. We applied these criteria to the species listed at the beginning of this section; this subsection summarizes the results of those evaluations.

ATLANTIC SALMON (GULF OF MAINE). Atlantic salmon are an anadromous species: spawning and juvenile rearing occur in freshwater rivers followed by migration to the marine environment. This listing includes wild Atlantic salmon found in rivers and streams from the lower Kennebec River north to the border between the U.S. and Canada, including the Dennys, East Machias, Machias, Pleasant, Narraguagus, Ducktrap, and Sheepscot Rivers and Cove Brook. While at sea, Atlantic salmon undertake extensive migrations to waters off Canada and Greenland. Data from past commercial harvest indicate that post-smolts overwinter in the southern Labrador Sea and in the Bay of Fundy. Juvenile salmon in New England rivers typically migrate to sea in May after a two to three year period of development in freshwater streams, and remain at sea for two winters before returning to their U.S. natal rivers to spawn from mid October through early November. During the first winter, some of these fish overwinter in the Bay of Fundy.

The abundance of wild, Gulf of Maine Atlantic salmon is perilously small: the total run size of spawning adults in this species numbered approximately 150 animals in 1999 (Baum 2000). Since 1992, no wild Atlantic salmon have been caught in commercial fisheries or by research or survey vessels within the distribution of this species. Because of their current distribution, these Atlantic salmon might only co-occur with the training activities the U.S. Navy proposes to conduct on the Northeast Operating Areas. Because they tend to be distributed in waters off Canada and Greenland and because of their low population size, these salmon are not likely to be exposed to the training activities the U.S. Navy proposed to conduct in the Northeast Operating Areas.

SMALLTOOTH SAWFISH. Smalltooth sawfish are tropical, marine and estuarine fish that inhabit shallow waters of inshore bars, mangrove edges, and seagrass beds, although they are occasionally found in deeper coastal waters (NMFS 2000). Historically, this species was common in the shallow waters of the Gulf of Mexico and along the eastern seaboard of the United States to North Carolina (rare sightings of this sawfish occurred as far north as New York). Their current range is limited to peninsular Florida, where they are only found with any regularity off the extreme southern portion of the peninsula (off Everglades National Park and Florida Bay). Because of their current distribution, smalltooth sawfish might only be exposed to the training activities the U.S. Navy proposes to conduct on the Jacksonville Range Complex, which remains north of the primary distribution. Therefore, smalltooth sawfish are not likely to be exposed to the training activities the U.S. Navy proposed to conduct in the Jacksonville Range Complex and, therefore, are not likely to be adversely affected by those exercises.

SHORTNOSE STURGEON. Shortnose sturgeon are an anadromous species that occurs along the Atlantic Coast of North America, from the St. John River in Canada to the St. John's River in Florida. The recovery plan for shortnose sturgeon recognized 19 distinct, wild populations: New Brunswick, Canada (1 population); Maine (2 populations); Massachusetts (1 population); Connecticut (1 population); New York (1 population); New Jersey and Delaware (1 population); Maryland and Virginia (1 population); North Carolina (1 population); South Carolina (4 populations);

Georgia (4 populations); and Florida (2 populations). One partially-landlocked population occurs in Holyoke Pool of the Connecticut River. Another landlocked population may exist in Lake Marion on the Santee River in South Carolina. Because of their coastal distribution, shortnose sturgeon are not likely to be exposed to the training activities the U.S. Navy proposes to conduct on the Northeast Operating Areas or the Virginia Capes, Cherry Point, or Jacksonville Range Complex and, therefore, are not likely to be adversely affected by the proposed exercises.

Critical Habitat

Critical habitat has also been designated for the northern right whale in the Atlantic Ocean in Cape Cod Bay, Great South Channel, and off Georgia and Florida (50 CFR 226.13). Critical habitat for green sea turtles has been designated on Culebra Island, Puerto Rico (63 FR 46693), for hawksbill sea turtles on Mona and Monita Islands, Puerto Rico (63 FR 46693), and for leatherback sea turtles on Sandy Point on Saint Croix in the U.S. Virgin Islands (44 FR 17710).

Based on the best scientific and commercial data available, critical habitat that has been designated for green sea turtles, hawksbill sea turtles, and leatherback sea turtles is outside of the area that might be exposed to mid- or high-frequency active sonar associated with the Atlantic Fleet Active Sonar Training. As a result, we conclude that the proposed exercises will not affect designated critical habitat. Therefore, this critical habitat will not be considered further in this biological opinion. We consider the critical habitat that has been designated for northern right whales further in this consultation.

3.2 Climate Change

There is now widespread consensus within the scientific community that atmospheric temperatures on earth are increasing (warming) and that this will continue for at least the next several decades (IPCC 2001, Oreskes 2004). There is also consensus within the scientific community that this warming trend will alter current weather patterns and patterns associated with climatic phenomena, including the timing and intensity of extreme events such as heat-waves, floods, storms, and wet-dry cycles. Threats posed by the direct and indirect effects of global climatic change are or will be common to all of the species we discuss in this Opinion. Because of this commonality, we present this narrative here rather than in each of the species-specific narratives that follow.

The IPCC estimated that average global land and sea surface temperature has increased by 0.6°C (±0.2) since the mid-1800s, with most of the change occurring since 1976. This temperature increase is greater than what would be expected given the range of natural climatic variability recorded over the past 1,000 years (Crowley 2000). The IPCC reviewed computer simulations of the effect of greenhouse gas emissions on observed climate variations that have been recorded in the past and evaluated the influence of natural phenomena such as solar and volcanic activity. Based on their review, the IPCC concluded that natural phenomena are insufficient to explain the increasing trend in land and sea surface temperature, and that most of the warming observed over the last 50 years is likely to be attributable to human activities (IPCC 2001). Climatic models estimate that global temperatures would increase between 1.4 to 5.8°C from 1990 to 2100 if humans do nothing to reduce greenhouse gas emissions (IPCC 2001). These projections identify a suite of changes in global climate conditions that are relevant to the future status and trend of endangered and threatened species (Table 3).

Climate change is projected to have substantial direct and indirect effects on individuals, populations, species, and the structure and function of marine, coastal, and terrestrial ecosystems in the foreseeable future (Houghton *et al.* 2001, McCarthy *et al.* 2001, Parry *et al.* 2007). The direct effects of climate change would result in increases in atmospheric temperatures, changes in sea surface temperatures, changes in patterns of precipitation, and changes in sea level. Oceanographic models project a weakening of the thermohaline circulation resulting in a reduction of heat transport into high latitudes of Europe, an increase in the mass of the Antarctic ice sheet, and a decrease in the Greenland ice sheet, although the magnitude of these changes remain unknown.

Table 7. Phenomena associated with projections of global climate change including levels of confidence associated with projections (adapted from IPCC 2001 and Campbell-Lendrum Woodruff 2007)

Phenomenon	Confidence in Observed Changes (observed in the latter 20 th Century)	Confidence in Projected Changes (during the 21 st Century)
Higher maximum temperatures and a greater number of hot days over almost all land areas	Likely	Very likely
Higher minimum temperatures with fewer cold days and frost days over almost all land areas	Very likely	Very likely
Reduced diurnal temperature range over most land areas	Very likely	Very likely
Increased heat index over most land areas	Likely over many areas	Very likely over most areas
More intense precipitation events	Likely over many mid- to high-latitude areas in Northern Hemisphere	Very likely over many areas
Increased summer continental drying and associated probability of drought	Likely in a few areas	Likely over most mid-latitude continental interiors (projections are inconsistent for other areas)
Increase in peak wind intensities in tropical cyclones	Not observed	Likely over some areas
Increase in mean and peak precipitation intensities in tropical cyclones	Insufficient data	Likely over some areas

The indirect effects of climate change would result from changes in the distribution of temperatures suitable for calving and rearing calves, the distribution and abundance of prey, and the distribution and abundance of competitors or predators. For example, variations in the recruitment of krill (*Euphausia superba*) and the reproductive success of krill predators have been linked to variations in sea-surface temperatures and the extent of sea-ice cover during the winter months. Although the IPCC (2001) did not detect significant changes in the extent of Antarctic sea-ice using satellite measurements, Curran (2003) analyzed ice-core samples from 1841 to 1995 and concluded Antarctic sea ice cover had declined by about 20% since the 1950s.

The Antarctic Peninsula, which is the northern extension of the Antarctic continent, contains the richest areas of krill in the Southern Ocean. The extent of sea ice cover around this Peninsula has the highest degree of variability relative to other areas within the distribution of krill. Relatively small changes in climate conditions are likely to exert a strong influence on the seasonal pack-ice zone in the Peninsula area, which is likely to affect densities of krill in this

region. Because krill are important prey for baleen whales or form critical component of the food chains on which baleen whales depend, increasing the variability of krill densities or causing those densities to decline dramatically is likely to have adverse effect on populations of baleen whales in the Southern Ocean.

Reid and Croxall (2001) analyzed a 23-year time series of the reproductive performance of predators that depend on krill for prey — Antarctic fur seals (*Arctocephalus gazella*), gentoo penguins (*Pygoscelis papua*), macaroni penguins (*Eudyptes chrysolophus*), and black-browed albatrosses (*Thalassarche melanophrys*) — at South Georgia Island and concluded that these populations experienced increases in the 1980s followed by significant declines in the 1990s accompanied by an increase in the frequency of years with reduced reproductive success. The authors concluded that macaroni penguins and black-browed albatrosses had declined by as much as 50 percent in the 1990s, although incidental mortalities in longline fisheries probably contributed to the decline of the albatross. These authors concluded, however, that these declines result, at least in part, from changes in the structure of the krill population, particularly reduced recruitment into older age classes, which lowers the number of predators this prey species can sustain. The authors concluded that the biomass of krill within the largest size class was sufficient to support predator demand in the 1980s but not in the 1990s.

Similarly, a study of relationships between climate and sea-temperature changes and the arrival of squid off southwestern England over a 20-year period concluded that veined squid (*Loligo forbesi*) migrate eastwards in the English Channel earlier when water in the preceding months is warmer, and that higher temperatures and early arrival correspond with warm phases of the North Atlantic oscillation (Sims *et al.* 2001). The timing of squid peak abundance advanced by 120- 150 days in the warmest years compared with the coldest. Seabottom temperature were closely linked to the extent of squid movement and temperature increases over the five months prior to and during the month of peak squid abundance did not differ between early and late years. These authors concluded that the temporal variation in peak abundance of squid seen off Plymouth represents temperature-dependent movement, which is in turn mediated by climatic changes associated with the North Atlantic Oscillation.

Climate-mediated changes in the distribution and abundance of keystone prey species like krill and climate-mediated changes in the distribution of cephalopod populations worldwide is likely to affect marine mammal populations as they re-distribute throughout the world's oceans in search of prey. Blue whales, as predators that specialize in eating krill, seem likely to change their distribution in response to changes in the distribution of krill (for example, see Payne *et al.* 1986, 1990 and Weinrich 2001); if they did not change their distribution or could not find the biomass of krill necessary to sustain their population numbers, their populations seem likely to experience declines similar to those observed in other krill predators, which would cause dramatic declines in their population sizes or would increase the year-to-year variation in population size; either of these outcomes would dramatically increase the extinction probabilities of these whales.

Sperm whales, whose diets can be dominated by cephalopods, would have to re-distribute following changes in the distribution and abundance of their prey. This statement assumes that projected changes in global climate would only affect the distribution of cephalopod populations, but would not reduce the number or density of cephalopod populations. If, however, cephalopod populations collapse or decline dramatically, sperm whale populations are likely to collapse or decline dramatically as well.

The response of North Atlantic right whales to changes in the North Atlantic Oscillation also provides insight into the potential consequences of a changing climate on large whales. Changes in the climate of the North Atlantic have been directly linked to the North Atlantic Oscillation, which results from variability in pressure differences between a low pressure system that lies over Iceland and a high pressure system that lies over the Azore Islands. As these pressure systems shift from east to west, they control the strength of westerly winds and storm tracks across the North Atlantic Ocean. The North Atlantic Oscillation Index, which is positive when both systems are strong (producing increased differences in pressure that produce more and stronger winter storms) and negative when both systems are weak (producing decreased differences in pressure resulting in fewer and weaker winter storms), varies from year to year, but also exhibits a tendency to remain in one phase for intervals lasting several years.

Sea surface temperatures in the North Atlantic Ocean are closely related to this Oscillation and influence the abundance of marine mammal prey such as zooplankton and fish. In the 1970s and 1980s, the North Atlantic Oscillation Index has been positive and sea surface temperatures increased. These increased are believed to have produced conditions that were favorable for the copepod (*Calanus finmarchicus*), which is the principal prey of North Atlantic right whales (Conversi *et al.* 2001) and may have increased calving rates of these whales (we cannot verify this association because systematic data on North Atlantic right whale was not collected until 1982; Greene *et al.* 2003). In the late 1980s and 1990s, the NAO Index was mainly positive but exhibited two substantial, multi-year reversals to negative values. This was followed by two major, multi-year declines in copepod prey abundance (Pershing *et al.* 2001, Drinkwater *et al.* 2003). Calving rates for North Atlantic right whales followed the declining trend in copepod abundance, although there was a time lag between the two (Greene *et al.* 2003).

Although the NAO Index has been positive for the past 25 years, atmospheric models suggest that increases in ocean temperature associated with climate change forecasts may produce more severe fluctuations in the North Atlantic Oscillation. Such fluctuations would be expected to cause dramatic shifts in the reproductive rate of critically endangered North Atlantic right whales (Drinkwater *et al.* 2003; Greene *et al.* 2003) and possibly a northward shift in the location of right whale calving areas (Kenney 2007).

Changes in global climatic patterns are also projected to have profound effect on the coastlines of every continent by increasing sea levels and increasing the intensity, if not the frequency, of hurricanes and tropical storms. Based on computer models, these phenomena would inundate nesting beaches of sea turtles, change patterns of coastal erosion and sand accretion that are necessary to maintain those beaches, and would increase the number of turtle nests that are destroyed by tropical storms and hurricanes. Further, the combination of increasing sea levels, changes in patterns of coastal erosion and accretion, and changes in rainfall patterns are likely to affect coastal estuaries, submerged aquatic vegetation, and reef ecosystems that provide foraging and rearing habitat for several species of sea turtles. Finally, changes in ocean currents associated with climate change projections would affect the migratory patterns of sea turtles. The loss of nesting beaches, by itself, would have catastrophic effect on sea turtles populations globally if they are unable to colonize any new beaches that form or if the beaches that form do not provide the sand depths, grain patterns, elevations above high tides, or temperature regimes necessary to allow turtle eggs to survive. When combined with changes in coastal habitats and oceans currents, the future climates that are forecast place sea turtles at substantially greater risk of extinction than they already face.

3.3 Introduction to this Status of Listed Species

The rest of this section of our Opinion consists of narratives for each of the threatened and endangered species that occur in the action area and that may be adversely affected by the proposed training and operations in the U.S. Navy Range Complexes along the Atlantic Coast of the United States and in the Gulf of Mexico from June 2009 to June 2014. In each narrative, we present a summary of information on the distribution and population structure of each species to provide a foundation for the exposure analyses that appear later in this Opinion. Then we summarize information on the threats to the species and the species' status given those threats to provide points of reference for the jeopardy determinations we make later in this Opinion. That is, we rely on a species' status and trend to determine whether or not an action's direct or indirect effects are likely to increase the species' probability of becoming extinct.

After the Status subsection of each narrative, we present information on the diving and social behavior of the different species because that behavior helps determine whether aerial and ship board surveys are likely to detect each species. We also summarize information on the vocalizations and hearing of the different species because that background information lays the foundation for our assessment of how the different species are likely to respond to sounds produced by detonations.

More detailed background information on the status of these species and critical habitat can be found in a number of published documents including status reviews, recovery plans for the blue whale (NMFS 1998a), fin whales (2007), fin and sei whale (NMFS 1998b, NMFS 2007), humpback whale (NMFS 1991a), right whale (NMFS 1991b), a status report on large whales prepared by Perry *et al.* (1999), recovery plans for sea turtles (NMFS and USFWS 1998a, 1998b, 1998c, 1998d, and 1998e), and recovery plans for listed salmon. Richardson *et al.* (1995) and Tyack (2000) provide detailed analyses of the functional aspects of cetacean communication.

4.1 Blue whale

Distribution

Blue whales are found along the coastal shelves of North America and South America (Rice 1974; Donovan 1984; Clarke 1980) in the North Pacific Ocean. In the North Pacific Ocean, blue whales occur in summer foraging areas in the Chukchi Sea, the Sea of Okhotsk, around the Aleutian Islands, and the Gulf of Alaska; in the eastern Pacific, they occur south to California; in the western Pacific, they occur south to Japan. Blue whales in the eastern Pacific winter from California south; in the western Pacific, they winter from the Sea of Japan, the East China and Yellow Seas, and the Philippine Sea (Gambell 1985).

In the western north Atlantic Ocean, blue whales are found from the Arctic to at least the mid-latitude waters of the North Atlantic (CeTAP 1982, Wenzel *et al.* 1988, Yochem and Leatherwood 1985, Gagnon and Clark 1993). Blue whales have been observed frequently off eastern Canada, particularly in waters off Newfoundland, during the winter. In the summer months, they have been observed in Davis Strait (Mansfield 1985), the Gulf of St. Lawrence (from the north shore of the St. Lawrence River estuary to the Strait of Belle Isle), and off eastern Nova Scotia (Sears *et al.* 1987). In the eastern north Atlantic Ocean, blue whales have been observed off the Azores Islands, although Reiner *et al.* (1993) do not consider them common in that area.

In 1992, the U.S. Navy conducted an extensive acoustic survey of the North Atlantic using the Integrated Underwater Surveillance System's fixed acoustic array system (Clark 1995). Concentrations of blue whale sounds were detected in the Grand Banks off Newfoundland and west of the British Isles. In the lower latitudes, one blue whale was tracked acoustically for 43 days, during which time the animal traveled 1400 nautical miles around the western North Atlantic from waters northeast of Bermuda to the southwest and west of Bermuda (Gagnon and Clark 1993).

In the North Pacific Ocean, blue whales have been recorded off the island of Oahu in the main Hawai'ian Islands and off Midway Island in the western edge of the Hawai'ian Archipelago (Barlow *et al.* 1994b; Northrop *et al.* 1971; Thompson and Friedl 1982), although blue whales are rarely sighted in Hawai'ian waters and have not been reported to strand in the Hawai'ian Islands. Nishiwaki (1966) reported that blue whales occur in the Aleutian Islands and in the Gulf of Alaska. Although blue whales have not been observed off Alaska since 1987 (Leatherwood *et al.* 1982; Stewart *et al.* 1987; Forney and Brownell 1996). No distributional information exists for the western region of the North Pacific.

In the eastern tropical Pacific Ocean, the Costa Rica Dome appears to be important for blue whales based on the high density of prey (euphausiids) available in the Dome and the number of blue whales that appear to reside there (Reilly and Thayer 1990). Blue whales have been sighted in the Dome area in every season of the year, although their numbers appear to be highest from June through November.

Blue whales have also been reported year-round in the northern Indian Ocean, with sightings in the Gulf of Aden, Persian Gulf, Arabian Sea, and across the Bay of Bengal to Burma and the Strait of Malacca (Mizroch *et al.* 1984). The migratory movements of these whales are unknown.

Historical catch records suggest that "true" blue whales and "pygmy" blue whale (*B. m. brevicada*) may be geographically distinct (Brownell and Donaghue 1994, Kato *et al.* 1995). The distribution of the "pygmy" blue whale is north of the Antarctic Convergence, while that of the "true" blue whale is south of the Convergence in the austral summer (Kato *et al.* 1995). "True" blue whales occur mainly in the higher latitudes, where their distribution in mid-summer overlaps with that of the minke whale (*Balaenoptera acutorostrata*). During austral summers, "true" blue whales are found close to edge of Antarctic ice (south of 58° S) with concentrations between 60°-80° E and 66°-70° S (Kasamatsu *et al.* 1996).

Population Structure

For this and all subsequent species, the term "population" refers to groups of individuals whose patterns of increase or decrease in abundance over time are determined by internal dynamics (births resulting from sexual interactions between individuals in the group and deaths of those individuals) rather than external dynamics (immigration or emigration). This definition is a reformulation of definitions articulated by Cole (1957, Futuyma (1986) and Wells and Richmond (1995) and is more restrictive than those uses of 'population' that refer to groups of individuals that co-occur in space and time but do not have internal dynamics that determine whether the size of the group increases or decreases over time (see review by Wells and Richmond 1995). The definition we apply is important to section 7 consultations because such concepts as 'population decline,' 'population collapse,' 'population extinction,' and

‘population recovery’ apply to the restrictive definition of ‘population’ but do not explicitly apply to alternative definitions. As a result, we do not treat the different whale “stocks” recognized by the International Whaling Commission or other authorities as populations unless those distinctions were clearly based on demographic criteria. We do, however, acknowledge those “stock” distinctions in these narratives.

At least three subspecies of blue whales have been identified based on body size and geographic distribution (*B. musculus intermedia*, which occurs in the higher latitudes of the Southern Oceans, *B. m. musculus*, which occurs in the Northern Hemisphere, and *B. m. breviceauda* which occurs in the mid-latitude waters of the southern Indian Ocean and north of the Antarctic convergence), but this consultation would treat them as a single entity. Readers who are interested in these subspecies would find more information in Gilpatrick *et al.* (1997), Kato *et al.* (1995), Omura *et al.* (1970) and Ichihara (1966).

In addition to these subspecies, the International Whaling Commission’s Scientific Committee has formally recognized one blue whale population in the North Pacific (Donovan 1991), although there is increasing evidence that more than there may be more than one blue whale population in the Pacific Ocean (Gilpatrick *et al.* 1997, Barlow *et al.* 1995, Mizroch *et al.* 1984a, Ohsumi and Wada 1974). For example, studies of the blue whales that winter off Baja California and in the Gulf of California suggest that these whales are morphologically distinct from blue whales of the western and central North Pacific (Gilpatrick *et al.* 1997), although these differences might result from differences in the productivity of their foraging areas more than genetic differences (the southern whales forage off California; Sears *et al.* 1987; Barlow *et al.* 1997; Calambokidis *et al.* 1990).

A population or “stock” of endangered blue whales occurs in waters surrounding the Hawai’ian archipelago (from the main Hawai’ian Islands west to at least Midway Island), although blue whales are rarely reported from Hawai’ian waters. The only reliable report of this species in the central North Pacific was a sighting made from a scientific research vessel about 400 km northeast of Hawai’i in January 1964 (NMFS 1998). However, acoustic monitoring has recorded blue whales off Oahu and the Midway Islands much more recently (Barlow *et al.* 1994, McDonald and Fox 1999, Northrop *et al.* 1971; Thompson and Friedl 1982).

The recordings made off Oahu showed bimodal peaks throughout the year, suggesting that the animals were migrating into the area during summer and winter (Thompson and Friedl 1982; McDonald and Fox 1999). Twelve aerial surveys were flown within 25 nm² of the main Hawai’ian Islands from 1993-1998 and no blue whales were sighted. Nevertheless, blue whale vocalizations that have been recorded in these waters suggest that the occurrence of blue whales in these waters may be higher than blue whale sightings. There are no reports of blue whale strandings in Hawai’ian waters.

The International Whaling Commission also groups all of the blue whales in the North Atlantic Ocean into one “stock” and groups blue whales in the Southern Hemisphere into six “stocks” (Donovan 1991), which are presumed to follow the feeding distribution of the whales.

Threats to the Species

NATURAL THREATS. Natural causes of mortality in blue whales are largely unknown, but probably includes predation and disease (not necessarily in their order of importance). Blue whales are known to become infected with the

nematode *Carricauda boopis* (Baylis 1920), which are believed to have caused fin whales to die as a result of renal failure (Lambertsen 1986; see additional discussion under *Fin whales*). Killer whales and sharks are also known to attack, injure, and kill very young or sick fin and humpback whale and probably hunt blue whales as well (Perry *et al.* 1999).

ANTHROPOGENIC THREATS. Two human activities are known to threaten blue whales: whaling and shipping. Historically, whaling represented the greatest threat to every population of blue whales and was ultimately responsible for listing blue whales as an endangered species. As early as the mid-seventeenth century, the Japanese were capturing blue, fin, and other large whales using a fairly primitive open-water netting technique (Tønnessen and Johnsen 1982, Cherfas 1989). In 1864, explosive harpoons and steam-powered catcher boats were introduced in Norway, allowing the large-scale exploitation of previously unobtainable whale species. Before fin whales became the focus of whaling operations, populations of blue whales had already become commercially extinct (IWC 1995).

From 1889 to 1965, whalers killed about 5,761 blue whales in the North Pacific Ocean (NMFS 1998). Evidence of a population decline were evident in the catch data from Japan. In 1912, whalers captured 236 blue whales; in 1913, 58 blue whales; in 1914, 123 blue whales; from 1915 to 1965, the number of blue whales captured declined continuously (Mizroch *et al.* 1984). In the eastern North Pacific, whalers killed 239 blue whales off the California coast in 1926. And, in the late 1950s and early 1960s, Japanese whalers killed 70 blue whales per year off the Aleutian Islands (Mizroch *et al.* 1984a).

Although the International Whaling Commission banned commercial whaling in the North Pacific in 1966, Soviet whaling fleets continued to hunt blue whales in the North Pacific for several years after the ban. Surveys conducted in these former-whaling areas in the 1980s and 1990s failed to find any blue whales (Forney and Brownell 1996). By 1967, Soviet scientists wrote that blue whales in the North Pacific Ocean (including the eastern Bering Sea and Prince William Sound) had been so overharvested by Soviet whaling fleets that some scientists concluded that any additional harvests were certain to cause the species to become extinct in the North Pacific (Latishev 2007). As its legacy, whaling has reduced blue whales to a fraction of their historic population size and, as a result, makes it easier for other human activities to push blue whales closer to extinction. Otherwise, whaling currently does not threaten blue whale populations.

In 1980, 1986, 1987, and 1993, ship strikes have been implicated in the deaths of blue whales off California (Barlow *et al.* 1997). In addition, several photo-identified blue whales from California waters were observed with large scars on their dorsal areas that may have been caused by ship strikes. Studies have shown that blue whales respond to approaching ships in a variety of ways, depending on the behavior of the animals at the time of approach, and speed and direction of the approaching vessel. While feeding, blue whales react less rapidly and with less obvious avoidance behavior than whales that are not feeding (Sears *et al.* 1983). Within the St. Lawrence Estuary, blue whales are believed to be affected by large amounts of recreational and commercial vessel traffic. Blue whales in the St. Lawrence appeared more likely to react to these vessels when boats made fast, erratic approaches or sudden changes in direction or speed (Edds and Macfarlane 1987, Macfarlane 1981). The number of blue whales struck and killed by ships is unknown because the whales do not always strand or examinations of blue whales that have stranded did not identify the traumas that could have been caused by ship collisions. In the California/Mexico stock,

annual incidental mortality due to ship strikes averaged 0.2 whales during 1991-1995 (Barlow *et al.* 1997), but we cannot determine if this reflects the actual number of blue whales struck and killed by ships.

Status

Blue whales were listed as endangered under the ESA in 1973. Blue whales are listed as endangered on the IUCN Red List of Threatened Animals (Baillie and Groombridge 1996). They are also protected by the Convention on International Trade in Endangered Species of wild flora and fauna and the MMPA. Critical habitat has not been designated for blue whales.

It is difficult to assess the current status of blue whales because (1) there is no general agreement on the size of the blue whale population prior to whaling and (2) estimates of the current size of the different blue whale populations vary widely. We may never know the size of the blue whale population prior to whaling, although some authors have concluded that their population numbers about 200,000 animals before whaling. Similarly, estimates of the global abundance of blue whales are uncertain. Since the cessation of whaling, the global population of blue whales has been estimated to range from 11,200 to 13,000 animals (Maser *et al.* 1981; U. S. Department of Commerce 1983). These estimates, however, are more than 20 years old.

A lot of uncertainty surrounds estimates of blue whale abundance in the North Pacific Ocean. Barlow (1994) estimated the North Pacific population of blue whales at between 1,400 to 1,900. Barlow and Calambokidis (1995) estimated the abundance of blue whales off California at 2,200 individuals. Wade and Gerrodette (1993) and Barlow *et al.* (1997) estimated there were a minimum of 3,300 blue whales in the North Pacific Ocean in the 1990s.

The size of the blue whale population in the north Atlantic is also uncertain. The population has been estimated to number from a few hundred individuals (Allen 1970; Mitchell 1974) to 1,000 to 2,000 individuals (Sigurjónsson 1995). Gambell (1976) estimated there were between 1,100 to 1,500 blue whales in the North Atlantic before whaling began and Braham (1991) estimated there were between 100 and 555 blue whales in the North Atlantic during the late 1980s and early 1990s. Sears *et al.* (1987) identified over 300 individual blue whales in the Gulf of St. Lawrence, which provides a minimum estimate for their population in the North Atlantic. Sigurjónsson and Gunnlaugson (1990) concluded that the blue whale population had been increasing since the late 1950s and argued that the blue whale population had increased at an annual rate of about 5 percent between 1979 and 1988, although the level of confidence we can place in these estimates is low.

Estimates of the number of blue whales in the Southern Hemisphere range from 5,000 to 6,000 (review by Yochem and Leatherwood 1985) with an average rate of increase that has been estimated at between 4 and 5 percent per year. Butterworth *et al.* (1993), however, estimated the Antarctic population at 710 individuals. More recently, Stern (2001) estimated the blue whale population in the Southern Ocean at between 400 and 1,400 animals (c.v. 0.4). The pygmy blue whale population has been estimated at 6,000 individuals (Yochem and Leatherwood 1985)

The information available on the status and trend of blue whales do not allow us to reach any conclusions about the extinction risks facing blue whales as a species, or particular populations of blue whales. With the limited data available on blue whales, we do not know whether these whales exist at population sizes large enough to avoid demographic phenomena that are known to increase the extinction probability of species that exist as “small”

populations (that is, “small” populations experience phenomena such as demographic stochasticity, inbreeding depression, Allee effects, among others, that cause their population size to become a threat in and of itself) or if blue whales might be threatened more by exogenous threats such as anthropogenic activities (primarily whaling, entanglement, and ship strikes) or natural phenomena (such as disease, predation, or changes in the distribution and abundance of their prey in response to changing climate).

Diving and Social Behavior

Generally, blue whales make 5-20 shallow dives at 12-20 second intervals followed by a deep dive of 3-30 minutes (Mackintosh 1965; Leatherwood *et al.* 1976; Maser *et al.* 1981; Yochem and Leatherwood 1985; Strong 1990; Croll *et al.* 1999). Croll *et al.* (1999) found that the dive depths of blue whales foraging off the coast of California during the day averaged 132 m (433 ft) with a maximum recorded depth of 204 m (672 ft) and a mean dive duration of 7.2 minutes. Nighttime dives are generally less than 50 m (165 ft) in depth (Croll *et al.* 1999).

Blue whales are usually found swimming alone or in groups of two or three (Ruud 1956, Slijper 1962, Nemoto 1964, Mackintosh 1965, Pike and MacAskie 1969, Aguayo 1974). However, larger foraging aggregations and aggregations mixed with other species like fin whales are regularly reported (Schoenherr 1991, Fiedler *et al.* 1998). Little is known of the mating behavior of blue whales.

Vocalizations and Hearing

The vocalizations that have been identified for blue whales include a variety of sounds described as low frequency moans or long pulses (Cummings and Thompson 1971, 1977; Edds 1982, Thompson and Friedl 1982; Edds-Walton 1997). Blue whales produce a variety of low frequency sounds in the 10-100 Hz band (Cummings and Thompson 1971, Edds 1982, Thompson and Friedl 1982, McDonald *et al.* 1995, Clark and Fristrup 1997, Rivers 1997). The most typical signals are very long, patterned sequences of tonal infrasonic sounds in the 15-40 Hz range. The sounds last several tens of seconds. Estimated source levels are as high as 180-190 dB (Cummings and Thompson 1971). Ketten (1997) reports the frequencies of maximum energy between 12 and 18 Hz. In temperate waters, intense bouts of long patterned sounds are very common from fall through spring, but these also occur to a lesser extent during the summer in high latitude feeding areas. Short sequences of rapid calls in the 30-90 Hz band are associated with animals in social groups. The seasonality and structure of long patterned sounds suggest that these sounds are male displays for attracting females, competing with other males, or both. The context for the 30-90 Hz calls suggests that they are communicative but not related to a reproductive function. Vocalizations attributed to blue whales have been recorded in presumed foraging areas, along migration routes, and during the presumed breeding season (Beamish and Mitchell 1971; Cummings and Thompson 1971, 1977, 1994; Cummings and Fish 1972; Thompson *et al.* 1996; Rivers 1997; Tyack and Clark 1997; Clark *et al.* 1998).

Blue whale moans within the low frequency range of 12.5-200 Hz, with pulse duration up to 36 seconds, have been recorded off Chile (Cummings and Thompson 1971). A short, 390 Hz pulse also is produced during the moan. One estimate of the overall source level was as high as 188 dB, with most energy in the 1/3-octave bands centered at 20, 25, and 31.5 Hz, and also included secondary components estimates near 50 and 63 Hz (Cummings and Thompson 1971).

As with other vocalizations produced by baleen whales, the function of blue whale vocalizations is unknown, although there are numerous hypotheses (which include include: maintenance of inter-individual distance, species and individual recognition, contextual information transmission, maintenance of social organization, location of topographic features, and location of prey resources; see the review by Thompson *et al.* 1992 for more information on these hypotheses). Responses to conspecific sounds have been demonstrated in a number of mysticetes, and there is no reason to believe that fin whales do not communicate similarly (Edds-Walton 1997). The low-frequency sounds produced by blue whales can, in theory, travel long distances, and it is possible that such long-distance communication occurs (Payne and Webb 1971, Edds-Walton 1997). The long-range sounds may also be used for echolocation in orientation or navigation (Tyack 1999).

Cetaceans have an auditory anatomy that follows the basic mammalian pattern, with some modifications to adapt to the demands of hearing in the sea. The typical mammalian ear is divided into the outer ear, middle ear, and inner ear. The outer ear is separated from the inner ear by the tympanic membrane, or eardrum. In terrestrial mammals, the outer ear, eardrum, and middle ear function to transmit airborne sound to the inner ear, where the sound is detected in a fluid. Since cetaceans already live in a fluid medium, they do not require this matching, and thus do not have an air-filled external ear canal. The inner ear is where sound energy is converted into neural signals that are transmitted to the central nervous system via the auditory nerve. Acoustic energy causes the basilar membrane in the cochlea to vibrate. Sensory cells at different positions along the basilar membrane are excited by different frequencies of sound (Tyack 1999). Baleen whales have inner ears that appear to be specialized for low-frequency hearing. In a study of the morphology of the mysticete auditory apparatus, Ketten (1997) hypothesized that large mysticetes have acute infrasonic hearing.

4.1 Fin whale

Distribution

Fin whales are distributed widely in every ocean except the Arctic Ocean. In the North Pacific Ocean, fin whales occur in summer foraging areas in the Chukchi Sea, the Sea of Okhotsk, around the Aleutian Islands, and the Gulf of Alaska; in the eastern Pacific, they occur south to California; in the western Pacific, they occur south to Japan. Fin whales in the eastern Pacific winter from California south; in the western Pacific, they winter from the Sea of Japan, the East China and Yellow Seas, and the Philippine Sea (Gambell 1985).

In the North Atlantic Ocean, fin whales occur in summer foraging areas from the coast of North America to the Arctic, around Greenland, Iceland, northern Norway, Jan Meyers, Spitzbergen, and the Barents Sea. In the western Atlantic, they winter from the edge of sea ice south to the Gulf of Mexico and the West Indies. In the eastern Atlantic, they winter from southern Norway, the Bay of Biscay, and Spain with some whales migrating into the Mediterranean Sea (Gambell 1985).

In the Southern Hemisphere, fin whales are distributed broadly south of 50° S in the summer and migrate into the Atlantic, Indian, and Pacific Oceans in the winter, along the coast of South America (as far north as Peru and Brazil), Africa, and the islands in Oceania north of Australia and New Zealand (Gambell 1985).

Fin whales are common off the Atlantic coast of the United States in waters immediately off the coast seaward to the continental shelf (about the 1,000-fathom contour). In this region, they tend to occur north of Cape Hatteras where they accounted for about 46 percent of the large whales observed in surveys conducted between 1978 and 1982. During the summer months, fin whales in this region tend to congregate in feeding areas between 41°20'N and 51°00'N, from shore seaward to the 1,000-fathom contour.

In the Atlantic Ocean, Clark (1995) reported a general southward pattern of fin whale migration in the fall from the Labrador and Newfoundland region, south past Bermuda, and into the West Indies. The overall distribution may be based on prey availability, and fin whales are found throughout the action area for this consultation in most months of the year. This species preys opportunistically on both invertebrates and fish (Watkins *et al.* 1984). They feed by filtering large volumes of water for the associated prey. Fin whales are larger and faster than humpback and right whales and are less concentrated in nearshore environments.

Population Structure

Fin whales have two recognized subspecies: *Balaoptera physalus physalus* (Linnaeus 1758) occurs in the North Atlantic Ocean while *B. p. quoyi* (Fischer 1829) occurs in the Southern Ocean. Globally, fin whales are sub-divided into three major groups: Atlantic, Pacific, and Antarctic. Within these major areas, different organizations use different population structure.

In the North Atlantic Ocean, the International Whaling Commission recognizes seven management units or “stocks” of fin whales: (1) Nova Scotia, (2) Newfoundland-Labrador, (3) West Greenland, (4) East Greenland-Iceland, (5) North Norway, (6) West Norway-Faroe Islands, and (7) British Isles-Spain-Portugal. In addition, the population of fin whales that resides in the Ligurian Sea, in the northwestern Mediterranean Sea is believed to be genetically distinct from other fin whales populations (as used in this Opinion, “populations” are isolated demographically, meaning, they are driven more by internal dynamics — birth and death processes — than by the geographic redistribution of individuals through immigration or emigration. Some usages of the term “stock” are synonymous with this definition of “population” while other usages of “stock” do not).

In the North Pacific Ocean, the International Whaling Commission recognizes two “stocks”: (1) East China Sea and (2) rest of the North Pacific (Donovan, 1991). However, Mizroch *et al.* (1984) concluded that there were five possible “stocks” of fin whales within the North Pacific based on histological analyses and tagging experiments: (1) East and West Pacific that intermingle around the Aleutian Islands; (2) East China Sea; (3) British Columbia; (4) Southern-Central California to Gulf of Alaska; and (5) Gulf of California. Based on genetic analyses, Berube *et al.* (1998) concluded that fin whales in the Sea of Cortez represent an isolated population that has very little genetic exchange with other populations in the North Pacific Ocean (although the geographic distribution of this population and other populations can overlap seasonally). They also concluded that fin whales in the Gulf of St. Lawrence and Gulf of Maine are distinct from fin whales found off Spain and in the Mediterranean Sea.

Regardless of how different authors structure the fin whale population, mark-recapture studies have demonstrated that individual fin whales migrate between management units (Mitchell 1974; Gunnlaugsson and Sigurjónsson 1989), which suggests that these management units are not geographically isolated populations.

Mizroch *et al.* (1984) identified five fin whale “feeding aggregations” in the Pacific Ocean: (1) eastern and western groups that move along the Aleutians (Berzin and Rovnin 1966; Nasu 1974); (2) an East China Sea group; (3) a group that moves north and south along the west coast of North America between California and the Gulf of Alaska (Rice 1974); and (4) a group centered in the Sea of Cortez (Gulf of California).

Hatch (2004) reported that fin whale vocalizations among five regions of the eastern North Pacific were heterogeneous: the Gulf of Alaska, the northeast North Pacific (Washington and British Columbia), the southeast North Pacific (California and northern Baja California), the Gulf of California, and the eastern tropical Pacific.

Sighting data show no evidence of migration between the Sea of Cortez and adjacent areas in the Pacific, but seasonal changes in abundance in the Sea of Cortez suggests that these fin whales might not be isolated (Tershy *et al.* 1993). Nevertheless, Bérubé *et al.* (2002) concluded that the Sea of Cortez fin whale population is genetically distinct from the oceanic population and have lower genetic diversity, which suggests that these fin whales might represent an isolated population.

In its draft recovery plan for fin whales, NMFS recognized three populations in U.S. Pacific waters: Alaska (Northeast Pacific), California/Oregon/Washington, and Hawai’i (Barlow *et al.* 1997; Hill *et al.* 1997). We assume that individuals from the latter “population” of fin whales are the whales that would be exposed to the activities considered in this consultation.

Threats to the Species

NATURAL THREATS. Natural sources and rates of mortality are largely unknown, but Aguilar and Lockyer (1987) suggest annual natural mortality rates may range from 0.04 to 0.06. Although these results are based on studies of fin whales in the northeast Atlantic, there are no comparable estimates for fin whales in the Pacific Ocean. The occurrence of the nematode *Crassicauda boopis* appears to increase the potential for kidney failure in fin whales and may be preventing some fin whale stocks from recovering from whaling (Lambertsen 1992, as cited in Perry *et al.* 1999). Killer whale or shark attacks may injure or kill very young or sick whales (Perry *et al.* 1999, Tomilin 1967).

ANTHROPOGENIC THREATS. Three human activities are known to threaten fin whales: whaling, commercial fishing, and shipping. Historically, whaling represented the greatest threat to every population of fin whales and was ultimately responsible for listing fin whales as an endangered species. As early as the mid-seventeenth century, the Japanese were capturing fin, blue (*Balaenoptera musculus*), and other large whales using a fairly primitive open-water netting technique (Tønnessen and Johnsen 1982, Cherfas 1989). In 1864, explosive harpoons and steam-powered catcher boats were introduced in Norway, allowing the large-scale exploitation of previously unobtainable whale species. After blue whales were depleted in most areas, fin whales became the focus of whaling operations and more than 700,000 fin whales were landed in the Southern Hemisphere alone between 1904 and 1979 (IWC 1995).

As its legacy, whaling has reduced fin whales to a fraction of their historic population size and, as a result, makes it easier for other human activities to push fin whales closer to extinction. Otherwise, whaling currently does not threaten every fin whale population, although it may threaten specific populations.

From 1904 to 1975, the International Whaling Commission estimates that 703,693 fin whales captured and killed in Antarctic whaling operations (IWC 1990). Whaling in the Southern Oceans originally targeted humpback whales, but by 1913, those whales had become rare so whalers shifted their focus to fin and blue whales (Mizroch *et al.* 1984b). From 1911 to 1924, whalers killed 2,000–5,000 fin whales each year. After the introduction of factory whaling ships in 1925, the number of whales killed each year increased substantially: from 1931 to 1972, whalers killed about 511,574 fin whales (Kawamura 1994). In 1937 alone, whalers are reported to have killed more than 28,000 fin whales. From 1953 to 1961, the number of fin whales killed each year averaged around 25,000. In 1962, whalers appeared to shift their focus to sei whale as fin whales became scarce. By 1974, whalers killed fewer than 1,000 fin whales.

Recently released Soviet whaling records indicate a discrepancy between reported and actual fin whale catch numbers by whalers from the former USSR in southern waters between 1947 and 1980 (Zemsky *et al.* 1995). The former USSR previously reported 52,931 whales caught; however, the data that was released recently suggests that only 41,984 were killed.

In the Antarctic Ocean, fin whales are hunted by Japanese whalers who have been allowed to kill up to 10 fin whales each year for the 2005-2006 and 2006-2007 seasons under an Antarctic Special Permit. The Japanese whalers plan to kill 50 fin whales per year starting in the 2007-2008 season and continuing for the next 12 years.

Fin whales are also hunted in subsistence fisheries off West Greenland. In 2004, 5 males and 6 females were killed and landed; 2 other fin whales were struck and lost in the same year. In 2003 2 males and 4 females were landed and 2 other fin whales were struck and lost (IWC 2005). Between 2003 and 2007, the IWC set a catch limit of up to 19 fin whales in this subsistence fishery (IWC 2005), however, the IWC's Scientific Committee recommended limiting the number of fin whale killed in this fishery to 1 to 4 individuals until accurate population estimates are produced.

Despite anecdotal observations from fishermen which suggest that large whales swim through their nets rather than get caught in them (NMFS 2000), fin whales have been entangled by fishing gear off Newfoundland and Labrador in small numbers: a total of 14 fin whales are reported to have been captured in coastal fisheries in those two provinces between 1969 and 1990 (Lien 1994, Perkins and Beamish 1979). Of these 14 fin whales, 7 are known to have died as a result of that capture, although most of the animals that died were less than 15 meters in length (Lien 1994). Between 1999 and 2005, there were 10 confirmed reports of fin whales being entangled in fishing gear along the Atlantic Coast of the U.S. and the Maritime Provinces of Canada (Cole *et al.* 2005, Nelson *et al.* 2007). Of these reports, Fin whales were injured in 1 of the entanglements and killed in 3 entanglements. These data suggest that, despite their size and strength, fin whales are likely to be entangled and, in some cases, killed by gear used in modern fisheries.

Fin whales have also been killed and injured in collisions with vessels more frequently than any other whale. Of 92 fin whales that stranded along the Atlantic Coast of the U.S. between 1975 and 1996, 31 (33%) showed evidence of collisions with ships (Laist *et al.* 2001). Between 1999 and 2006, there were 15 reports of fin whales being struck by vessels along the Atlantic Coast of the U.S. and the Maritime Provinces of Canada (Cole *et al.* 2005, Nelson *et al.* 2007, Glass *et al.* 2008). Of these reports, 13 were confirmed as ship strikes which were reported as having resulted in the death of 11 fin whales.

Ship strikes were identified as a known or potential cause of death in 8 (20%) of 39 fin whales that stranded on the coast of Italy in the Mediterranean Sea between 1986 and 1997 (Laist *et al.* 2001). Throughout the Mediterranean Sea, 46 of the 287 fin whales that are recorded to have stranded between 1897 and 2001 were confirmed to die from injuries sustained by ship strikes (Panigada *et al.* 2006). Most of these fin whales ($n = 43$), were killed between 1972 and 2001 and the highest percentage (37 of 45 or ~82%) killed in the Ligurian Sea and adjacent waters, where the Pelagos Sanctuary for Marine Mammals was established. In addition to these ship strikes, there are numerous reports of fin whales being injured as result of ship strikes off the Atlantic coast of France and the United Kingdom (Jensen and Silber 2003).

Status

Fin whales were listed as endangered under the ESA in 1970. In 1976, the IWC protected fin whales from commercial whaling (Allen 1980). Fin whales are listed as endangered on the IUCN Red List of Threatened Animals (Baillie and Groombridge 1996). They are also protected by the Convention on International Trade in Endangered Species of wild flora and fauna and the MMPA. Critical habitat has not been designated for fin whales.

It is difficult to assess the current status of fin whales because (1) there is no general agreement on the size of the fin whale population prior to whaling and (2) estimates of the current size of the different fin whale populations vary widely (NMFS 2007). We may never know the size of the fin whale population prior to whaling. The most current estimate of the population size of fin whales in the Pacific Ocean is 85,200 (no coefficient of variance or confidence interval was provided) based on the history of catches and trends in catches per unit of effort (IWC 1979). Based on surveys conducted south of 30°S latitude between 1978 and 1988, fin whales in the Southern Ocean were estimated to number about 400,000 (IWC 1979; no coefficient of variance or confidence interval was provided).

Chapman (1976) estimated the “original” population size of fin whales off Nova Scotia as 1,200 and 2,400 off Newfoundland, although he offered no explanation or reasoning to support that estimate. Sergeant (1977) suggested that between 30,000 and 50,000 fin whales once populated the North Atlantic Ocean based on assumptions about catch levels during the whaling period. Sigurjónsson (1995) estimated that between 50,000 and 100,000 fin whales once populated the North Atlantic, although he provided no data or evidence to support that estimate. More recently, Palumbi and Roman (2006) estimated that about 360,000 fin whales (95% confidence interval = 249,000 - 481,000) populated the North Atlantic Ocean before whaling based on mutation rates and estimates of genetic diversity.

Similarly, estimates of the current size of the different fin whale populations and estimates of their global abundance also vary widely. The draft recovery plan for fin whales accepts a minimum population estimate of 2,362 fin whales for the North Atlantic Ocean (NMFS 2007); however, the recovery plan also states that this estimate, which is based on on shipboard and aerial surveys conducted in the Georges Bank and Gulf of St. Lawrence in 1999 is the “best” estimate of the size of this fin whale population (NMFS 2006, 2007). However, based on data produced by surveys conducted between 1978-1982 and other data gathered between 1966 and 1989, Hain *et al.* (1992) estimated that the population of fin whales in the western North Atlantic Ocean (specifically, between Cape Hatteras, North Carolina, and Nova Scotia) numbered about 1,500 whales in the winter and 5,000 whales in the spring and summer. Because authors do not always reconcile “new” estimates with earlier estimates, it is not clear whether the current “best”

estimate represents a refinement of the estimate that was based on older data or whether the fin whale population in the North Atlantic has declined by about 50% since the early 1980s.

The East Greenland-Iceland fin whale population was estimated at 10,000 animals (95 % confidence interval = 7,600 - 14,200), based on surveys conducted in 1987 and 1989 (Buckland *et al.* 1992). The number of eastern Atlantic fin whales, which includes the British Isles-Spain-Portugal population, has been estimated at 17,000 animals (95% confidence interval = 10,400 -28,900; Buckland *et al.* 1992). These estimates are both more than 15 years old and the data available do not allow us to determine if they remain valid.

Forcada *et al.* (1996) estimated there were 3,583 fin whales in the western Mediterranean (standard error = 967; 95% confidence interval = 2,130 - 6,027), which is similar to an estimate published by Notarbartolo-di-Sciara *et al.* (2003). In the Ligurian Sea (which includes the Pelagos Whale Sanctuary and the Gulf of Lions), Forcada *et al.* (1995) estimated there were 901 fin whales (standard error = 196.1).

Regardless of which of these estimates, if any, come closest to actual population sizes, these estimates suggest that the global population of fin whales consists of tens of thousands of individuals. Based on ecological theory and demographic patterns derived from several hundred imperiled species and populations, fin whales appear to exist at population sizes that are large enough to avoid demographic phenomena that are known to increase the extinction probability of species that exist as “small” populations (that is, “small” populations experience phenomena such as demographic stochasticity, inbreeding depression, Allee effects, among others, that cause their population size to become a threat in and of itself). As a result, we assume that fin whales are likely to be threatened more by exogenous threats such as anthropogenic activities (primarily whaling, entanglement, and ship strikes) or natural phenomena (such as disease, predation, or changes in the distribution and abundance of their prey in response to changing climate) than endogenous threats caused by the small size of their population.

Nevertheless, based on the evidence available, the number of fin whales that are recorded to have been killed or injured in the past 20 years by human activities or natural phenomena, does not appear to be increasing the extinction probability of fin whales, although it may slow the rate at which they recover from population declines that were caused by commercial whaling.

Diving and Social Behavior

The percentage of time fin whales spend at the surface varies. Some authors have reported that fin whales make 5-20 shallow dives with each of these dive lasting 13-20 seconds followed by a deep dive lasting between 1.5 and 15 minutes (Gambell 1985). Other authors have reported that the fin whale's most common dives last between 2 and 6 minutes, with 2 to 8 blows between dives (Hain *et al.* 1992, Watkins 1981).

In waters off the Atlantic Coast of the U.S. individual fin whales or pairs represented about 75% of the fin whales observed during the Cetacean and Turtle Assessment Program (Hain *et al.* 1992). Individual whales or groups of less than five individuals represented about 90% of the observations (out of 2,065 observations of fin whales, the mean group size was 2.9, the modal value was 1, and the range was 1 – 65 individuals; Hain *et al.* 1992).

Vocalizations and Hearing

The sounds fin whales produce underwater are one of the most studied *Balaenoptera* sounds. Fin whales produce a variety of low-frequency sounds in the 10-200 Hz band (Watkins 1981; Watkins *et al.* 1987a; Edds 1988; Thompson *et al.* 1992). The most typical signals are long, patterned sequences of short duration (0.5-2s) infrasonic pulses in the 18-35 Hz range (Patterson and Hamilton 1964). Estimated source levels are as high as 190 dB (Patterson and Hamilton 1964; Watkins *et al.* 1987a; Thompson *et al.* 1992; McDonald *et al.* 1995). In temperate waters intense bouts of long patterned sounds are very common from fall through spring, but also occur to a lesser extent during the summer in high latitude feeding areas (Clark and Charif 1998). Short sequences of rapid pulses in the 20-70 Hz band are associated with animals in social groups (McDonald *et al.* 1995, Clark personal communication, McDonald personal communication). Each pulse lasts on the order of one second and contains twenty cycles (Tyack 1999).

During the breeding season, fin whales produce a series of pulses in a regularly repeating pattern. These bouts of pulsing may last for longer than one day (Tyack 1999). The seasonality and stereotype of the bouts of patterned sounds suggest that these sounds are male reproductive displays (Watkins *et al.* 1987a), while the individual counter-calling data of McDonald *et al.* (1995) suggest that the more variable calls are contact calls. Some authors feel there is geographic differences in the frequency, duration and repetition of the pulses (Thompson *et al.* 1992).

As with other vocalizations produced by baleen whales, the function of fin whale vocalizations is unknown, although there are numerous hypotheses (which include include: maintenance of inter-individual distance, species and individual recognition, contextual information transmission, maintenance of social organization, location of topographic features, and location of prey resources; see the review by Thompson *et al.* 1992 for more information on these hypotheses). Responses to conspecific sounds have been demonstrated in a number of mysticetes, and there is no reason to believe that fin whales do not communicate similarly (Edds-Walton 1997). The low-frequency sounds produced by fin whales have the potential to travel over long distances, and it is possible that long-distance communication occurs in fin whales (Payne and Webb 1971; Edds-Walton 1997). Also, there is speculation that the sounds may function for long-range echolocation of large-scale geographic targets such as seamounts, which might be used for orientation and navigation (Tyack 1999).

Cetaceans have an auditory anatomy that follows the basic mammalian pattern, with some modifications to adapt to the demands of hearing in the sea. The typical mammalian ear is divided into the outer ear, middle ear, and inner ear. The outer ear is separated from the inner ear by the tympanic membrane, or eardrum. In terrestrial mammals, the outer ear, eardrum, and middle ear function to transmit airborne sound to the inner ear, where the sound is detected in a fluid. Since cetaceans already live in a fluid medium, they do not require this matching, and thus do not have an air-filled external ear canal. The inner ear is where sound energy is converted into neural signals that are transmitted to the central nervous system via the auditory nerve. Acoustic energy causes the basilar membrane in the cochlea to vibrate. Sensory cells at different positions along the basilar membrane are excited by different frequencies of sound (Tyack 1999). Baleen whales have inner ears that appear to be specialized for low-frequency hearing. In a study of the morphology of the mysticete auditory apparatus, Ketten (1997) hypothesized that large mysticetes have acute infrasonic hearing.

4.2 Humpback Whale

Distribution

Humpback whales are a cosmopolitan species that occur in the Atlantic, Indian, Pacific, and Southern Oceans. Humpback whales migrate seasonally between warmer, tropical or sub-tropical waters in winter months (where they reproduce and give birth to calves) and cooler, temperate or sub-Arctic waters in summer months (where they feed). In their summer foraging areas and winter calving areas, humpback whales tend to occupy shallower, coastal waters; during their seasonal migrations, however, humpback whales disperse widely in deep, pelagic waters and tend to avoid shallower coastal waters (Winn and Reichley 1985).

In the North Pacific Ocean, the summer range of humpback whales includes coastal and inland waters from Point Conception, California, north to the Gulf of Alaska and the Bering Sea, and west along the Aleutian Islands to the Kamchatka Peninsula and into the Sea of Okhotsk (Tomlin 1967, Nemoto 1957, Johnson and Wolman 1984 as cited in NMFS 1991b). These whales migrate to Hawai'i, southern Japan, the Mariana Islands, and Mexico during the winter.

In the Atlantic Ocean, humpback whales range from the mid-Atlantic bight, the Gulf of Maine, across the southern coast of Greenland and Iceland, and along coast of Norway in the Barents Sea. These humpback whales migrate to the western coast of Africa and the Caribbean Sea during the winter.

In the Southern Ocean, humpback whales occur in waters off Antarctica. These whales migrate to the waters off Venezuela, Brazil, southern Africa, western and eastern Australia, New Zealand, and islands in the southwest Pacific during the austral winter. A separate population of humpback whales appears to reside in the Arabian Sea in the Indian Ocean off the coasts of Oman, Pakistan, and India (Mikhalev 1997).

Population Structure

Descriptions of the population structure of humpback whales differ depending on whether an author focuses on where humpback whales winter or where they feed. During winter months in northern or southern hemispheres, adult humpback whales migrate to specific areas in warmer, tropical waters to reproduce and give birth to calves. During summer months, humpback whales migrate to specific areas in northern temperate or sub-arctic waters to forage. In summer months, humpback whales from different "reproductive areas" would congregate to feed; in the winter months, whales would migrate from different foraging areas to a single wintering area. In either case, humpback whales appear to form "open" populations; that is, populations that are connected through the movement of individual animals.

NORTH PACIFIC OCEAN. NMFS' Stock Assessment Reports recognize four "stocks" of humpback whales in the North Pacific Ocean, based on genetic and photo-identification studies: two Eastern North Pacific stocks, one Central North Pacific stock, and one Western Pacific stock (Hill and DeMaster 1998). The first two of these "stocks" are based on where these humpback whales winter: the central North Pacific "stock" winters in the waters around Hawai'i while the eastern North Pacific "stock" (also called the California-Oregon-Washington-Mexico stock) winters along coasts of Central America and Mexico. However, Calambokidis *et al.* (1997) identified humpback whales from Southeast Alaska (central North Pacific), the California-Oregon-Washington (eastern North Pacific),

and Ogasawara Islands (Japan, Western Pacific) groups in the Hawai'ian Islands during the winter; humpback whales from the Kodiak Island, Southeast Alaska, and British Columbia groups in the Ogasawara Islands; and whales from the British Columbia, Southeast Alaska, Prince Wouldiam Sound, and Shumagin-Aleutian Islands groups in Mexico.

Herman (1979), however, presented extensive evidence and various lines of reasoning to conclude that the humpback whales associated with the main Hawai'ian Islands immigrated to those waters only in the past 200 years. Winn and Reichley (1985) identified genetic exchange between the humpback whales that winter off Hawai'i and those that winter off Mexico (with further mixing on feeding areas in Alaska) and suggested that the humpback whales that winter in Hawai'i may have emigrated from wintering areas in Mexico. Based on these patterns of movement, we conclude that the various "stocks" of humpback whales are not true populations or, at least, they represent populations that experience substantial levels of immigration and emigration.

A "population" of humpback whales winters in an area extending from the South China Sea east through the Philippines, Ryukyu Retto, Ogasawara Gunto, Mariana Islands, and Marshall Islands (Rice 1998). Based on whaling records, humpback whales wintering in this area have also occurred in the southern Marianas through the month of May (Eldredge 1991). There are several recent records of humpback whales in the Mariana Islands, at Guam, Rota, and Saipan during January through March (Darling and Mori 1993; Eldredge 1991, 2003; Taitano 1991). During the summer, whales from this population migrate to the Kuril Islands, Bering Sea, Aleutian Islands, Kodiak, Southeast Alaska, and British Columbia to feed (Angliss and Outlaw 2007, Calambokidis 1997, 2001).

Between 2004 and 2006, an international group of whale researchers coordinated their surveys to conduct a comprehensive assessment of the population structure, levels of abundance, and status of humpback whales in the North Pacific (Calambokidis *et al.* 2008). That effort identified a total of 7,971 unique individuals from photographs taken during close approaches.

NORTH ATLANTIC OCEAN. In the Atlantic Ocean, humpback whales aggregate in four feeding areas in the summer months: (1) Gulf of Maine, eastern Canada, (2) west Greenland, (3) Iceland and (4) Norway (Katona and Beard 1990, Smith *et al.* 1999). The principal breeding range for these whales lies from the Antilles and northern Venezuela to Cuba (Winn *et al.* 1975, Balcomb and Nichols 1982, Whitehead and Moore 1982). The largest contemporary breeding aggregations occur off the Greater Antilles where humpback whales from all of the North Atlantic feeding areas have been identified from photographs (Katona and Beard 1990, Clapham *et al.* 1993b, Mattila *et al.* 1994, Palsbøll *et al.* 1997, Smith *et al.* 1999, Stevick *et al.* 2003a). Historically, an important breeding aggregation was located in the eastern Caribbean based on the important humpback whale fisheries this region supported (Mitchell and Reeves 1983, Reeves *et al.* 2001, Smith and Reeves 2003). Although sightings persist in those areas, modern humpback whale abundance appears to be low (Winn *et al.* 1975, Levenson and Leapley 1978, Swartz *et al.* 2003). Winter aggregations also occur at the Cape Verde Islands in the Eastern North Atlantic (Reiner *et al.* 1996, Reeves *et al.* 2002, Moore *et al.* 2003). In another example of the "open" structure of humpback whale populations, an individual humpback whale migrated from the Indian Ocean to the South Atlantic Ocean and demonstrated that individual whales may migrate from one ocean basin to another (Pomilla and Rosenbaum 2005).

INDIAN OCEAN. As discussed previously, a separate population of humpback whales appears to reside in the Arabian Sea in the Indian Ocean off the coasts of Oman, Pakistan, and India (Mikhalev 1997).

Threats to the Species

NATURAL THREATS. There is limited information on natural phenomena that kill or injure humpback whales. We know that humpback whales are killed by orcas (Dolphin 1989, Florez-González *et al.* 1984, Whitehead and Glass 1985) and are probably killed by false killer whales and sharks. Because 7 female and 7 male humpback whales stranded on the beaches of Cape Cod and had died from toxin produced by dinoflagellates between November 1987 and January 1988, we also know that adult and juvenile humpback whales are killed by naturally-produced biotoxins (Geraci *et al.* 1989).

Other natural sources of mortality, however, remain largely unknown. Similarly, we do not know whether and to what degree natural mortality limits or restricts patterns of growth or variability in humpback whale populations.

ANTHROPOGENIC THREATS. Three human activities are known to threaten humpback whales: whaling, commercial fishing, and shipping. Historically, whaling represented the greatest threat to every population of humpback whales and was ultimately responsible for listing humpback whales as an endangered species. From 1900 to 1965, nearly 30,000 whales were taken in modern whaling operations of the Pacific Ocean. Prior to that, an unknown number of humpback whales were taken (Perry *et al.* 1999). In 1965, the International Whaling Commission banned commercial hunting of humpback whales in the Pacific Ocean. As its legacy, whaling has reduced humpback whales to a fraction of their historic population size and, as a result, makes it easier for other human activities to push these whales closer to extinction.

Humpback whales are also killed or injured during interactions with commercial fishing gear. Like fin whales, humpback whales have been entangled by fishing gear off Newfoundland and Labrador, Canada: a total of 595 humpback whales are reported to have been captured in coastal fisheries in those two provinces between 1969 and 1990 (Lien 1994, Perkins and Beamish 1979). Of these whales, 94 are known to have died as a result of that capture, although, like fin whales, most of the animals that died were smaller: less than 12 meters in length (Lien 1994). These data suggest that, despite their size and strength, humpback whales are likely to be entangled and, in some cases, killed by gear used in modern fisheries.

There are also reports of entangled humpback whales from the Hawai'ian Islands. In 1991, a humpback whale was observed entangled in longline gear and released alive (Hill *et al.* 1997). In 1995, a humpback whale in Maui waters was found trailing numerous lines (not fishery-related) and entangled in mooring lines. The whale was successfully released, but subsequently stranded and was attacked and killed by tiger sharks in the surf zone. Also in 1996, a vessel from Pacific Missile Range Facility in Hawai'i rescued an entangled humpback, removing two crab pot floats from the whale. From 2001 through 2006, there were 23 reports of entangled humpback whales in Hawai'ian waters; 16 of these reports were from 2005 and 2006.

Many of the entangled humpback whales observed in Hawai'ian waters brought the gear with them from higher latitude feeding grounds; for example, the whale the U.S. Navy rescued in 1996 had been entangled in gear that was traced to a recreational fisherman in southeast Alaska. Thus far, 6 of the entangled humpback whales observed in the

Hawai'ian Islands have been confirmed to have been entangled in gear from Alaska. Nevertheless, humpback whales are also entangled in fishing gear in the Hawai'ian Islands. Since 2001, there have been 5 observed interactions between humpback whales and gear associated with the Hawai'i-based longline fisheries (NMFS 2008). In each instance, however, all of the whales were disentangled and released or they were able to break free from the gear without reports of impairment of the animal's ability to swim or feed.

Along the Atlantic Coast of the U.S. and the Maritime Provinces of Canada, there were 160 reports of humpback whales being entangled in fishing gear between 1999 and 2005 (Cole *et al.* 2005, Nelson *et al.* 2007). Of these reports, 95 entanglements were confirmed resulting in the injury of 11 humpback whales and the death of 9 whales. No information is available on the number of humpback whales that have been killed or seriously injured by interactions with fishing fleets outside of U.S. waters.

Along the Atlantic Coast of the U.S. and the Maritime Provinces of Canada, there were 160 reports of humpback whales being entangled in fishing gear between 1999 and 2005 (Cole *et al.* 2005, Nelson *et al.* 2007). Of these reports, 95 entanglements were confirmed resulting in the injury of 11 humpback whales and the death of 9 whales. No information is available on the number of humpback whales that have been killed or seriously injured by interactions with fishing fleets outside of U.S. waters.

The number of humpback whales that have been killed by ship strikes is exceeded only by fin whales (Jensen and Silber 2003). Of 123 humpback whales that stranded along the Atlantic Coast of the U.S. between 1975 and 1996, 10 (8.1%) showed evidence of collisions with ships (Laist *et al.* 2001). Between 1999 and 2006, there were 18 reports of humpback whales being struck by vessels along the Atlantic Coast of the U.S. and the Maritime Provinces of Canada (Cole *et al.* 2005, Nelson *et al.* 2007, Glass *et al.* 2008). Of these reports, 15 were confirmed as ship strikes which were reported as having resulted in the death of 10 humpback whales.

On the Pacific coast, a humpback whale is killed about every other year by ship strikes (Barlow *et al.* 1997). The humpback whale calf that was found stranded on Oahu with evidence of vessel collision (propeller cuts) in 1996 suggests that ship collisions might kill adults, juvenile, and calves (NMFS unpublished data). Despite several literature searches, we did not identify information on the number of humpback whales killed or seriously injured by ship strikes outside of U.S. waters.

In addition to ship strikes in North America and Hawai'i, there are several reports of humpback whales being injured as result of ship strikes off the Antarctic Peninsula, in the Caribbean Sea, the Mediterranean Sea, off Australia, Bay of Bengal (Indian Ocean), Brazil, New Zealand, Peru, and South Africa.

Status

Humpback whales were listed as endangered under the ESA in 1973. Humpback whales are listed as endangered on the IUCN Red List of Threatened Animals (Baillie and Groombridge 1996). They are also protected by the Convention on International Trade in Endangered Species of wild flora and fauna and the MMPA. Critical habitat has not been designated for humpback whales.

It is difficult to assess the current status of humpback whales for the same reasons that it is difficult to assess the status of fin whales: (1) there is no general agreement on the size of the humpback whale population prior to whaling and (2) estimates of the current size of the different humpback whale populations vary widely and produce estimates that are not always comparable to one another, although robust estimates of humpback whale populations in the western North Atlantic have been published. We may never know the size of the humpback whale population prior to whaling.

Winn and Reichley (1985) argued that the global population of humpback whales consisted of at least 150,000 whales in the early 1900s, with the largest population historically occurring in the Southern Ocean. Based on analyses of mutation rates and estimates of genetic diversity, Palumbi and Roman (2006) concluded that there may have been as many as 240,000 (95% confidence interval = 156,000 – 401,000) humpback whales in the North Atlantic before whaling began. In the western North Atlantic between Davis Strait, Iceland and the West Indies, Mitchell and Reeves (1983) estimated there were at least 4,685 humpback whales in 1865 based on available whaling records (although the authors note that this does not represent a “pre-exploitation estimate” because whalers from Greenland, the Gulf of St. Lawrence, New England, and the Caribbean Sea had been hunting humpback whales before 1865).

Estimates of the number of humpback whales occurring in the different populations that inhabit the Northern Pacific population have risen over time. In the 1980s, the size of the North Pacific humpback whale population was estimated to range from 1,407 to 2,100 (Baker 1985; Darling and Morowitz 1986; Baker and Herman 1987). By the mid-1990s, the population was estimated to consist of about 6,000 whales (standard error = 474) in the North Pacific (Calambokidis *et al.* 1997; Cerchio 1998; Mobley *et al.* 1999).

As discussed previously, between 2004 and 2006, an international group of whale researchers coordinated their surveys to conduct a comprehensive assessment of the population structure, levels of abundance, and status of humpback whales in the North Pacific (Calambokidis *et al.* 2008). That effort identified a total of 7,971 unique individuals from photographs taken during close approaches. Of this total, 4,516 individuals were identified at wintering regions in at least one of the three seasons in which the study surveyed wintering area and 4,328 individuals were identified at least once at feeding areas in one of the two years in which the study surveyed feeding areas. Based on the results of that effort, Calambokidis *et al.* (2008) estimated that the current population of humpback whales in the North Pacific Ocean consisted of about 18,300 whales, not counting calves. Almost half of the humpback whales that were estimated to occur in wintering areas, or about 8,000 humpback whales, occupy the Hawai’ian Islands during the winter months.

In the North Atlantic, Stevick *et al.* (2003) estimated the size of the humpback whale population between 1979 and 1993 by applying statistical analyses that are commonly used in capture-recapture studies to individual humpback whales that were identified based on natural markings. Between 1979 and 1993, they estimated that the North Atlantic populations (what they call the “West Indies breeding population”) consisted of between 5,930 and 12,580 individual whales. The best estimate they produced (11,570; 95% confidence interval = 10,290 -13,390) was based on samples from 1992 and 1993. If we assume that this population has grown according to the instantaneous rate of increase Stevick *et al.* (2003) estimated for this population ($r = 0.0311$), this would lead us to estimate that this population might consist of about 18,400 individual whales in 2007-2008.

Regardless of which of these estimates, if any, most closely correspond to the actual size and trend of the humpback whale population, all of these estimates suggest that the global population of humpback whales consists of tens of thousands of individuals, that the North Atlantic population consists of at least 2,000 individuals and the North Pacific population consists of about 18,000 individuals. Based on ecological theory and demographic patterns derived from several hundred imperiled species and populations, humpback whales appear to exist at population sizes that are large enough to avoid demographic phenomena that are known to increase the extinction probability of species that exist as “small” populations (that is, “small” populations experience phenomena such as demographic stochasticity, inbreeding depression, Allee effects, among others, that cause their population size to become a threat in and of itself). As a result, we assume that humpback whales would have elevated extinction probabilities because of exogenous threats caused by anthropogenic activities (primarily whaling, entanglement, and ship strikes) and natural phenomena (such as disease, predation, or changes in the distribution and abundance of their prey in response to changing climate) rather than endogenous threats caused by the small size of their population.

Diving and Social Behavior

In Hawai’ian waters, humpback whales remain almost exclusively within the 1820 m isobath and usually within waters depths less than 182 meters. Maximum diving depths are approximately 150 m (492 ft) (but usually <60 m [197 ft]), with a very deep dive (240 m [787 ft]) recorded off Bermuda (Hamilton *et al.* 1997). They may remain submerged for up to 21 min (Dolphin 1987). Dives on feeding grounds ranged from 2.1-5.1 min in the north Atlantic (Goodyear unpublished manuscript). In southeast Alaska average dive times were 2.8 min for feeding whales, 3.0min for non-feeding whales, and 4.3 min for resting whales (Dolphin 1987). In the Gulf of California humpback whale dive times averaged 3.5 min (Strong 1989). Because most humpback prey is likely found above 300 m depths most humpback dives are probably relatively shallow.

In a review of the social behavior of humpback whales, Clapham (1986) reported that they form small, unstable social groups during the breeding season. During the feeding season they form small groups that occasionally aggregate on concentrations of food. Feeding groups are sometimes stable for long-periods of times. There is good evidence of some territoriality on feeding (Clapham 1994, 1996), and calving areas (Tyack 1981). In calving areas, males sing long complex songs directed towards females, other males or both. The breeding season can best be described as a floating lek or male dominance polygyny (Clapham 1996). Intermale competition for proximity to females can be intense as expected by the sex ratio on the breeding grounds which may be as high as 2.4:1.

Vocalizations and Hearing

Humpback whales produce at least three kinds of vocalization: (1) complex songs with components ranging from at least 20Hz B 4 kHz with estimated source levels from 144 B 174 dB, which are mostly produced by males on breeding areas (Payne 1970, Winn *et al.* 1970, Richardson *et al.* 1995); (2) social sounds in breeding areas that extend from 50 Hz B more than 10 kHz with most energy below 3 kHz (Tyack and Whitehead 1983, Richardson *et al.* 1995); and (3) vocalizations in foraging areas that are less frequent, but tend to be 20Hz B 2 kHz with estimated sources levels in excess of 175 dB re 1 μ Pa-m (Thompson *et al.* 1986, Richardson *et al.* 1995). Sounds that investigators associate with aggressive behavior in male humpback whales are very different from songs; they extend from 50 Hz to 10 kHz (or higher), with most energy in components below 3 kHz (Tyack 1983, Silber 1986). These sounds appear to have an effective range of up to 9 kilometers (Tyack and Whitehead 1983). A general

description of the anatomy of the ear for cetaceans is provided in the description of the fin whale above; that description is also applicable to humpback whales.

In summary, humpback whales produce at least three kinds of sounds:

1. Complex songs with components ranging from at least 20 Hz–4 kHz with estimated source levels from 144 – 174 dB; these are mostly sung by males on the breeding grounds (Frazer and Mercado 2000; U.S. Navy 2006a; Payne 1970; Winn *et al.* 1970a; Richardson *et al.* 1995)
2. Social sounds in the breeding areas that extend from 50Hz – more than 10 kHz with most energy below 3 kHz (Tyack and Whitehead 1983, Richardson *et al.* 1995); and
3. Feeding area vocalizations that are less frequent, but tend to be 20 Hz–2 kHz with estimated sources levels in excess of 175 dB re 1 μ Pa-m (Thompson *et al.* 1986; Richardson *et al.* 1995).

Helwig *et al.* (2000) produced a mathematical model of a humpback whale's hearing sensitivity based on the anatomy of the whale's ear. Based on that model, they concluded that humpback whales would be sensitive to sound in frequencies ranging from 0.7kHz to 10kHz, with a maximum sensitivity between 2 and 6kHz.

4.3 North Atlantic Right Whale

Distribution

Right whales exist as three separate species: North Atlantic right whales (*Eubalaena glacialis*) that are distributed seasonally from the Gulf of Mexico north to waters off Newfoundland and Labrador (on the western Atlantic) and from northern Africa and Spain north to waters north of Scotland and Ireland (the Shetland and Orkney Islands; on the eastern Atlantic coast); North Pacific right whales (*E. japonica*) that historically ranged seasonally from the coast of Baja California north to the northern Bering Sea (on the eastern Pacific) and the south China Sea north to the Sea of Okhotsk and the Kamchatka Peninsula (on the western Pacific); and Southern right whales (*E. australis*) which historically ranged across the Southern Ocean, including waters off southern Australia, New Zealand, Chile, Argentina, and southern Africa (north to Madagascar).

In the western Atlantic Ocean, right whales generally occur in northwest Atlantic waters west of the Gulf Stream and are most commonly associated with cooler waters (21°C). North Atlantic right whales are most abundant in Cape Cod Bay between February and April (Hamilton and Mayo 1990 Schevill *et al.* 1986, Watkins and Schevill 1982), in the Great South Channel in May and June (Kenney *et al.* 1986, Payne *et al.* 1990), and off Georgia and Florida from mid-November through March (Slay *et al.* 1996). Right whales also frequent the Bay of Fundy, Browns and Baccaro Banks (in Canadian waters), Stellwagen Bank and Jeffrey's Ledge in the spring and summer months, and use mid-Atlantic waters as a migratory pathway between the winter calving grounds and their spring and summer nursery-feeding areas in the Gulf of Maine. North Atlantic right whales are not found in the Caribbean Sea and have been recorded only rarely in the Gulf of Mexico.

Population Structure

NMFS recognizes two extant groups of right whales in the North Atlantic Ocean (*E. glacialis*): an eastern population and a western population. A third population may have existed in the central Atlantic (migrating from east of Greenland to the Azores or Bermuda), but appears to be extinct, if it existed as a distinct population at all (Perry *et al.* 1999).

The degree to which the two extant populations of North Atlantic right whales are connected through immigration or emigration is unknown, but the two populations have historically been treated as if they are isolated populations. Nevertheless, on 5 January 2009, a North Atlantic right whale that had been observed in the Bay of Fundy on 24 September 2008 was observed in the Azore Islands (38 22.698 N and 28 30.341W) which demonstrates that at least one right whale migrated across the Atlantic (L. Steiner, post on MarMam, 7 January 2009).

Threats to the Species

NATURAL THREATS. Several researchers have suggested that the recovery of right whales in the northern hemisphere has been impeded by competition with other whales for food (Rice 1974, Scarff 1986). Mitchell (1975) analyzed trophic interactions among baleen whales in the western North Atlantic and noted that the foraging grounds of right whales overlapped with the foraging grounds of sei whales and both preferentially feed on copepods. Reeves *et al.* (1978) noted that several species of whales feed on copepods in the eastern North Pacific, so that the foraging pattern and success of right whales would be affected by other whales as well. Mitchell (1975) argued that the right whale population in the North Atlantic had been depleted by several centuries of whaling before steam-driven boats allowed whalers to hunt sei whales; from this, he hypothesized that the decline of the right whale population made more food available to sei whales and helped their population to grow. He then suggested that competition with the sei whale population impedes or prevents the recovery of the right whale population.

ANTHROPOGENIC THREATS. Several human activities are known to threaten North Atlantic right whales: whaling, commercial fishing, shipping, and water pollution. Historically, whaling represented the greatest threat to every population of fin whales and was ultimately responsible for listing fin whales as an endangered species. As its legacy, whaling reduced North Atlantic right whales to about 300 individuals in the western North Atlantic Ocean; the North Atlantic right whales population in the eastern North Atlantic Ocean is probably much smaller, although we cannot estimate the size of that population from the data available.

Of the current threats to North Atlantic right whales, entanglement in commercial fishing gear and ship strikes currently pose the greatest threat to the persistence of North Atlantic right whales. Along the Atlantic Coast of the U.S. and the Maritime Provinces of Canada, there were 47 reports of right whales being entangled in fishing gear between 1999 and 2006 (Cole *et al.* 2005, Nelson *et al.* 2007, Glass *et al.* 2008). Of the 44 reports that NMFS could confirm, right whales were injured in 6 of the entanglements and killed in 5 entanglements.

In the same region, there were 21 reports of right whales being struck by vessels between 1999 and 2006 (Cole *et al.* 2005, Nelson *et al.* 2007, Glass *et al.* 2008). Of the reports that NMFS could confirm, right whales were injured 3 of the ship strikes and killed in 31 ship strikes. In April 2009, a research vessel in the Stellwagen Bank National Marine Sanctuary struck a North Atlantic right whale while transiting to port. Although the whale was not recovered, it appeared to have been seriously injured in the incident.

The rate at which North Atlantic right whales are killed or injured by ship strikes and in entanglements also appears to be increasing over time: from 1999 to 2003, about 2.6 right whales were killed per year; from 2000 to 2004, about 2.8 right whales were killed per year; from 2001 to 2005, an average of 3.2 right whales were killed per year (NMFS 2005, NMFS 2006, Waring *et al.* 2007). The most recent estimate of anthropogenic mortality and serious injury available shows a rate of 3.8 right whales per year from 2002 to 2006. Of these, 2.4 were attributed to ship strikes and 1.4 were attributed to entanglements (Glass *et al.* 2008)

Status

Right whales (both *E. glacialis* and *E. australis*) were listed as endangered under the ESA in 1970. In April, 2008, NMFS divided right whales into three separate listings: Northern right whales (*E. glacialis*), North Pacific right whales (*E. japonica*), and Southern right whales (*E. australis*), all of which were listed as endangered. Since 1949, the northern right whale has been protected from commercial whaling by the International Whaling Commission. They are also protected by the Convention on International Trade in Endangered Species of wild flora and fauna and the MMPA. NMFS designated critical habitat for the North Atlantic population of right whales on 3 June 1994 (59 FR 28793).

The legacy effects of whaling appear to have had and continue to have greatest effect on endangered Northern Atlantic right whales by reducing them to a population size that is sufficiently small to experience “small population dynamics” (Caughley 1994, Lande 1993, Lande *et al.* 2003, Melbourne and Hastings 2008). Kraus *et al.* (2005) estimated that about 350 individual right whales, including about 70 mature females, occur in the western North Atlantic. Waring *et al.* (2008) reviewed the data from the recapture database and estimated that the right whale population in the western North Atlantic Ocean numbers about 325 whales.

At these population sizes, we would expect North Atlantic right whales to have higher probabilities of becoming extinct because of demographic stochasticity, demographic heterogeneity (Coulson *et al.* 2006, Fox *et al.* 2006) — including stochastic sex determination (Lande *et al.* 2003) — and the effects of phenomena interacting with environmental variability. Demographic stochasticity refers to the randomness in the birth or death of an individual in a population, which results in random variation on how many young that individuals produce during their lifetime and when they die. Demographic heterogeneity refers to variation in lifetime reproductive success of individuals in a population (generally, the number of reproductive adults an individual produces over their reproductive lifespan), such that the deaths of different individuals have different effects on the growth or decline of a population (Coulson *et al.* 2006). Stochastic sex determination refers to the randomness in the sex of offspring such that sexual ratios in population fluctuate over time (Melbourne and Hastings 2008).

At small population sizes, population’s experience higher extinction probabilities because of their population size, because stochastic sexual determination leaves them with all males or all females (which occurred to the heath hen and dusky seaside sparrow just before they became extinct), or because the loss of individuals with high reproductive success has a disproportionate effect on the rate at which the population declines (Coulson *et al.* 2006). In general, an individual’s contribution to the growth (or decline) of the population it represents depends, in part, on the number of individuals in the population: the smaller the population, the more the performance of a single individual is likely to affect the population’s growth or decline (Coulson *et al.* 2006). Given the small size of the

northern right whale population, the performance (= “fitness” measured as the longevity of individuals and their reproductive success over their lifespan) of individual whales would be expected to have appreciable consequences for the growth or decline of the northern right whale population. Evidence of the small population dynamics of North Atlantic right whales appears in demographic models that suggest that the death or survival of one or two individual animals is sufficient to determine whether North Atlantic right whales are likely to accelerate or abate the rate at which their population continues to decline (Fujiwara and Caswell 2001).

These phenomena would increase the extinction probability of northern right whales and amplify the potential consequences of human-related activities on this species. Based on their population size and population ecology (that is, slow-growing mammals that give birth to single calves with several years between births), we assume that right whales would have elevated extinction probabilities because of exogenous threats caused by anthropogenic activities that result in the death or injury of individual whales (for example, ship strikes or entanglement) and natural phenomena (such as disease, predation, or changes in the distribution and abundance of their prey in response to changing climate) *as well as* endogenous threats resulting from the small size of their population. Based on the number of other species in similar circumstances that have become extinct (and the small number of species that have avoided extinction in similar circumstances), the longer North Atlantic right whales remain in these circumstances, the greater their extinction probability becomes.

Diving and Social Behavior

Right whales dive as deep as 306 m (Mate *et al.* 1992). In the Great South Channel, average diving time is close to 2 minutes; average dive depth is 7.3 m with a maximum of 85.3 m (Winn *et al.* 1994). In the U.S. Outer Continental Shelf the average diving time is about 7 min although maximum dive durations are considerably longer (CeTAP 1982). For example, Baumgartner and Mate (2003) reported right whale feeding dives were characterized by a rapid descent from the surface to a particular depth between 80 and 175 m (262 to 574 ft) with animals remaining at those depths for 5 to 14 min, then ascending quickly to the surface (Baumgartner and Mate 2003). Longer surface intervals have been observed for reproductively active females and their calves (Baumgartner and Mate, 2003).

Northern right whales are primarily seen in groups of less than 12, most often singles or pairs (Jefferson *et al.* 1993). They may form larger groups while on feeding or breeding areas (Jefferson *et al.* 1993).

Vocalizations

North Atlantic right whales produce a variety of sounds, including moans, screams, gunshots, blows, upcalls, downcalls, and warbles that are often linked to specific behaviors (Matthews *et al.*, 2001; Laurinolli *et al.*, 2003; Vanderlaan *et al.*, 2003; Parks *et al.*, 2005; Parks and Tyack, 2005). Sounds can be divided into three main categories: (1) blow sounds; (2) broadband impulsive sounds; and (3) tonal call types (Parks and Clark, 2007). Blow sounds are those coinciding with an exhalation; it is not known whether these are intentional communication signals or just produced incidentally (Parks and Clark, 2007).

Broadband sounds include non-vocal slaps (when the whale strikes the surface of the water with parts of its body) and the “gunshot” sound; data suggests that the latter serves a communicative purpose (Parks and Clark, 2007). Tonal calls can be divided into simple, low-frequency, stereo-typed calls and more complex, frequency-modulated,

higher-frequency calls (Parks and Clark 2007). Most of these sounds range in frequency from 0.02 to 15 kHz (dominant frequency range from 0.02 to less than 2 kHz; durations typically range from 0.01 to multiple seconds) with some sounds having multiple harmonics (Parks and Tyack 2005).

Source levels for some of these sounds have been measured as ranging from 137 to 192 dB root-mean-square (rms) re 1 μ Pa-m (decibels at the reference level of one micro Pascal at one meter) (Parks *et al.*, 2005; Parks and Tyack, 2005). Parks and Clark (2005) suggested that the frequency of right whale vocalizations increases significantly during the period from dusk until dawn. Recent morphometric analyses of North Atlantic right whale inner ears estimates a hearing range of approximately 0.01 to 22 kHz based on established marine mammal models (Parks *et al.* 2004, Parks and Tyack 2005, Parks *et al.* 2007). In addition, Parks *et al.* (2007) estimated the functional hearing range for right whales to be 15 Hz to 18 kHz.

4.4 Sei Whale

Distribution

Sei whales occur in every ocean except the Arctic Ocean. The migratory pattern of this species is thought to encompass long distances from high-latitude feeding areas in summer to low-latitude breeding areas in winter; however, the location of winter areas remains largely unknown (Perry *et al.* 1999). Sei whales are often associated with deeper waters and areas along the continental shelf edge (Hain *et al.* 1985); however, this general offshore pattern of sei whale distribution is disrupted during occasional incursions into more shallow and inshore waters (Waring *et al.* 2004).

In the western Atlantic Ocean, sei whales occur from Labrador, Nova Scotia, and Labrador in the summer months and migrate south to Florida, the Gulf of Mexico, and the northern Caribbean (Gambell 1985, Mead 1977). In the eastern Atlantic Ocean, sei whales occur in the Norwegian Sea (as far north as Finnmark in northeastern Norway), occasionally occurring as far north as Spitsbergen Island, and migrate south to Spain, Portugal, and northwest Africa (Jonsgård and Darling 1974, Gambell 1985).

In the north Pacific Ocean, sei whales occur from the Bering Sea south to California (on the east) and the coasts of Japan and Korea (on the west). During the winter, sei whales are found from 20°-23°N (Masaki 1977; Gambell 1985). Horwood (1987) reported that 75 - 85% of the North Pacific population of sei whales resides east of 180° longitude.

Sei whales occur throughout the Southern Ocean during the summer months, although they do not migrate as far south to feed as blue or fin whales. During the austral winter, sei whales occur off Brazil and the western and eastern coasts of Southern Africa and Australia.

Population Structure

The population structure of sei whales is largely unknown because there are so few data on this species. The International Whaling Commission's Scientific Committee groups all of the sei whales in the entire North Pacific Ocean into one population (Donovan 1991). However, some mark-recapture, catch distribution, and morphological research suggest more than one "stock" of sei whales may exist in the Pacific: one between 175°W and 155°W

longitude, and another east of 155°W longitude (Masaki 1977); however, the amount of movement between these “stocks” suggests that they probably do not represent demographically-isolated populations as we use this concept in this Opinion.

Mitchell and Chapman (1977) divided sei whales in the western North Atlantic in two populations, one that occupies the Nova Scotian Shelf and a second that occupies the Labrador Sea. Sei whales are most common on Georges Bank and into the Gulf of Maine and the Bay of Fundy during spring and summer, primarily in deeper waters. There are occasional influxes of sei whales further into Gulf of Maine waters, presumably in conjunction with years of high copepod abundance inshore. Sei whales are occasionally seen feeding in association with right whales in the southern Gulf of Maine and in the Bay of Fundy.

Threats to the Species

NATURAL THREATS. Sei whales appear to compete with blue, fin, and right whales for prey and that competition may limit the total abundance of each of the species (Rice 1974, Scarff 1986). As discussed previously in the narratives for fin and right whales, the foraging areas of right and sei whales in the western north Atlantic Ocean overlap and both whales feed preferentially on copepods (Mitchell 1975).

ANTHROPOGENIC THREATS. Two human activities are known to threaten sei whales: whaling and shipping. Historically, whaling represented the greatest threat to every population of sei whales and was ultimately responsible for listing sei whales as an endangered species. From 1910 to 1975, approximately 74,215 sei whales were caught in the entire North Pacific Ocean (Horwood 1987, Perry *et al.* 1999). From the early 1900s, Japanese whaling operations consisted of a large proportion of sei whales: 300 - 600 sei whales were killed per year from 1911 to 1955. The sei whale catch peaked in 1959, when 1,340 sei whales were killed. In 1971, after a decade of high sei whale catch numbers, sei whales were scarce in Japanese waters.

In the North Atlantic Ocean, sei whales were hunted from land stations in Norway and Iceland in the early- to mid-1880s, when blue whales started to become more scarce. In the late 1890s, whalers began hunting sei whales in Davis Strait and off the coasts of Newfoundland. In the early 1900s, whalers from land stations on the Outer Hebrides and Shetland Islands started to hunt sei whales. Between 1966 and 1972, whalers from land stations on the east coast of Nova Scotia engaged in extensive hunts of sei whales on the Nova Scotia shelf, killing about 825 sei whales (Mitchell and Chapman 1977).

Sei whales are occasionally killed in collisions with vessels. Of 3 sei whales that stranded along the Atlantic Coast of the U.S. between 1975 and 1996, 2 showed evidence of collisions with ships (Laist *et al.* 2001). Between 1999 and 2006, there were 4 reports of sei whales being struck by vessels along the Atlantic Coast of the U.S. and the Maritime Provinces of Canada (Cole *et al.* 2005, Nelson *et al.* 2007, Glass *et al.* 2008). Three of these ship strikes were reported as having resulted in the death of the sei whale.

Status

Sei whales were listed as endangered under the ESA in 1973. In the North Pacific, the International Whaling Commission began management of commercial taking of sei whales in 1970, and fin whales were given full

protection in 1976 (Allen 1980). Sei whales are also protected by the Convention on International Trade in Endangered Species of wild flora and fauna and the Marine Mammal Protection Act. They are listed as endangered under the IUCN Red List of Threatened Animals (Baillie and Groombridge 1996). Critical habitat has not been designated for sei whales.

Prior to commercial whaling, sei whales in the north Pacific are estimated to have numbered 42,000 individuals (Tillman 1977), although Ohsumi and Fukuda (1975) estimated that sei whales in the north Pacific numbered about 49,000 whales in 1963, had been reduced to 37,000 or 38,000 whales by 1967, and reduced again to 20,600 to 23,700 whales by 1973. Japanese and Soviet catches of sei whales in the North Pacific and Bering Sea increased from 260 whales in 1962 to over 4,500 in 1968 and 1969, after which the sei whale population declined rapidly (Mizroch *et al.* 1984). When commercial whaling for sei whales ended in 1974, the population of sei whales in the North Pacific had been reduced to between 7,260 and 12,620 animals (Tillman 1977). In the same year, the north Atlantic population of sei whales was estimated to number about 2,078 individuals, including 965 whales in the Labrador Sea group and 870 whales in the Nova Scotia group (IWC 1977, Mitchell and Chapman 1977).

About 50 sei whales are estimated to occur in the North Pacific “stock” with another 77 sei whales in the Hawai’ian “stock” (Lowry *et al.* 2007). The abundance of sei whales in the Atlantic Ocean remains unknown (Lowry *et al.* 2007). In California waters, only one confirmed and five possible sei whale sightings were recorded during 1991, 1992, and 1993 aerial and ship surveys (Carretta and Forney 1993, Mangels and Gerrodette 1994). No sightings were confirmed off Washington and Oregon during recent aerial surveys. Several researchers have suggested that the recovery of right whales in the northern hemisphere has been slowed by other whales that compete with right whales for food. Mitchell (1975) analyzed trophic interactions among baleen whales in the western north Atlantic and noted that the foraging grounds of right whales overlapped with the foraging grounds of sei whales and both preferentially feed on copepods.

Like blue whales, the information available on the status and trend of sei whales do not allow us to reach any conclusions about the extinction risks facing sei whales as a species, or particular populations of sei whales. With the limited data available on sei whales, we do not know whether these whales exist at population sizes large enough to avoid demographic phenomena that are known to increase the extinction probability of species that exist as “small” populations (that is, “small” populations experience phenomena such as demographic stochasticity, inbreeding depression, Allee effects, among others, that cause their population size to become a threat in and of itself) or if sei whales might be threatened more by exogenous threats such as anthropogenic activities (primarily whaling, entanglement, and ship strikes) or natural phenomena (such as disease, predation, or changes in the distribution and abundance of their prey in response to changing climate). However, sei whales have historically exhibited sudden increases in abundance in particular areas followed by sudden decreases in number. Several authors have reported “invasion years” in which large numbers of sei whales appeared off areas like Norway and Scotland, followed the next year by sudden decreases in population numbers (Jonsgård and Darling 1974).

With the evidence available, we do not know if this year-to-year variation still occurs in sei whales. However, if sei whales exist as a fraction of their historic population sizes, large amounts of variation in their abundance would increase the extinction probabilities of individual populations (Fagan and Holmes 2006, Fagan *et al.* 1999, 2001).

Diving and Social Behavior

Generally, sei whales make 5-20 shallow dives of 20-30 sec duration followed by a deep dive of up to 15 min (Gambell 1985). The depths of sei whale dives have not been studied, however the composition of their diet suggests that they do not perform dives in excess of 300 meters. Sei whales are usually found in small groups of up to 6 individuals, but they commonly form larger groupings when they are on feeding grounds (Gambell 1985).

Vocalizations and Hearing

There is a limited amount of information on the vocal behavior of sei whales. McDonald et al. (2005) recorded sei whale vocalizations off the Antarctic Peninsula that included broadband sounds in the 100-600 Hz range with 1.5 second duration and tonal and upsweep call in the 200-600 Hz range 1-3 second duration. McDonald et al. (2005) also reported broadband “growls” and “whooshes” at frequency of 433 ± 192 Hz and source level of 156 ± 3.6 dB re $1 \mu\text{Pa}$ at 1 meter. Sei whale vocalizations consist of paired sequences (0.5 to 0.8 seconds [sec], separated by 0.4 to 1.0 sec) of 7 to 20 short (4 milliseconds) frequency-modulated sweeps between 1.5 and 3.5 kHz (Richardson *et al.* 1995).

During visual and acoustic surveys conducted in the Hawai’ian Islands in 2002, Rankin and Barlow (2007) recorded 107 sei whale vocalizations, which they classified as two variations of low-frequency downswept calls. The first variation consisted of sweeps from 100 Hz to 44 Hz, over 1.0 seconds. The second variation, which was more common (105 out of 107) consisted of low frequency calls which swept from 39 Hz to 21 Hz over 1.3 seconds. These vocalization are different from sounds attributed to sei whales in the Atlantic and Southern Oceans but are similar to sounds that had previously been attributed to fin whales in Hawai’ian waters. Sei whale calls recorded off the Hawaiian Islands consisted of downsweeps from 100 Hz to 44 Hz over 1.0 sec and low-frequency calls with downsweeps from 39 Hz to 21 Hz over 1.3 seconds (Rankin and Barlow 2007a). Sei whales off the east coast of the United States produced single calls that ranged from 82 to 34 Hz over 1.4 s period (Baumgartner *et al.* 2001)

A general description of the anatomy of the ear for cetaceans is provided in the preceding description of the fin whale.

4.5 Sperm Whale

Distribution

Sperm whales occur in every ocean except the Arctic Ocean. Sperm whales are found throughout the North Pacific and are distributed broadly from tropical and temperate waters to the Bering Sea as far north as Cape Navarin. Mature, female, and immature sperm whales of both sexes are found in more temperate and tropical waters from the equator to around 45° N throughout the year. These groups of adult females and immature sperm whales are rarely found at latitudes higher than 50° N and 50° S (Reeves and Whitehead 1997). Sexually mature males join these groups throughout the winter. During the summer, mature male sperm whales are thought to move north into the Aleutian Islands, Gulf of Alaska, and the Bering Sea.

In the western Atlantic Ocean, sperm whales are distributed in a distinct seasonal cycle, concentrated east-northeast of Cape Hatteras in winter and shifting northward in spring when whales are found throughout the Mid-Atlantic

Bight. Distribution extends further northward to areas north of Georges Bank and the Northeast Channel region in summer and then south of New England in fall, back to the Mid-Atlantic Bight.

In the eastern Atlantic Ocean, mature male sperm whales have been recorded as far north as Spitsbergen (Oien, 1990). Recent observations of sperm whales and stranding events involving sperm whales from the eastern North Atlantic suggest that solitary and paired mature male sperm whales predominantly occur in waters off Iceland, the Faroe Islands, and the Norwegian Sea (Gunnlaugsson and Sigurjonsson 1990, Oien 1990, Christensen *et al.* 1992).

In the Mediterranean Sea sperm whales are found from the Alboran Sea to the Levant Basin, mostly over steep slope and deep offshore waters. Sperm whales are rarely sighted in the Sicilian Channel, and are vagrant in the northern Adriatic and Aegean Seas (Notarbartolo di Sciara and Demma 1997). In the Italian seas sperm whales are more frequently associated with the continental slope off western Liguria, western Sardinia, northern and eastern Sicily, and both coasts of Calabria.

Sperm whales are found throughout the North Pacific and are distributed broadly from tropical and temperate waters to the Bering Sea as far north as Cape Navarin. Mature female and immature sperm whales of both sexes are found in more temperate and tropical waters from the equator to around 45°N throughout the year. However, groups of adult females and immature sperm whales are rarely found at latitudes higher than 50°N and 50°S (Reeves and Whitehead 1997). Sexually mature males join these groups throughout the winter. During the summer, mature male sperm whales are thought to migrate into the Aleutian Islands, Gulf of Alaska, and the Bering Sea.

Sperm whales commonly concentrate around oceanic islands in areas of upwelling, and along the outer continental shelf and mid-ocean waters. Because they inhabit deeper pelagic waters, their distribution does not include the broad continental shelf of the Eastern Bering Sea and these whales generally remain offshore in the eastern Aleutian Islands, Gulf of Alaska, and the Bering Sea.

Sperm whales have a strong preference for the 3,280 feet (1,000 meters) depth contour and seaward. Berzin (1971) reported that they are restricted to waters deeper than 300 meters (984 feet), while Watkins (1977) and Reeves and Whitehead (1997) reported that they are usually not found in waters less than 1,000 meters (3,281 feet) deep. While deep water is their typical habitat, sperm whales have been observed near Long Island, New York, in water between 41-55 meters (135-180 feet; Scott and Sadove 1997). When they are found relatively close to shore, sperm whales are usually associated with sharp increases in bottom depth where upwelling occurs and biological production is high, implying the presence of a good food supply (Clarke 1956).

Population Structure

The population structure of sperm whales is largely unknown. Lyrholm and Gyllenstein (1998) reported moderate, but statistically significant, differences in sperm whale mitochondrial (mtDNA) between ocean basins, although sperm whales throughout the world appear to be homogenous genetically (Whitehead 2003). Genetic studies also suggest that sperm whales of both genders commonly move across over ocean basins and that males, but not females, often breed in ocean basins that are different from the one in which they were born (Whitehead, 2003).

Sperm whales may not form “populations” as that term is normally conceived. Jaquet (1996) outlined a hierarchical social and spatial structure that includes temporary clusters of animals, family units of 10 or 12 females and their young, groups of about 20 animals that remain together for hours or days, “aggregations” and “super-aggregations” of 40 or more whales, and “concentrations” that include 1,000 or more animals (Peterson 1986, Whitehead and Wiegart 1990, Whitehead *et al.* 1991). The “family unit” forms the foundation for sperm whale society and most females probably spend their entire life in the same family unit (Whitehead 2002). The dynamic nature of these relationships and the large spatial areas they are believed to occupy might complicate or preclude attempts to apply traditional population concepts, which tend to rely on group fidelity to geographic distributions that are relatively static over time.

Atlantic Ocean

Based on harvests of tagged sperm whales or sperm whales with other distinctive marking, sperm whales in the North Atlantic Ocean appear to represent a single population, with the possible exception of the sperm whales that appear to reside in the Gulf of Mexico. Mitchell (1975) reported one sperm whale that was tagged on the Scotian Shelf and killed about 7 years later off Spain. Donovan (1991) reported five to six handheld harpoons from the Azore sperm whale fishery that were recovered from whales killed off northwest Spain, with another Azorean harpoon recovered from a male sperm whale killed off Iceland (Martin 1982). These patterns suggest that at least some sperm whales migrate across the North Atlantic Ocean.

Female and immature animals stay in Atlantic temperate or tropical waters year round. In the western North Atlantic, groups of female and immature sperm whales concentrate in the Caribbean Sea (Gosho *et al.* 1984) and south of New England in continental-slope and deep-ocean waters along the eastern United States (Blaylock *et al.* 1995). In eastern Atlantic waters, groups of female and immature sperm whales aggregate in waters off the Azores, Madeira, Canary, and Cape Verde Islands (Tomilin 1967).

Several investigators have suggested that the sperm whales that occupy the northern Gulf of Mexico are distinct from sperm whales elsewhere in the North Atlantic Ocean (Schmidly 1981, Fritts 1983, and Hansen *et al.* 1995), although the International Whaling Commission groups does not treat these sperm whales as a separate population or “stock.”

In the Mediterranean Sea sperm whales are found from the Alboran Sea to the Levant Basin, mostly over steep slope and deep offshore waters. Sperm whales are rarely sighted in the Sicilian Channel, and are vagrant in the northern Adriatic and Aegean Seas (Notarbartolo di Sciara and Demma 1997). In the Italian seas sperm whales are more frequently associated with the continental slope off western Liguria, western Sardinia, northern and eastern Sicily, and both coasts of Calabria.

Bayed and Beaubrun (1987) suggested that the frequent observation of neonates in the Mediterranean Sea and the scarcity of sperm whale sightings from the Gibraltar area may be evidence of a resident population of sperm whales in the Mediterranean.

Indian Ocean

In the Northern Indian Ocean the International Whaling Commission recognized differences between sperm whales in the northern and southern Indian Ocean (Donovan 1991). Little is known about the Northern Indian Ocean population of sperm whales (Perry *et al.* 1999).

Pacific Ocean

Several authors have proposed population structures that recognize at least three sperm whale populations in the North Pacific for management purposes (Kasuya 1991, Bannister and Mitchell 1980). At the same time, the IWC's Scientific Committee designated two sperm whale stocks in the North Pacific: a western and eastern stock or population (Donovan 1991). The line separating these populations has been debated since their acceptance by the IWC's Scientific Committee. For stock assessment purposes, NMFS recognizes three discrete population centers of sperm whales in the Pacific: (1) Alaska, (2) California-Oregon-Washington, and (3) Hawai'i.

Sperm whales are widely distributed throughout the Hawai'ian Islands throughout the year and are the most abundant large whale in waters off Hawai'i during the summer and fall (Rice 1960, Shallenberger 1981, Lee 1993, and Mobley *et al.* 2000). Sperm whale clicks recorded from hydrophones off Oahu confirm the presence of sperm whales near the Hawai'ian Islands throughout the year (Thompson and Friedl 1982). The primary area of occurrence for the sperm whale is seaward of the shelf break in the Hawai'ian Islands.

Sperm whales have been sighted in the Kauai Channel, the Alenuihaha Channel between Maui and the island of Hawai'i, and off the island of Hawai'i (Lee 1993, Mobley *et al.* 1999, Forney *et al.* 2000). Additionally, the sounds of sperm whales have been recorded throughout the year off Oahu (Thompson and Friedl 1982). Twenty-one sperm whales were sighted during aerial surveys conducted in Hawai'ian waters conducted from 1993 through 1998. Sperm whales sighted during the survey tended to be on the outer edge of a 50 - 70 km distance from the Hawai'ian Islands, indicating that presence may increase with distance from shore. However, from the results of these surveys, NMFS has calculated a minimum abundance of sperm whales within 46 km of Hawai'i to be 43 individuals (Forney *et al.* 2000).

Southern Ocean

Sperm whales south of the equator are generally treated as a single "population," although the International Whaling Commission divides these whales into nine different divisions that are based more on evaluations of whaling captures than the biology of sperm whales (Donovan 1991). Several authors, however, have argued that the sperm whales that occur off the Galapagos Islands, mainland Ecuador, and northern Peru are geographically distinct from other sperm whales in the Southern Hemisphere (Rice 1977, Wade and Gerrodette 1993, and Dufault and Whitehead 1995).

Threats to the Species

NATURAL THREATS. Sperm whales are hunted by killer whales (*Orcinus orca*), false killer whales (*Pseudorca crassidens*), and short-finned pilot whales (*Globicephala melas*; Arnbohm *et al.* 1987, Palacios and Mate 1996, Rice 1989, Weller *et al.* 1996, Whitehead 1995). Sperm whales have been observed with bleeding wounds their heads and tail flukes after attacks by these species (Arnbohm *et al.* 1987, Dufault and Whitehead 1995). In October 1997, 25

killer whales were documented to have attacked a group of mature sperm whales off Point Conception, California (personal communication from K Roberts cited in Perry *et al.* 1999) and successfully killing one of these mature sperm whales. Sperm whales have also been reported to have papilloma virus (Lambertson *et al.* 1987).

Studies on sperm whales in the North Pacific and North Atlantic Oceans have demonstrated that sperm whales are infected by calciviruses and papillomavirus (Smith and Latham 1978, Lambertsen *et al.* 1987). In some instances, these diseases have been demonstrated to affect 10 percent of the sperm whales sampled (Lambertsen *et al.* 1987).

ANTHROPOGENIC THREATS. Three human activities are known to threaten sperm whales: whaling, entanglement in fishing gear, and shipping. Historically, whaling represented the greatest threat to every population of sperm whales and was ultimately responsible for listing sperm whales as an endangered species. Sperm whales were hunted all over the world during the 1800s, largely for its spermaceti oil and ambergris. Harvesting of sperm whales subsided by 1880 when petroleum replaced the need for sperm whale oil (Whitehead 2003).

The actual number of sperm whales killed by whalers remains unknown and some of the estimates of harvest numbers are contradictory. Between 1800 and 1900, the International Whaling Commission estimated that nearly 250,000 sperm whales were killed globally by whalers. From 1910 to 1982, another 700,000 sperm whales were killed globally by whalers (IWC Statistics 1959-1983). These estimates are substantially higher than a more recent estimate produced by Caretta *et al.* (2005), however, who estimated that at least 436,000 sperm whales were killed by whalers between 1800 and 1987. Hill and DeMaster (1999) concluded that about 258,000 sperm whales were harvested in the North Pacific between 1947 and 1987 by commercial whalers. They reported that catches in the North Pacific increased until 1968, when 16,357 sperm whales were harvested, then declined after 1968 because of harvest limits imposed by the IWC. Perry *et al.* (1999) estimated that, on average, more than 20,000 sperm whales were harvested in the Southern Hemisphere each year between 1956 and 1976.

These reports probably underestimate the actual number of sperm whales that were killed by whalers, particularly because they could not have incorporated realistic estimates of the number of sperm whales killed by Soviet whaling fleets, which often went unreported. Between 1947 and 1973, Soviet whaling fleets engaged in illegal whaling in the Indian, North Pacific, and southern Oceans. In the Southern Hemisphere, these whalers killed an estimated 100,000 whales that they did not report to the International Whaling Commission (Yablokov *et al.* 1998). Illegal catches in the Northern Hemisphere (primarily in the North Pacific) were smaller but still caused sperm whales to disappear from large areas of the North Pacific Ocean (Yablokov and Zemsky 2000).

In addition to large and illegal harvests of sperm whales, Soviet whalers had disproportionate effect on sperm whale populations because they commonly killed adult females in any reproductive condition (pregnant or lactating) as well as immature sperm whales of either gender.

When the International Whaling Commission introduced the International Observer Scheme in 1972, the IWC relaxed regulations that limited the minimum length of sperm whales that could be caught from 11.6 meters to 9.2 meters out of a concern that too many male sperm whales were being caught so reducing this size limit would encourage fleets to catch more females. Unfortunately, the IWC's decision had been based on data from the Soviet fleets who commonly reported female sperm whales as males. As a result, the new regulations allowed the Soviet whalers to

continue their harvests of female and immature sperm whales legally, with substantial consequences for sperm whale populations. Berzin noted in a report he wrote in 1977, “the result of this was that some breeding areas for sperm whales became deserts” (Berzin 2007).

Although the International Whaling Commission protected sperm whales from commercial harvest in 1981, whaling operations along the Japanese coast continued to hunt sperm whales in the North Pacific until 1988 (Reeves and Whitehead 1997). More recently, the Japanese Whaling Association began hunting sperm whales for research. In 2000, the Japanese Whaling Association announced that it planned to kill 10 sperm whales in the Pacific Ocean for research, which was the first time sperm whales have been hunted since the international ban on commercial whaling. Despite protests from the U.S. government and members of the IWC, the Japanese government harvested 5 sperm whales and 43 Bryde’s whales in the last six months of 2000. According to the Japanese Institute of Cetacean Research (Institute of Cetacean Research undated), another 5 sperm whales were killed for research in 2002 – 2003. The consequences of these deaths on the status and trend of sperm whales remains uncertain, given that they probably have not recovered from the legacy of whaling; however, the renewal of a program that intentionally targets and kills sperm whales before we can be certain they recovered from a history of over-harvest places this species at risk in the foreseeable future.

Sperm whales are still hunted for subsistence purposes by whalers from Lamalera, Indonesia, which is on the south coast of the island of Lembata and from Lamakera on the islands of Solor. These whalers hunt in a traditional manner: with bamboo spears and using small wooden outriggers, 10–12 m long and 2 m wide, constructed without nails and with sails woven from palm fronds. The animals are killed by the harpooner leaping onto the back of the animal from the boat to drive in the harpoon. The maximum number of sperm whales killed by these hunters in any given year was 56 sperm whales killed in 1969.

In U.S. waters in the Pacific Ocean, sperm whales are known to have been incidentally captured only in drift gillnet operations, which killed or seriously injured an average of 9 sperm whales per year from 1991 - 1995 (Barlow *et al.* 1997). Interactions between longline fisheries and sperm whales in the Gulf of Alaska have been reported over the past decade (Rice 1989, Hill and DeMaster 1999). Observers aboard Alaskan sablefish and halibut longline vessels have documented sperm whales feeding on fish caught in longline gear in the Gulf of Alaska. During 1997, the first entanglement of a sperm whale in Alaska’s longline fishery was recorded, although the animal was not seriously injured (Hill and DeMaster 1998). The available evidence does not indicate sperm whales are being killed or seriously injured as a result of these interactions, although the nature and extent of interactions between sperm whales and long-line gear is not yet clear.

Sperm whales are also killed by ship strikes. In May 1994 a sperm whale that had been struck by a ship was observed south of Nova Scotia (Reeves and Whitehead 1997) and in May 2000 a merchant ship reported a strike in Block Canyon (NMFS, unpublished data), which is a major pathway for sperm whales entering southern New England continental shelf waters in pursuit of migrating squid (CeTAP 1982, Scott and Sadove 1997).

Status

Sperm whales were listed as endangered under the ESA in 1973. Sperm whales have been protected from commercial harvest by the International Whaling Commission since 1981, although the Japanese continued to harvest sperm whales in the North Pacific until 1988 (Reeves and Whitehead 1997). They are also protected by the Convention on International Trade in Endangered Species of Wild Flora and Fauna and the MMPA. Critical habitat has not been designated for sperm whales.

The status and trend of sperm whales at the time of this summary is largely unknown. Hill and DeMaster (1999) and Angliss and Lodge (2004) reported that estimates for population abundance, status, and trends for sperm whales off the coast of Alaska were not available when they prepared the Stock Assessment Report for marine mammals off Alaska. Similarly, No information was available to support estimates of sperm whales status and trends in the western North Atlantic Ocean (Waring *et al.* 2004), the Indian Ocean (Perry *et al.* 1999), or the Mediterranean Sea.

Nevertheless, several authors and organizations have published “best estimates” of the global abundance of sperm whales or their abundance in different geographic areas. Based on historic whaling data, 190,000 sperm whales were estimated to have been in the entire North Atlantic, but the IWC considers data that produced this estimate unreliable (Perry *et al.* 1999). Whitehead (2002) estimated that prior to whaling sperm whales numbered around 1,110,000 and that the current global abundance of sperm whales is around 360,000 (coefficient of variation = 0.36) whales. Whitehead’s current population estimate (2002) is about 20% of past global abundance estimates which were based on historic whaling data.

Waring *et al.* (2007) concluded that the best estimate of the number of sperm whales along the Atlantic coast of the U.S. was 4,029 (coefficient of variation = 0.38) in 1998 and 4,804 (coefficient of variation = 0.38) in 2004, with a minimum estimate of 3,539 sperm whales in the western North Atlantic Ocean.

Barlow and Taylor (2005) derived two estimates of sperm whale abundance in a 7.8 million km² study area in the northeastern temperate Pacific: when they used acoustic detection methods they produced an estimate of 32,100 sperm whales (coefficient of variation = 0.36); when they used visual surveys, they produced an estimate of 26,300 sperm whales (coefficient of variation = 0.81). Caretta *et al.* (2005) concluded that the most precise estimate of sperm whale abundance off California, Oregon, and Washington was 1,233 (coefficient of variation = 0.41; based on ship surveys conducted in the summer and fall of 1996 and 2001). Their best estimate of the abundance of sperm whales in Hawai’i was 7,082 sperm whales (coefficient of variation = 0.30) based on ship-board surveys conducted in 2002.

Mark and recapture data from sperm whales led Whitehead and his co-workers to conclude that sperm whale numbers off the Galapagos Islands decreased by about 20% a year between 1985 and 1995 (Whitehead *et al.* 1997). In 1985 Whitehead *et al.* (1997) estimated there were about 4,000 female and immature sperm whales, whereas in 1995 they estimated that there were only a few hundred. They suggested that sperm whales migrated to waters off the Central and South American mainland to feed in productive waters of the Humboldt Current, which had been depopulated of sperm whales as a result of intensive whaling.

The information available on the status and trend of sperm whales do not allow us to make definitive statement about the extinction risks facing sperm whales as a species or particular populations of sperm whales. However, the evidence available suggests that sperm whale populations probably exhibit the dynamics of small populations, causing their population dynamics to become a threat in and of itself. The number of sperm whales killed by Soviet whaling fleets in the 1960s and 1970s would have substantial and adverse consequence for sperm whale populations and their ability to recover from the effects of whaling on their population. The number of adult female killed by Soviet whaling fleets, including pregnant and lactating females whose death would also have resulted in the death of their calves, would have had a devastating effect on sperm whale populations. In addition to decimating their population size, whaling would have skewed sex ratios in their populations, created gaps in the age structure of their populations, and would have had lasting and adverse effect on the ability of these populations to recover (for example, see Whitehead 2003).

Populations of sperm whales could not have recovered from the overharvests of adult females and immature whales in the 30 to 40 years that have passed since the end of whaling, but the information available does not allow us to determine whether and to what degree those populations might have stabilized or whether they have begun the process of recovering from the effects of whaling. Absent information to the contrary, we assume that sperm whales would have elevated extinction probabilities because of both exogenous threats caused by anthropogenic activities (primarily whaling, entanglement, and ship strikes) and natural phenomena (such as disease, predation, or changes in the distribution and abundance of their prey in response to changing climate) as well as endogenous threats caused by the legacy of overharvests of adult females and immature whales on their populations (that is, a population with a disproportion of adult males and older animals coupled with a small percentage of juvenile whales that recruit into the adult population).

Diving and Social Behavior

Sperm whales are probably the deepest and longest diving mammal: they can dive to depths of at least 2000 meters (6562 ft), and may remain submerged for an hour or more (Watkins *et al.* 1993). Typical foraging dives last 40 min and descend to about 400 m followed by about 8 min of resting at the surface (Gordon 1987; Papastavrou *et al.* 1989). However, dives of over 2 hr and as deep as 3,000 m have been recorded (Clarke 1976; Watkins *et al.* 1985). Descent rates recorded from echo-sounders were approximately 1.7m/sec and nearly vertical (Goold and Jones 1995). There are no data on diurnal differences in dive depths in sperm whales. However, like most diving vertebrates for which there are data (e.g. rorqual whales, fur seals, chinstrap penguins), sperm whales probably make relatively shallow dives at night when organisms from the ocean's deep scattering layers move toward the ocean's surface.

The groups of closely related females and their offspring develop dialects specific to the group (Weilgart and Whitehead 1997) and females other than birth mothers would guard young at the surface (Whitehead 1996) and would nurse young calves (Reeves and Whitehead 1997).

Vocalizations and Hearing

Sperm whales produce loud broad-band clicks from about 0.1 to 20 kHz (Weilgart and Whitehead 1993, 1997; Goold and Jones 1995). These have source levels estimated at 171 dB re 1 μ Pa (Levenson 1974). Current evidence

suggests that the disproportionately large head of the sperm whale is an adaptation to produce these vocalizations (Norris and Harvey 1972; Cranford 1992; but see Clarke 1979). This suggests that the production of these loud low frequency clicks is extremely important to the survival of individual sperm whales. The function of these vocalizations is relatively well-studied (Weilgart and Whitehead 1993, 1997; Goold and Jones 1995). Long series of monotonous regularly spaced clicks are associated with feeding and are thought to be produced for echolocation. Distinctive, short, patterned series of clicks, called codas, are associated with social behavior and intragroup interactions; they are thought to facilitate intra-specific communication, perhaps to maintain social cohesion with the group (Weilgart and Whitehead 1993).

A general description of the anatomy of the ear for cetaceans is provided in the description of the blue whale above. The only data on the hearing range of sperm whales are evoked potentials from a stranded neonate (Carder and Ridgway 1990). These data suggest that neonatal sperm whales respond to sounds from 2.5-60 kHz. Sperm whales have been observed to frequently stop echolocating in the presence of underwater pulses made by echosounders and submarine sonar (Watkins and Schevill 1975; Watkins *et al.* 1985). They also stop vocalizing for brief periods when codas are being produced by other individuals, perhaps because they can hear better when not vocalizing themselves (Goold and Jones 1995). Sperm whales have moved out of areas after the start of air gun seismic testing (Davis *et al.* 1995). Seismic air guns produce loud, broadband, impulsive noise (source levels are on the order of 250 dB) with “shots” every 15 seconds, 240 shots per hour, 24 hours per day during active tests. Because they spend large amounts of time at depth and use low frequency sound sperm whales are likely to be susceptible to low frequency sound in the ocean (Croll *et al.* 1999). Furthermore, because of their apparent role as important predators of mesopelagic squid and fish, changing the abundance of sperm whales should affect the distribution and abundance of other marine species.

4.6 Green Sea Turtle

Distribution

Green turtles are found in the Pacific Ocean, Atlantic Ocean, Indian Ocean, Caribbean Sea, and Mediterranean Sea, primarily in tropical or, to a lesser extent, subtropical waters. These regions can be further divided into nesting aggregations within the eastern, central, and western Pacific Ocean; the western, northern, and eastern Indian Ocean; Mediterranean Sea; and eastern, southern, and western Atlantic Ocean, including the Caribbean Sea.

Green turtles appear to prefer waters that usually remain around 20°C in the coldest month. During warm spells (e.g., El Niño), green turtles may be found considerably north of their normal distribution. Stinson (1984) found green turtles to appear most frequently in U.S. coastal waters with temperatures exceeding 18°C. An east Pacific green turtle equipped with a satellite transmitter was tracked along the California coast and showed a distinct preference for waters with temperatures above 20°C (Eckert, unpublished data).

Further, green sea turtles seem to occur preferentially in drift lines or surface current convergences, probably because of the prevalence of cover and higher densities of their food items associated with these oceanic phenomena. For example, in the western Atlantic Ocean, drift lines commonly contain floating *Sargassum* capable of providing small turtles with shelter and sufficient buoyancy to raft upon (NMFS and USFWS 1998). Underwater resting sites include coral recesses, the underside of ledges, and sand bottom areas that are relatively free of strong currents and

disturbance from natural predators and humans. Available information indicates that green turtle resting areas are in proximity to their feeding pastures (NMFS 2000).

Population Structure

The population dynamics of green sea turtles and all of the other sea turtles we consider in this Opinion are usually described based on the distribution and habit of nesting females, rather than their male counterparts. The spatial structure of male sea turtles and their fidelity to specific coastal areas is unknown; however, we describe sea turtle populations based on the nesting beaches that female sea turtles return to when they mature. Because the patterns of increase or decrease in the abundance of sea turtle nests over time are determined by internal dynamics rather than external dynamics, we make inferences about the growth or decline of sea turtle populations based on the status and trend of their nests.

Primary nesting aggregations of green turtles (i.e. sites with greater than 500 nesting females per year) include: Ascension Island (south Atlantic Ocean), Australia, Brazil, Comoros Islands, Costa Rica, Ecuador (Galapagos Archipelago), Equatorial Guinea (Bioko Island), Guinea-Gissau (Bijagos Archipelago), Iles Eparses Islands (Tromelin Island, Europa Island), Indonesia, Malaysia, Myanmar, Oman, Philippines, Saudi Arabia, Seychelles Islands, Suriname, and United States (Florida; Seminoff 2002, NMFS and USFWS 1998a).

Smaller nesting aggregations include: Angola, Bangladesh, Bikar Atoll, Brazil, Chagos Archipelago, China, Costa Rica, Cuba, Cyprus, Democratic Republic of Yemen, Dominican Republic, d'Entrecasteaux Reef, French Guiana, Ghana, Guyana, India, Iran, Japan, Kenya, Madagascar, Maldives Islands, Mayotte Archipelago, Mexico, Micronesia, Pakistan, Palmerston Atoll, Papua New Guinea, Primieras Islands, Sao Tome é Principe, Sierra Leone, Solomon Islands, Somalia, Sri Lanka, Syria, Taiwan, Tanzania, Thailand, Turkey, Scilly Atoll, United States (Hawai'i), Venezuela, and Vietnam (Metcalf *et al.* 2007, Rees *et al.* 2008, Seminoff 2002, Weir *et al.* 2007).

Molecular genetic techniques have helped researchers gain insight into the distribution and ecology of migrating and nesting green turtles. In the Pacific Ocean, green sea turtles group into two distinct regional clades: (1) western Pacific and South Pacific islands, and (2) eastern Pacific and central Pacific, including the rookery at French Frigate Shoals, Hawai'i. In the eastern Pacific, greens forage coastally from San Diego Bay, California in the north to Mejillones, Chile in the South. Based on mtDNA analyses, green turtles found on foraging grounds along Chile's coast originate from the Galapagos nesting beaches, while those greens foraging in the Gulf of California originate primarily from the Michoacan nesting stock. Green turtles foraging in San Diego Bay and along the Pacific coast of Baja California originate primarily from rookeries of the Islas Revillagigedos (Dutton 2003).

Threats to the Species

NATURAL THREATS. The various habitat types green sea turtles occupy throughout their lives exposes these sea turtles to a wide variety of natural threats. The beaches on which green sea turtles nest and the nests themselves are threatened by hurricanes and tropical storms as well as the storm surges, sand accretion, and rainfall that are associated with hurricanes. Hatchlings are hunted by predators like herons, gulls, dogfish, and sharks. Larger green sea turtles, including adults, are also killed by sharks and other large, marine predators.

Green turtles in the northwest Hawai'ian Islands are afflicted with a tumor disease, fibropapilloma, which is of an unknown etiology and often fatal, as well as spirochidiasis, both of which are the major causes of strandings of this species. The presence of fibropapillomatosis among stranded turtles has increased significantly over the past 17 years, ranging from 47-69 percent during the past decade (Murakawa *et al.* 2000). Green turtles captured off Molokai from 1982-96 showed a massive increase in the disease over this period, peaking at 61% prevalence in 1995 (Balazs *et al.* 1998). Preliminary evidence suggests an association between the distribution of fibropapillomatosis in the Hawai'ian Islands and the distribution of toxic benthic dinoflagellates (*Prorocentrum* spp.) known to produce a tumor promoter, okadaic acid (Landsberg *et al.* 1999). Fibropapillomatosis is considered to decrease growth rates in afflicted turtles and may inhibit the growth rate of Hawai'ian green turtle populations (Balazs *et al.* 1998).

ANTHROPOGENIC THREATS. Three human activities are known to threaten green sea turtles: overharvests of individual animals, incidental capture in commercial fisheries, and human development of coastlines. Historically, the primary cause of the global decline of green sea turtles populations were the number of eggs and adults captured and killed on nesting beaches in combination with the number of juveniles and adults captured and killed in coastal feeding areas. Some population of green sea turtles still lose large number of eggs, juveniles, and adults to subsistence hunters, local communities that have a tradition of harvesting sea turtles, and poachers in search of turtle eggs and meat.

Directed harvests of eggs and other life stages of green sea turtles were identified as a "major problem" in American Samoa, Guam, Palau, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, and the Unincorporated Islands (Wake, Johnston, Kingman, Palmyra, Jarvis, Howland, Baker, and Midway). In the Atlantic, green sea turtles are captured and killed in turtle fisheries in Colombia, Grenada, the Lesser Antilles, Nicaragua, St. Vincent and the Grenadines (Bräutigam and Eckert 2006, Grazette *et al.* 2007); the turtle fishery along the Caribbean coast of Nicaragua, by itself, captures more than 11,000 green sea turtles each year for the past 10 years (Bräutigam and Eckert 2006, Lagueux 1998). Grazette *et al.* (2007) estimated that of the 782 sea turtles captured each year between 1996 and 2001 in waters around Grenada and Carriacou, about 62.4 percent were green sea turtles.

Severe overharvests have resulted from a number of factors in modern times: (1) the loss of traditional restrictions limiting the number of turtles taken by island residents; (2) modernized hunting gear; (3) easier boat access to remote islands; (4) extensive commercial exploitation for turtle products in both domestic markets and international trade; (5) loss of the spiritual significance of turtles; (6) inadequate regulations; and (7) lack of enforcement (NMFS and USFWS 1998a).

Green sea turtles are also captured and killed in commercial fisheries. Gillnets account for the highest number of green sea turtles that are captured and killed, but they are also captured and killed in trawls, traps and pots, longlines, and dredges. Along the Atlantic coast of the U.S., NMFS estimated that almost 19,000 green sea turtles are captured in shrimp trawl fisheries each year in the Gulf of Mexico, with 514 of those sea turtles dying as a result of their capture (see Table X). Each year, several hundred green sea turtles are captured in herring fisheries; mackerel, squid, and butterfish fisheries; monkfish fisheries; pound net fisheries, summer flounder and scup fisheries; Atlantic pelagic longline fisheries; and gillnet fisheries in Pamlico Sound. Although most of these turtles are released alive, these

fisheries are expected to kill almost 100 green sea turtles each year; the health effects of being captured on the sea turtles that survive remain unknown.

Green sea turtles are also threatened by domestic or domesticated animals which prey on their nests; artificial lighting that disorients adult female and hatchling sea turtles, which can dramatically increase the mortality rates of hatchling sea turtles; beach replenishment; ingestion and entanglement in marine debris; and environmental contaminants.

Status

Green turtles are listed as threatened under the ESA, except for breeding populations found in Florida and the Pacific coast of Mexico, which are listed as endangered. Using a precautionary approach, Seminoff (2002) estimates that the global green turtle population has declined by 34% to 58% over the last three generations (approximately 150 years) although actual declines may be closer to 70% to 80%. Causes for this decline include harvest of eggs, subadults and adults, incidental capture by fisheries, loss of habitat, and disease.

While some nesting populations of green turtles appear to be stable or increasing in the Atlantic Ocean (e.g. Bujigos Archipelago (Guinea-Bissau), Ascension Island, Tortuguero (Costa Rica), Yucatan Peninsula (Mexico), and Florida), declines of over 50% have been documented in the eastern (Bioko Island, Equatorial Guinea) and western Atlantic (Aves Island, Venezuela). Nesting populations in Turkey (Mediterranean Sea) have declined between 42% and 88% since the late 1970s. Population trend variations also appear in the Indian Ocean. Declines greater than 50% have been documented at Sharma (Republic of Yemen) and Assumption and Aldabra (Seychelles), while no changes have occurred at Karan Island (Saudi Arabia) or at Ras al Hadd (Oman). The number of females nesting annually in the Indian Ocean has increased at the Comoros Islands, Tromelin and maybe Europa Island (Iles Esparses; Seminoff 2002).

Green turtles are thought to be declining throughout the Pacific Ocean, with the exception of Hawai'i, as a direct consequence of a historical combination of overexploitation and habitat loss (Eckert 1993, Seminoff 2002). They are also thought to be declining in the Atlantic Ocean. However, like several of the species we have already discussed, the information available on the status and trend of green sea turtles do not allow us to make definitive statement about the global extinction risks facing these sea turtles or risks facing particular populations (nesting aggregations) of these turtles. With the limited data available on green sea turtles, we do not know whether green sea turtles exist at population sizes large enough to avoid demographic phenomena that are known to increase the extinction probability of species that exist as "small" populations (that is, "small" populations experience phenomena such as demographic stochasticity, inbreeding depression, Allee effects, among others, that cause their population size to become a threat in and of itself) or if green sea turtles might are threatened more by exogenous threats such as anthropogenic activities (entanglement, habitat loss, overharvests, etc.) or natural phenomena (such as disease, predation, or changes in the distribution and abundance of their prey in response to changing climate). Nevertheless, with the exception of the Hawai'ian nesting aggregations, we assume that green sea turtles are endangered because of both anthropogenic and natural threats as well as changes in their population dynamics.

Diving and Social Behavior

Based on the behavior of post-hatchlings and juvenile green turtles raised in captivity, it is presumed that those in pelagic habitats live and feed at or near the ocean surface, and that their dives do not normally exceed several meters in depth (NMFS and USFWS 1998). The maximum recorded dive depth for an adult green turtle was 110 meters (Berkson 1967 *in* Lutcavage and Lutz 1997), while subadults routinely dive 20 meters for 9-23 minutes, with a maximum recorded dive of 66 minutes (Brill *et al.* 1995 *in* Lutcavage and Lutz 1997).

Vocalizations and Hearing

The information on green turtle hearing is very limited. Ridgway *et al.* (1969) studied the auditory evoked potentials of three green sea turtles (in air and through mechanical stimulation of the ear) and concluded that their maximum sensitivity occurred from 300 to 400 Hz with rapid declines for tones at lower and higher frequencies. They reported an upper limit for cochlear potentials without injury of 2000 Hz and a practical limit of about 1000 Hz. This is similar to estimates for loggerhead sea turtles, which had most sensitive hearing between 250 and 1000 Hz, with rapid decline above 1000 Hz (Bartol *et al.* 1999).

In a study of the auditory brainstem responses of subadult green sea turtles, Bartol and Ketten (2006) reported responses to frequencies between 100 and 500 Hz; with highest sensitivity between 200 and 400 Hz. They reported that two juvenile green turtles had hearing sensitivities that were slightly broader in range: they responded to sounds at frequencies from 100 to 800 Hz, with highest hearing sensitivities from 600 to 700 Hz.

These hearing sensitivities are similar to the hearing sensitivities reported for two terrestrial species: pond turtles (*Pseudemys scripta*) and wood turtles (*Chrysemys insculpta*). Pond turtles are reported to have best hearing responsiveness between 200 and 700 Hz, with slow declines below 100 Hz and rapid declines above 700 Hz and almost no sensitivity above 3000 Hz (Wever and Vernon 1956) the latter has sensitivities up to about 500 Hz, followed by a rapid decline above 1000 Hz and almost no responses beyond 3000 or 4000 Hz (Peterson 1966).

4.7 Hawksbill Sea Turtle

Distribution

Hawksbill sea turtles occur in tropical and subtropical seas of the Atlantic, Pacific and Indian Oceans. The species is widely distributed in the Caribbean Sea and western Atlantic Ocean, with individuals from several life history stages occurring regularly along southern Florida and the northern Gulf of Mexico (especially Texas); in the Greater and Lesser Antilles; and along the Central American mainland south to Brazil. Within the United States, hawksbills are most common in Puerto Rico and its associated islands, and in the U.S. Virgin Islands.

In the continental U.S., hawksbill sea turtles have been reported in every state on the coast of the Gulf of Mexico and along the coast of the Atlantic Ocean from Florida to Massachusetts, except for Connecticut; however, sightings of hawksbill sea turtles north of Florida are rare. The only states where hawksbill sea turtles occur with any regularity are Florida (particularly in the Florida Keys and the reefs off Palm Beach County on Florida's Atlantic coast, where the warm waters of the Gulf Stream pass close to shore) and Texas. In both of these states, most sightings are of post-hatchlings and juveniles that are believed to have originated from nesting beaches in Mexico.

Hawksbill sea turtles have stranded along the almost the entire Atlantic coast of the United States, although most stranding records occur south of Cape Canaveral, Florida, particularly in Palm Beach, Broward and Miami-Dade counties (Florida Sea Turtle Stranding and Salvage database). Hawksbill sea turtles are very rare north of Florida, although they have been recorded as far north as Massachusetts. During their pelagic-stage, hawksbills disperse from the Gulf of Mexico and southern Florida in the Gulfstream Current, which would carry them offshore of Georgia and the Carolinas. As evidence of this, a pelagic-stage hawksbill was captured 37 nautical miles east of Sapelo Island, Georgia in May 1994 (Parker 1995). There are also records of hawksbill sea turtles stranding on the coast of Georgia (Ruckdeschel *et al.* 2000), being captured in pound nets off Savannah, and being captured in summer flounder trawls (Epperly *et al.* 1995), gillnets (Epperly *et al.* 1995), and power plants off Georgia and the Carolinas.

Within United States territories and U.S. dependencies in the Caribbean Region, hawksbill sea turtles nest principally in Puerto Rico and the U.S. Virgin Islands, particularly on Mona Island and Buck Island. They also nest on other beaches on St. Croix, Culebra Island, Vieques Island, mainland Puerto Rico, St. John, and St. Thomas. Within the continental United States, hawksbill sea turtles nest only on beaches along the southeast coast of Florida and in the Florida Keys.

Hawksbill sea turtles occupy different habitats depending on their life history stage. After entering the sea, hawksbill sea turtles occupy pelagic waters and occupy weedlines that accumulate at convergence points. When they growth to about 20-25 cm carapace length, hawksbill sea turtles reenter coastal waters where they inhabit and forage in coral reefs as juveniles, subadults and adults. Hawksbill sea turtles also occur around rocky outcrops and high energy shoals, where sponges grow and provide forage, and they are known to inhabit mangrove-fringed bays and estuaries, particularly along the eastern shore of continents where coral reefs are absent (Hildebrand 1987, Amos 1989).

Population Structure

Hawksbill sea turtles, like other sea turtles, are divided into regional groupings that represent major oceans or seas: the Atlantic Ocean, Pacific Ocean, Indian Ocean, Caribbean Sea and Mediterranean Sea. In these regions, the population structure of hawksbill turtles are usually based on the distribution of their nesting aggregations.

Threats to the Species

NATURAL THREATS. The various habitat types hawksbill sea turtles occupy throughout their lives exposes these sea turtles to a wide variety of natural threats. The beaches on which hawksbill sea turtles nest and the nests themselves are threatened by hurricanes and tropical storms as well as the storm surges, sand accretion, and rainfall that are associated with hurricanes. Hatchlings are hunted by predators like herons, gulls, dogfish, and sharks. Adult hawksbill sea turtles are also killed by sharks and other large, marine predators.

ANTHROPOGENIC THREATS. Three human activities are known to threaten hawksbill sea turtles: overharvests of individual animals, incidental capture in commercial fisheries, and human development of coastlines. Historically, the primary cause of the global decline of hawksbill sea turtle populations was overharvests by humans for subsistence and commercial purposes. In the Atlantic, hawksbill sea turtles are still captured and killed in turtle fisheries in Colombia, Grenada, the Lesser Antilles, Nicaragua, St. Vincent and the Grenadines (Bräutigam and Eckert 2006).

For centuries, hawksbill sea turtles have been captured for their shells, which have commercial value, rather than food (the meat of hawksbill sea turtles is considered to have a bad taste and can be toxic to humans; NMFS and USFWS 1998). Until recently, tens of thousands of hawksbills were captured and killed each year to meet demand for jewelry, ornamentation, and whole stuffed turtles (Milliken and Tokunaga 1987 cited in Eckert 1993). In 1988, Japan's imports from Jamaica, Haiti and Cuba represented some 13,383 hawksbills: it is extremely unlikely that this volume could have originated solely from local waters (Greenpeace 1989 cited in Eckert 1993).

Although Japan banned the importation of turtle shell in 1994, domestic harvests of eggs and turtles continue in the United States, its territories, and dependencies, particularly in the Caribbean and Pacific Island territories. Large numbers of nesting and foraging hawksbill sea turtles are captured and killed for trade in Micronesia, the Mexican Pacific coast, southeast Asia and Indonesia (NMFS and USFWS 1998). In addition to the demand for the hawksbill's shell, there is a demand for other products including leather, oil, perfume, and cosmetics. Before the U.S. certified Japan under the Pelly Amendment, Japan had been importing about 20 metric tons of hawksbill shell per year, representing approximately 19,000 turtles.

The second most important threat to hawksbill sea turtles is the loss of nesting habitat caused by the expansion of resident human populations in coastal areas of the world and increased destruction or modification of coastal ecosystems to support tourism. Hawksbill sea turtles are also captured and killed in commercial fisheries. Along the Atlantic coast of the U.S., NMFS estimated that about 650 hawksbill sea turtles are captured in shrimp trawl fisheries each year in the Gulf of Mexico, with most of those sea turtles dying as a result of their capture (see Table 4). Each year, about 35 hawksbill sea turtles are captured in Atlantic pelagic longline fisheries. Although most of these turtles are released alive, these fisheries are expected to kill about 50 hawksbill sea turtles each year; the health effects of being captured on the sea turtles that survive remain unknown.

Like green sea turtles, hawksbill sea turtles are threatened by domestic or domesticated animals that prey on their nests; artificial lighting that disorients adult female and hatchling sea turtles, which can dramatically increase the mortality rates of hatchling sea turtles; beach replenishment; ingestion and entanglement in marine debris; and environmental contaminants.

Status

Hawksbill sea turtles were listed as endangered under the ESA in 1970. Under Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, hawksbill sea turtles are identified as "most endangered."

Hawksbill sea turtles are solitary nesters, which makes it difficult to estimate the size of their populations. There are no global estimates of the number of hawksbill sea turtles, but a minimum of 15,000 to 25,000 females are thought to nest annually in more than 60 geopolitical entities (Groombridge and Luxmoore 1989). Moderate populations appear to persist around the Solomon Islands, northern Australia, Palau, Persian Gulf islands, Oman, and parts of the Seychelles (Groombridge 1982). In a more recent review, Groombridge and Luxmoore (1989) list Papua New Guinea, Queensland, and Western Australia as likely to host 500-1,000 nesting females per year, while Indonesia and the Seychelles may support >1,000 nesting females. The largest known nesting colony in the world is located on

Milman Island, Queensland, Australia where Loop (1995) tagged 365 hawksbills nesting within an 11 week period. With the exception of Mexico, and possibly Cuba, nearly all Wider Caribbean countries are estimated to receive <100 nesting females per year (Meylan 1989).

Of the 65 geopolitical units on which hawksbill sea turtles nest and where hawksbill nesting densities can be estimated, 38 geopolitical units have hawksbill populations that are suspected or known to be declining. Another 18 geopolitical units have experienced well-substantiated declines (NMFS and USFWS 1995). The largest remaining nesting concentrations occur on remote oceanic islands off Australia (Torres Strait) and the Indian Ocean (Seychelles).

Hawksbill sea turtles, like green sea turtles, are thought to be declining globally as a direct consequence of a historical combination of overexploitation and habitat loss. However, like several of the species we have already discussed, the information available on the status and trend of hawksbill sea turtles do not allow us to make definitive statements about the global extinction risks facing these sea turtles or the risks facing particular populations (nesting aggregations) of these turtles. However, the limited data available suggests that several hawksbill sea turtles populations exist at sizes small enough to be classified as “small” populations (that is, populations that exhibit population dynamics that increase the extinction probabilities of the species or several of its populations) while others are large enough to avoid these problems. Exogenous threats such as overharvests and entanglement in fishing gear only increase their probabilities of becoming extinct in the foreseeable future.

Diving and Social Behavior

The duration of foraging dives in hawksbill sea turtles commonly depends on the size of the turtle: larger turtles diving deeper and longer. At a study site also in the northern Caribbean, foraging dives were made only during the day and dive durations ranged from 19-26 minutes in duration at depths of 8-10 m. At night, resting dives ranged from 35-47 minutes in duration (Dam and Diez, 1997a).

Vocalizations and Hearing

There is no information on hawksbill sea turtle vocalizations or hearing. However, we assume that their hearing sensitivities will be similar to those of green and loggerhead sea turtle: their best hearing sensitivity will be in the low frequency range: from 200 to 400 Hz with rapid declines for tones at lower and higher frequencies. Their hearing will probably have a practical upper limit of about 1000 Hz (Bartol *et al.* 1999, Ridgway *et al.* 1969).

These hearing sensitivities are similar to the hearing sensitivities reported for two terrestrial species: pond turtles (*Pseudemys scripta*) and wood turtles (*Chrysemys insculpta*). Pond turtles are reported to have best hearing responsiveness between 200 and 700 Hz, with slow declines below 100 Hz and rapid declines above 700 Hz and almost no sensitivity above 3000 Hz (Wever and Vernon 1956) the latter has sensitivities up to about 500 Hz, followed by a rapid decline above 1000 Hz and almost no responses beyond 3000 or 4000 Hz (Peterson 1966).

4.8 Kemp's ridley sea turtle

Distribution

Adult Kemp's ridley turtles are restricted to the Gulf of Mexico in shallow near shore waters, although adult-sized individuals sometimes are found on the eastern seaboard of the United States. Females rarely leave the Gulf of Mexico and adult males do not migrate. Juveniles feed along the east coast of the United States up to the waters off Cape Cod, Massachusetts (Spotila 2004). A small number of individuals reach European waters (Brongersma 1972, Spotila 2004) and the Mediterranean (Pritchard and Marquez-M. 1973).

Juvenile Kemp's ridley sea turtles are the second most abundant sea turtle in the mid-Atlantic region from New England, New York, and the Chesapeake Bay, south to coastal areas off North Carolina. Juvenile Kemp's ridley sea turtles migrate into the region during May and June and forage for crabs in submerged aquatic vegetation (Keinath *et al.* 1987, Musick and Limpus 1997). In the fall, they migrate south along the coast, forming one of the densest concentrations of Kemp's ridley sea turtles outside of the Gulf of Mexico (Musick and Limpus 1997).

Population Structure

As discussed previously, the term "population" refers to groups of individuals whose patterns of increase or decrease in abundance over time are determined by internal dynamics (births resulting from sexual interactions between individuals in the group and deaths of those individuals) rather than external dynamics (immigration or emigration). This definition is a reformulation of definitions articulated by Cole (1957, Futuyma (1986) and Wells and Richmond (1995) and is more restrictive than those uses of 'population' that refer to groups of individuals that co-occur in space and time but do not have internal dynamics that determine whether the size of the group increases or decreases over time (see review by Wells and Richmond 1995). The definition we apply is important to section 7 consultations because such concepts as 'population decline,' 'population collapse,' 'population extinction,' and 'population recovery' apply to the restrictive definition of 'population' but do not explicitly apply to alternative definitions.

Unlike the other sea turtles discussed in this Opinion, adult Kemp's ridley sea turtles are generally restricted to the Gulf of Mexico. Almost 95 percent of all Kemp's ridley sea turtle nesting occurs on the beaches of Rancho Nuevo, Tepehuajes, and Barra del Tordo in the State of Tamaulipas, Mexico. Nesting also occurs in Veracruz, Mexico, and Texas, U.S., but on a much smaller scale. Occasional nesting has been documented in North Carolina, South Carolina, and the Gulf and Atlantic coasts of Florida. As a general matter, Kemp's ridley sea turtles are treated as a single population.

Threats to the Species

NATURAL THREATS. Kemp's ridley sea turtles are exposed to a wide variety of threats during every stage of their lives. Eggs and hatchlings on nesting beaches are preyed upon by coyotes, raccoons, coatis, skunks, ghost crabs, ants, and to lesser degrees hawks, vultures, grackles, and caracaras (Dodd 1988, Hirth 1971, Witzell 1983). Those hatchlings that reach the ocean are preyed upon by gulls, terns, sharks, and predatory fish (Dodd 1988). Sharks and other large marine predators prey on large juvenile Kemp's ridley sea turtles.

Because of their restricted geographic distribution, the concentration of most nesting activity at one beach, and the frequency of hurricanes in the Gulf of Mexico, hurricanes represent a substantial threat to Kemp's ridley sea turtles.

For example, in 1988 Hurricane Gilbert struck the primary nesting beach, destroyed many of the nests, and altered the structure of the nesting beach.

ANTHROPOGENIC THREATS. Several human activities contributed to the endangerment of threaten Kemp's ridley sea turtles: harvests of eggs on nesting beaches, incidental capture in fisheries, loss of foraging habitat, and marine pollution. In 1947, 40,000 female Kemp's ridley sea turtles were observed nesting on the beaches at Rancho Nuevo on a single day (Carr 1963, Hildebrand 1963). From the 1940s through the early 1960s, poaching on nests on the beaches of Rancho Nuevo, Mexico, were heavily exploited but beach protection in 1966 helped to curtail this activity (NMFS and USFWS 1992). By the mid-1960s the number of females nesting on the same beaches had declined to about 1,300 on a single day (Chavez *et al.* 1967).

Kemp's ridley sea turtles have been captured and killed by fishing gear in several Federal and state fisheries throughout their range. They have been captured in gear used in lobster fisheries and monkfish fisheries off the northeastern United States, pound net fisheries off eastern Long Island, the mid-Atlantic, and Chesapeake Bay; fisheries for squid, mackerel, butterfish, bluefish, summer flounder, Atlantic herring, weakfish, and the sargassum fishery. The most significant fishery-related threat to Kemp's ridley sea turtles has been the number of sea turtles that have been captured and killed in the shrimp trawl fisheries in the Gulf of Mexico.

Kemp's ridley sea turtles have also been captured and killed as a result of entrainment in power plants along the coast of the United States and coastal dredging.

RECOVERY ACTIONS. Kemp's ridley sea turtles have benefited from a concentrated recovery effort that began in the mid-1960s when the government of Mexico established a program to protect eggs on the beach of Rancho Nuevo. In 1977, a Mexican presidential decree included the Rancho Nuevo Nesting Beach Natural Reserve as part of a system of reserves for sea turtles. In 1978, an experiment to "head start" Kemp's ridley sea turtles was implemented as part of a larger effort to recover the species. From 1978 to 1991, under a cooperative beach patrol effort involving personnel from both countries, the number of released hatchlings was increased to a yearly average of 54,676 individuals. In 1990 a complete ban on taking any species of sea turtle was established by the Government of Mexico.

Status

Kemp's ridley sea turtles were listed as endangered on 2 December 1970 (35 FR 18320). There is no designated critical habitat for the Kemp's ridley sea turtle.

In 1947, 40,000 female Kemp's ridley sea turtles were observed nesting on the beaches at Rancho Nuevo on a single day (Carr 1963, Hildebrand 1963). By the early 1970s, the estimate of mature female Kemp's ridleys had been reduced to 2,500-5,000 individuals. Between the years of 1978 and 1991 only 200 Kemp's ridleys nested annually. Today the Kemp's ridley population appears to be in the early stages of recovery. Nesting has increased steadily over the past decade. During the 2000 nesting season, an estimated 2,000 females nested at Rancho Nuevo, a single arribada of 1,000 turtles was reported in 2001, and an estimated 3,600 turtles produced over 8,000 nests in 2003. In 2006, a record number of nests were recorded since monitoring began in 1978; 12,143 nests were documented in Mexico, with 7,866 of those at Rancho Nuevo. By 2004, the number of adult females in the Gulf of Mexico is

estimate to have increased to about 5,000 individuals (Spotila 2004) with over 8,000 nests reported in 2003 (Márquez-M. et al. 2004).

On the Texas coast, 251 Kemp's ridley nests were recorded from 2002-2006. For the 2007 nesting season, 127 nests have been recorded in Texas, with 73 of those nests documented at Padre Island National Seashore. Those 127 nests are a record for the Texas coast, passing the 2006 record of 102 nests.

The Turtle Expert Working Group (2000) estimated that the population size of Kemp's ridley sea turtles grew at an average rate of 11.3 percent per year (95% C.I. slope = 0.096-0.130) between 1985 and 1998. Over the same time interval, hatchling production increased at a slightly slower rate (9.5% per year).

Vocalizations and Hearing

There is no information on the vocalizations or hearing of Kemp's ridley sea turtles. However, we assume that their hearing sensitivities would be similar to those of green and loggerhead sea turtle: their best hearing sensitivity would be in the low frequency range: from 200 to 400 Hz with rapid declines for tones at lower and higher frequencies. Their hearing would probably have a practical upper limit of about 1000 Hz (Bartol *et al.* 1999, Ridgway *et al.* 1969).

These hearing sensitivities are similar to the hearing sensitivities reported for two terrestrial species: pond turtles (*Pseudemys scripta*) and wood turtles (*Chrysemys insculpta*). Pond turtles are reported to have best hearing responsiveness between 200 and 700 Hz, with slow declines below 100 Hz and rapid declines above 700 Hz and almost no sensitivity above 3000 Hz (Wever and Vernon 1956) the latter has sensitivities up to about 500 Hz, followed by a rapid decline above 1000 Hz and almost no responses beyond 3000 or 4000 Hz (Peterson 1966).

4.9 Leatherback Sea Turtle

Distribution

Leatherback turtles are widely distributed throughout the oceans of the world. The species is found in four main regions of the world: the Pacific, Atlantic, and Indian Oceans, and the Caribbean Sea. Leatherbacks also occur in the Mediterranean Sea, although they are not known to nest there. The four main regional areas may further be divided into nesting aggregations. Leatherback turtles are found on the western and eastern coasts of the Pacific Ocean, with nesting aggregations in Mexico and Costa Rica (eastern Pacific) and Malaysia, Indonesia, Australia, the Solomon Islands, Papua New Guinea, Thailand, and Fiji (western Pacific). In the Atlantic Ocean, leatherback nesting aggregations have been documented in Gabon, Sao Tome and Principe, French Guiana, Suriname, and Florida. In the Caribbean, leatherbacks nest in the U.S. Virgin Islands and Puerto Rico. In the Indian Ocean, leatherback nesting aggregations are reported in India and Sri Lanka.

Leatherback sea turtles are highly migratory, exploiting convergence zones and upwelling areas in the open ocean, along continental margins, and in archipelagic waters (Morreale *et al.* 1994, Eckert 1998, Eckert 1999a). In a single year, a leatherback may swim more than 10,000 kilometers (Eckert 1998). In the North Atlantic Ocean, leatherback turtles regularly occur in deep waters (>328 ft), and an aerial survey study in the north Atlantic sighted leatherback turtles in water depths ranging from 3 to 13,618 ft, with a median sighting depth of 131.6 ft (CeTAP 1982). This

same study found leatherbacks in waters ranging from 7 to 27.2°C. In the Pacific Ocean, leatherback turtles have the most extensive range of any living reptile and have been reported in all pelagic waters of the Pacific between 71°N and 47°S latitude and in all other major pelagic ocean habitats (NMFS and USFWS 1998). Leatherback turtles lead a completely pelagic existence, foraging widely in temperate waters except during the nesting season, when gravid females return to tropical beaches to lay eggs. Males are rarely observed near nesting areas, and it has been hypothesized that leatherback sea turtles probably mate outside of tropical waters, before females swim to their nesting beaches (Eckert and Eckert 1988).

Leatherback turtles are uncommon in the insular Pacific Ocean, but individual leatherback turtles are sometimes encountered in deep water and prominent archipelagoes. To a large extent, the oceanic distribution of leatherback turtles may reflect the distribution and abundance of their macroplanktonic prey, which includes medusae, siphonophores, and salpae in temperate and boreal latitudes (NMFS and USFWS 1996). There is little information available on their diet in subarctic waters.

Population Structure

Leatherback turtles are widely distributed throughout the oceans of the world. The species is divided into four main populations in the Pacific, Atlantic, and Indian Oceans, and the Caribbean Sea. Leatherbacks also occur in the Mediterranean Sea, although they are not known to nest there. The four main populations are further divided into nesting aggregations. Leatherback turtles are found on the western and eastern coasts of the Pacific Ocean, with nesting aggregations in Mexico and Costa Rica (eastern Pacific) and Malaysia, Indonesia, Australia, the Solomon Islands, Papua New Guinea, Thailand, and Fiji (western Pacific). In the Atlantic Ocean, leatherback nesting aggregations have been documented in Angola (Weir *et al.* 2007), Gabon (Witt *et al.* 2008), Sao Tome and Principe, French Guiana, Suriname, and Florida. In the Caribbean, leatherbacks nest in the U.S. Virgin Islands and Puerto Rico. In the Indian Ocean, leatherback nesting aggregations are reported in India, Sri Lanka, and the Andaman and Nicobar Islands.

Threats to the Species

NATURAL THREATS. The various habitat types leatherback sea turtles occupy throughout their lives exposes these sea turtles to a wide variety of natural threats. The beaches on which leatherback sea turtles nest and the nests themselves are threatened by hurricanes and tropical storms as well as the storm surges, sand accretion, and rainfall that are associated with hurricanes. Hatchlings are hunted by predators like herons, gulls, dogfish, and sharks. Larger leatherback sea turtles, including adults, are also killed by sharks and other large, marine predators.

ANTHROPOGENIC THREATS. Leatherback sea turtles are endangered by several human activities, including fisheries interactions, entanglement in fishing gear (e.g., gillnets, longlines, lobster pots, weirs), direct harvest, egg collection, the destruction and degradation of nesting and coastal habitat, boat collisions, and ingestion of marine debris (NMFS and USFWS 1997).

The foremost threat is the number of leatherback turtles killed or injured in fisheries. Spotila (2000) concluded that a conservative estimate of annual leatherback fishery-related mortality (from longlines, trawls and gillnets) in the Pacific Ocean during the 1990s is 1,500 animals. He estimates that this represented about a 23% mortality rate (or

33% if most mortality was focused on the East Pacific population). Spotila (2000) asserts that most of the mortality associated with the Playa Grande nesting site was fishery related.

Leatherback sea turtles are exposed to commercial fisheries in many areas of the Atlantic Ocean. For example, leatherback entanglements in fishing gear are common in Canadian waters where Goff and Lien (1988) reported that 14 of 20 leatherbacks encountered off the coast of Newfoundland and Labrador were entangled in fishing gear including salmon net, herring net, gillnet, trawl line and crab pot line. Leatherbacks are reported taken by the many other nations that participate in Atlantic pelagic longline fisheries (see NMFS 2001, for a complete description of take records), including Angola, Belize, Bermuda, Brazil, Canada, Cuba, Cyprus, France, Grenada, Ireland, Korea, Mexico, Morocco, People's Republic of China, Taiwan, Trinidad, United Kingdom and Venezuela.

In the Pacific Ocean, between 1,000 and 1,300 leatherback sea turtles are estimated to have been captured and killed in longline fisheries in 2000 (Lewison *et al.* 2004). Shallow-set longline fisheries based out of Hawai'i are estimated to have captured and killed several hundred leatherback sea turtles before they were closed in 2001. When they were re-opened in 2004, with substantial modifications to protect sea turtles, these fisheries were estimated to have captured and killed about 1 or 2 leatherback sea turtles each year. Between 2004 and 2008, shallow-set fisheries based out of Hawai'i are estimated to have captured about 19 leatherback sea turtles, killing about 5 of these sea turtles. A recent biological opinion on these fisheries expected this rate of interaction and deaths to continue into the foreseeable future (NMFS 2008). Leatherback sea turtles have also been and are expected to continue to be captured and killed in the deep-set based longline fisheries based out of Hawai'i and American Samoa.

Shrimp trawls in the Gulf of Mexico capture the largest number of leatherback sea turtles: each year, they have been estimated to capture about 3,000 leatherback sea turtles with 80 of those sea turtles dying as a result. Along the Atlantic coast of the U.S., NMFS estimated that about 800 leatherback sea turtles are captured in pelagic longline fisheries, bottom longline and drift gillnet fisheries for sharks as well as lobster, deep-sea red crab, Jonah crab, dolphin fish and wahoo, and Pamlico Sound gillnet fisheries. Although most of these turtles are released alive, these fisheries are combine to kill about 300 leatherback sea turtles each year; the health effects of being captured on the sea turtles that survive remain unknown.

Leatherback sea turtles are known to drown in fish nets set in coastal waters of Sao Tome, West Africa (Castroviejo *et al.* 1994; Graff 1995). Gillnets are one of the suspected causes for the decline in the leatherback turtle population in French Guiana (Chevalier *et al.* 1999), and gillnets targeting green and hawksbill turtles in the waters of coastal Nicaragua also incidentally catch leatherback turtles (Lagueux *et al.* 1998). Observers on shrimp trawlers operating in the northeastern region of Venezuela documented the capture of six leatherbacks from 13,600 trawls (Marcano and Alio, 2000). An estimated 1,000 mature female leatherback turtles are caught annually off of Trinidad and Tobago with mortality estimated to be between 50-95% (Eckert and Lien, 1999). However, many of the turtles do not die as a result of drowning, but rather because the fishermen butcher them in order to get them out of their nets (NMFS 2001). There are known to be many sizeable populations of leatherbacks nesting in West Africa, possibly as many as 20,000 females nesting annually (Fretey 2001). In Ghana, nearly two thirds of the leatherback turtles that come up to nest on the beach are killed by local fishermen.

On some beaches, nearly 100% of the eggs laid have been harvested. Eckert (1996) and Spotila *et al.* (1996) note that adult mortality has also increased significantly, particularly as a result of driftnet and longline fisheries. Like green and hawksbill sea turtles, leatherback sea turtles are threatened by domestic or domesticated animals that prey on their nests; artificial lighting that disorients adult female and hatchling sea turtles, which can dramatically increase the mortality rates of hatchling sea turtles; beach replenishment; ingestion and entanglement in marine debris; and environmental contaminants.

Laurance *et al.* (2008) reported that logs lost during rainforest logging in Gabon had drifted downstream, washed ashore, and had prevented leatherback sea turtles from reaching about 30 percent of the nesting beach at Pongara, Gabon during the 2002-2003 and 2003 – 2004 nesting seasons. In addition, they concluded that these logs caused 8 – 14 percent of all nesting attempted ($n = 2,163$) to be aborted or disrupted. In many instances, female leatherback sea turtles died when they were caught in logs on the beach.

Status

The leatherback turtle is listed as endangered under the ESA throughout its global range. Increases in the number of nesting females have been noted at some sites in the Atlantic Ocean, but these are far outweighed by local extinctions, especially of island populations, and the demise of populations throughout the Pacific, such as in Malaysia and Mexico. Spotila *et al.* (1996) estimated the global population of female leatherback turtles to be only 34,500 (confidence limits: 26,200 to 42,900) nesting females; however, the eastern Pacific population has continued to decline since that estimate, leading some researchers to conclude that the leatherback is now on the verge of extinction in the Pacific Ocean (e.g. Spotila *et al.* 1996, Spotila, *et al.* 2000).

Globally, leatherback turtle populations have been decimated worldwide. In 1980, the global leatherback population was estimated at approximately 115,000 adult females (Pritchard 1982). By 1995, this global population (of adult females) is estimated to have declined to 34,500 (Spotila *et al.* 1996). Populations have declined in Mexico, Costa Rica, Malaysia, India, Sri Lanka, Thailand, Trinidad, Tobago, and Papua New Guinea. Throughout the Pacific, leatherbacks are seriously declining at all major nesting beaches.

In the Atlantic and Caribbean, the largest nesting assemblages of leatherbacks are found in the U.S. Virgin Islands, Puerto Rico, and Florida. Since the early 1980s, nesting data has been collected at these locations. Populations in the eastern Atlantic (*i.e.* off Africa) and Caribbean appear to be stable; however, information regarding the status of the entire leatherback population in the Atlantic is lacking and it is certain that some nesting populations (*e.g.*, St. John and St. Thomas, U.S. Virgin Islands) have been extirpated (NMFS and USFWS 1995). Data collected in southeast Florida clearly indicate increasing numbers of nests for the past twenty years (9.1-11.5% increase), although it is critical to note that there was also an increase in the survey area in Florida over time (NMFS 2001). However, the largest leatherback rookery in the western North Atlantic remains along the northern coast of South America in French Guiana and Suriname. Recent information suggests that Western Atlantic populations declined from 18,800 nesting females in 1996 (Spotila *et al.* 1996) to 15,000 nesting females by 2000 (Spotila, personal communication *cited in* NMFS 2001). The nesting population of leatherback turtles in the Suriname-French Guiana trans-boundary region has been declining since 1992 (Chevalier and Girondot, 1998). Poaching and fishing gear interactions are believed to be the major contributors to the decline of leatherbacks in the area.

Leatherback sea turtles appear to be in a critical state of decline in the North Pacific Ocean. The leatherback population that nests along the east Pacific Ocean was estimated to be over 91,000 adults in 1980 (Spotila 1996), but is now estimated to number less than 3,000 total adult and subadult animals (Spotila 2000). Leatherback turtles have experienced major declines at all major Pacific basin rookeries. At Mexiquillo, Michoacan, Mexico, Sarti *et al.* (1996) reported an average annual decline in nesting of about 23% between 1984 and 1996. The total number of females nesting on the Pacific coast of Mexico during the 1995-1996 season was estimated at fewer than 1,000. Less than 700 females are estimated for Central America (Spotila 2000). In the western Pacific, the decline is equally severe. Current nestings at Terengganu, Malaysia represent 1% of the levels recorded in the 1950s (Chan and Liew 1996).

While Spotila *et al.* (1996) indicated that turtles may have been shifting their nesting from French Guiana to Suriname due to beach erosion, analyses show that the overall area trend in number of nests has been negative since 1987 at a rate of 15.0 -17.3 % per year (NMFS 2001). If turtles are not nesting elsewhere, it appears that the Western Atlantic portion of the population is being subjected to mortality beyond sustainable levels, resulting in a continued decline in numbers of nesting females.

Based on published estimates of nesting female abundance, leatherback populations are declining at all major Pacific basin nesting beaches, particularly in the last two decades (Spotila *et al.* 1996, NMFS and USFWS 1998, Spotila *et al.* 2000). Declines in nesting populations have been documented through systematic beach counts or surveys in Malaysia (Rantau Abang, Terengganu), Mexico and Costa Rica. In other leatherback nesting areas, such as Papua New Guinea, Indonesia, and the Solomon Islands, there have been no systematic consistent nesting surveys, so it is difficult to assess the status and trends of leatherback turtles at these beaches. In all areas where leatherback nesting has been documented, however, current nesting populations are reported by scientists, government officials, and local observers to be well below abundance levels of several decades ago. The collapse of these nesting populations was most likely precipitated by a tremendous overharvest of eggs coupled with incidental mortality from fishing (Sarti *et al.* 1996, Eckert, 1997).

Based on recent modeling efforts, some authors concluded that leatherback turtle populations cannot withstand more than a 1% human-related mortality level which translates to 150 nesting females (Spotila *et al.* 1996). As noted previously, there are many human-related sources of mortality to leatherbacks; every year, 1,800 leatherback turtles are expected to be captured or killed as a result of federally-managed activities in the U.S. (this total includes both lethal and non-lethal take). An unknown number of leatherbacks are captured or killed in fisheries managed by states. Spotila *et al.* (1996) recommended not only reducing fishery-related mortalities, but also advocated protecting eggs and hatchlings. Zug and Parham (1996) point out that a combination of the loss of long-lived adults in fishery-related mortalities and a lack of recruitment stemming from elimination of annual influxes of hatchlings because of intense egg harvesting has caused the sharp decline in leatherback populations.

For several years, NMFS' biological opinions have established that leatherback populations currently face high probabilities of extinction as a result of both environmental and demographic stochasticity. Demographic stochasticity, which is chance variation in the birth or death of an individual of the population, is facilitated by the increases in mortality rates of leatherback populations resulting from the premature deaths of individual sea turtles

associated with human activities (either removal of eggs or adult females that are killed on nesting beaches or that die as a result of being captured in fisheries) or incidental capture and mortality of individuals in various fisheries.

In the Pacific Ocean, leatherback sea turtles are critically endangered as a direct consequence of a historical combination of overexploitation and habitat loss. The information available suggests that leatherback sea turtles have high probabilities of becoming extinct in the Pacific Ocean unless they are protected from the combined threats of entanglements in fishing gear, overharvests, and loss of their nesting habitat. The limited data available suggests that leatherback sea turtles exist at population sizes small enough to be classified as “small” populations (that is, populations that exhibit population dynamics that increase the extinction probabilities of the species or several of its populations) as evidenced by biases in the male to female ratios in the Pacific. The status of leatherback sea turtles in the Atlantic Ocean remains uncertain.

Diving and Social Behavior

The maximum dive depths for post-nesting female leatherbacks in the Caribbean have been recorded at 475 meters and over 1,000 meters, with routine dives recorded at between 50 and 84 meters. The maximum dive length recorded for such female leatherback turtles was 37.4 minutes, while routine dives ranged from 4 -14.5 minutes (*in* Lutcavage and Lutz 1997). Leatherback turtles also appear to spend almost the entire portion of each dive traveling to and from maximum depth, suggesting that maximum exploitation of the water column is of paramount importance to the leatherback (Eckert *et al.* 1989).

A total of six adult female leatherback turtles from Playa Grande, Costa Rica were monitored at sea during their interesting intervals and during the 1995 through 1998 nesting seasons. The turtles dived continuously for the majority of their time at sea, spending 57 - 68% of their time submerged. Mean dive depth was 19 ± 1 meters and the mean dive duration was 7.4 ± 0.6 minutes (Southwood *et al.* 1999). Similarly, Eckert (1999) placed transmitters on nine leatherback females nesting at Mexiquillo Beach and recorded dive behavior during the nesting season. The majority of the dives were less than 150 meters depth, although maximum depths ranged from 132 meters to over 750 meters. Although the dive durations varied between individuals, the majority of them made a large proportion of very short dives (less than two minutes), although Eckert (1999) speculates that these short duration dives most likely represent just surfacing activity after each dive. Excluding these short dives, five of the turtles had dive durations greater than 24 minutes, while three others had dive durations between 12 - 16 minutes.

Migrating leatherback turtles also spend a majority of time at sea submerged, and they display a pattern of continual diving (Standora *et al.* 1984, *cited in* Southwood *et al.* 1999). Based on depth profiles of four leatherbacks tagged and tracked from Monterey Bay, California in 2000 and 2001, using satellite-linked dive recorders, most of the dives were to depths of less than 100 meters and most of the time was spent shallower than 80 meters. Based on preliminary analyses of the data, 75-90% of the time the leatherback turtles were at depths less than 80 meters.

Vocalizations and Hearing

There is no information on the vocalizations or hearing of leatherback sea turtles. However, we assume that their hearing sensitivities would be similar to those of green and loggerhead sea turtle: their best hearing sensitivity would be in the low frequency range: from 200 to 400 Hz with rapid declines for tones at lower and higher

frequencies. Their hearing would probably have a practical upper limit of about 1000 Hz (Bartol *et al.* 1999, Ridgway *et al.* 1969).

These hearing sensitivities are similar to the hearing sensitivities reported for two terrestrial species: pond turtles (*Pseudemys scripta*) and wood turtles (*Chrysemys insculpta*). Pond turtles are reported to have best hearing responsiveness between 200 and 700 Hz, with slow declines below 100 Hz and rapid declines above 700 Hz and almost no sensitivity above 3000 Hz (Wever and Vernon 1956) the latter has sensitivities up to about 500 Hz, followed by a rapid decline above 1000 Hz and almost no responses beyond 3000 or 4000 Hz (Peterson 1966).

4.10 Loggerhead Sea Turtle

Distribution

Loggerheads are circumglobal, inhabiting continental shelves, bays, estuaries, and lagoons in temperate, subtropical, and tropical waters. Major nesting grounds are generally located in temperate and subtropical regions, with scattered nesting in the tropics (*in NMFS and USFWS 1998*).

Population Structure

Loggerhead sea turtles, like other sea turtles, are divided into regional groupings that represent major oceans or seas: the Atlantic Ocean, Pacific Ocean, Indian Ocean, Caribbean Sea and Mediterranean Sea. In these regions, the population structure of loggerhead turtles are usually based on the distribution of their nesting aggregations (see Table 5). In the Pacific Ocean, loggerhead turtles are represented by a northwestern Pacific nesting aggregation (located in Japan) which may be comprised of separate nesting groups (Hatase *et al.* 2002) and a smaller southwestern nesting aggregation that occurs in Australia (Great Barrier Reef and Queensland), New Caledonia, New Zealand, Indonesia, and Papua New Guinea. One of the largest loggerhead nesting aggregations in the world is found in Oman, in the Indian Ocean.

Based on genetic analyses of loggerhead sea turtles captured in pelagic longline fisheries in the same general area as that of the proposed action, loggerhead sea turtles along the southeastern coast of the United States might originate from one of the five major nesting aggregations in the western North Atlantic: (1) a northern nesting aggregation that occurs from North Carolina to northeast Florida, about 29°N; (2) a south Florida nesting aggregation, occurring from 29°N on the east coast to Sarasota on the west coast; (3) a Florida panhandle nesting aggregation, occurring at Eglin Air Force Base and the beaches near Panama City, Florida; (4) a Yucatán nesting aggregation, occurring on the eastern Yucatán Peninsula, Mexico; and (5) a Dry Tortugas nesting aggregation that occurs in the islands of the Dry Tortugas near Key West, Florida (NMFS 2001).

Loggerhead sea turtles from the northern nesting aggregation, which represents about 9% of the loggerhead nests in the western North Atlantic, comprise more between 25 and 59% of the loggerhead sea turtles captured in foraging areas from Georgia to waters of the northeastern United States (Bass *et al.* 1998, Norrgard 1995, Rankin-Baransky 1997, Sears 1994, Sears *et al.* 1995). About 10% of the loggerhead sea turtles in foraging areas off the Atlantic coast of central Florida would have originated from the northern nesting aggregation (Witzell 1999). Loggerhead sea turtles associated with the South Florida nesting aggregation, in contrast, occur in higher frequencies in the Gulf of

Mexico (where they represent about 10% of the loggerhead sea turtles captured) and the Mediterranean Sea (where they represent about 45-47% of the loggerhead sea turtles captured).

Table 8. Nesting populations of loggerhead sea turtles that have been identified using molecular genetics (after Hutchinson and Dutton 2007)

Ocean Basin	Population
Atlantic (eastern) (the Cape Verde rookeries appear to be genetically distinct, the other rookeries listed have not been evaluated)	
1	Cape Verde
2	Greece
3	Libya
4	Turkey
5	West African coast
Atlantic (western) and Caribbean	
6	Northern (U.S.) including rookeries from southern Virginia south to Florida
7	Florida peninsula which includes rookeries from the northeastern border of Florida south to southwestern Florida
8	Dry Tortugas, which includes the islands of Key West
9	Northern Gulf of Mexico, which extends from northwestern Florida into Texas
10	Cay Sal bank in the western Bahamas
11	Quintana Roo, which includes all rookeries on Mexico's Yucatan Peninsula
12	Brazil
13	Additional rookeries in Caribbean Central America, the Bahamian Archipelago, Cuba, Colombia, Venezuela, and the eastern Caribbean Islands have not been classified
Indian Ocean (none of these rookeries have been evaluated genetically)	
14	Oman
15	Yemen
16	Sri Lanka
17	Madagascar
18	South Africa and (possibly) Mozambique
Pacific Ocean	
19	Western Australia
20	Eastern Australia, which may include rookeries from New Caledonia
21	North Pacific or Japan, which includes all rookeries in the Japanese Archipelago
22	Solomon Islands

Threats to the Species

NATURAL THREATS. The various habitat types loggerhead sea turtles occupy throughout their lives exposes these sea turtles to a wide variety of natural and anthropogenic threats. The beaches on which loggerhead sea turtles nest and the nests themselves are threatened by hurricanes and tropical storms as well as the storm surges, sand accretion, and rainfall that are associated with hurricanes. For example, in 1992, all of the eggs over a 90-mile length of coastal Florida were destroyed by storm surges on beaches that were closest to the eye of Hurricane Andrew (Milton *et al.* 1994). Hatchlings are hunted by predators like herons, gulls, dogfish, and sharks. Adult loggerhead sea turtles are also killed by sharks and other large, marine predators as well as cold stunning and exposure to biotoxins.

ANTHROPOGENIC THREATS. A wide variety of human activities adversely affect hatchlings and adult female turtles when they are on land, including beach erosion, beach armoring and nourishment; artificial lighting; beach cleaning; human presence on nesting beaches; beach driving; coastal construction and fishing piers that alter patterns of erosion and accretion on nesting beaches; exotic dune and beach vegetation; and poaching. As the size of the human population in coastal areas increases, that population brings with it secondary threats such as exotic fire ants, feral hogs, dogs, and the growth of populations native species that tolerate human presence (*e.g.*, raccoons, armadillos, and opossums) and which feed on turtle eggs.

When they are in coastal or marine waters, loggerhead turtles are affected by a completely different set of human activities that include discharges of toxic chemicals and other pollutants into the marine ecosystem; underwater explosions; hopper dredging, offshore artificial lighting; entrainment or impingement in power plants; entanglement in marine debris; ingestion of marine debris; boat collisions; poaching, and interactions with commercial fisheries. Of these, interactions with fisheries represents a primary threat because of number of individuals that are captured and killed in fishing gear each year.

Loggerhead sea turtles are also captured and killed in commercial fisheries. In the Pacific Ocean, between 2,600 and 6,000 loggerhead sea turtles are estimated to have been captured and killed in longline fisheries in 2000 (Lewison *et al.* 2004). Shallow-set Hawai'i based longline fisheries are estimated to have captured and killed several hundred loggerhead sea turtles before they were closed in 2001. When they were re-opened in 2004, with substantial modifications to protect sea turtles, these fisheries were estimated to have captured and killed about fewer than 5 loggerhead sea turtles each year. Between 2004 and 2008, shallow-set fisheries based out of Hawai'i are estimated to have captured about 45 loggerhead sea turtles, killing about 10 of these sea turtles. A recent biological opinion on these fisheries expected this rate of interaction and deaths to continue into the foreseeable future (NMFS 2008). Loggerhead sea turtles have also been and are expected to continue to be captured and killed in the deep-set based longline fisheries based out of Hawai'i and American Samoa.

Shrimp trawl fisheries account for the highest number of loggerhead sea turtles that are captured and killed, but they are also captured and killed in trawls, traps and pots, longlines, and dredges. Along the Atlantic coast of the U.S., NMFS estimated that almost 163,000 loggerhead sea turtles are captured in shrimp trawl fisheries each year in the Gulf of Mexico, with 3,948 of those sea turtles dying as a result of their capture. Each year, several hundred loggerhead sea turtles are also captured in herring fisheries; mackerel, squid, and butterfish fisheries; monkfish fisheries; pound net fisheries, summer flounder and scup fisheries; Atlantic pelagic longline fisheries; and gillnet fisheries in Pamlico Sound. Although most of these turtles are released alive, these fisheries are combine to capture about 2,000 loggehead sea turtles each year, killing almost 700; the health effects of being captured on the sea turtles that survive remain unknown.

In the pelagic environment, loggerhead sea turtles are exposed to a series of longline fisheries that include the U.S. Atlantic tuna and swordfish longline fisheries, an Azorean longline fleet, a Spanish longline fleet, and various fleets in the Mediterranean Sea (Aguilar *et al.* 1995, Bolten *et al.* 1994, Crouse 1999). In the benthic environment in waters off the coastal U.S., loggerheads are exposed to a suite of fisheries in federal and state waters including trawl, purse seine, hook and line, gillnet, pound net, longline, dredge, and trap fisheries.

Like all of the other sea turtles we have discussed, loggerhead sea turtles are threatened by domestic or domesticated animals that prey on their nests; artificial lighting that disorients adult female and hatchling sea turtles, which can dramatically increase the mortality rates of hatchling sea turtles; beach replenishment; ingestion and entanglement in marine debris; and environmental contaminants.

Status

The most recent reviews show that only two loggerhead nesting beaches have greater than 10,000 females nesting per year: South Florida (U.S.) and Masirah Island (Oman). The status of the Oman nesting colony has not been evaluated recently so the current size of this population and its trend are unknown. Nesting colonies in the U.S. have been reported to produce 68,000 to 90,000 nests per year. Recent analyses of nesting data from southeast Florida nesting colonies, which are the largest nesting colonies in the western Atlantic Ocean, suggest that this nesting population is declining. Long-term nesting data suggest similar declines in loggerhead nesting in North Carolina, South Carolina, and Georgia.

In the Eastern Atlantic, the Cape Verde Islands support an intermediately-sized loggerhead nesting colony. In 2000, researchers tagged over 1,000 nesting females on just 5 km (3.1 mi) of beach on Boavista Island (Ehrhart *et al.* 2003). In the Western Atlantic (excluding the U.S.), Brazil supports an intermediately-sized loggerhead nesting assemblage. Published and unpublished reports provide an estimate of about 4,000 nests per year in Brazil (Ehrhart *et al.* 2003). Loggerhead nesting throughout the Caribbean is sparse.

In the Mediterranean, loggerhead nesting is confined almost exclusively to the eastern portion of the Mediterranean Sea. The main nesting assemblages occur in Cyprus, Greece, and Turkey. However, small numbers of loggerhead nests have been recorded in Egypt, Israel, Italy, Libya, Syria, and Tunisia. Based on the recorded number of nests per year in Cyprus, Greece, Israel, Tunisia, and Turkey, loggerhead nesting in the Mediterranean ranges from about 3,300 to 7,000 nests per season (Margaritoulis *et al.* 2003). Loggerheads nest throughout the Indian Ocean and, with the exception of Oman, the number of nesting females is small. Most trends in loggerhead nesting populations in the Indian Ocean are unknown.

Loggerhead populations in Honduras, Mexico, Colombia, Israel, Turkey, Bahamas, Cuba, Greece, Japan, and Panama have been declining. Balazs and Wetherall (1991) speculated that 2,000 to 3,000 female loggerheads may nest annually in all of Japan; however, more recent data suggest that only approximately 1,000 female loggerhead turtles may nest there (Bolten *et al.* 1996; Sea Turtle Association of Japan 2002). Monitoring of nesting beaches at Gamoda (Tokushima Prefecture) has been ongoing since 1954. Surveys at this site showed a marked decline in the number of nests between 1960 and the mid-1970s. Since then, the number of nests has fluctuated, but has declined since 1985 (Bolten *et al.* 1996; Sea Turtle Association of Japan 2002). Monitoring on several other nesting beaches, surveyed since the mid-1970s, revealed increased nesting during the 1980s before declining during the early 1990s. The number of nests at Gamoda remains very small, fluctuating between near zero (1999) to about 50 nests (1996 and 1998; Kamezaki *et al.* 2003).

Table 9. Number of different species of sea turtles that NMFS expected to be “taken” (generally captured and harassed, harmed, wounded, or killed) and the number that are expected to be killed in commercial fisheries managed by NMFS off the Atlantic Coast, based on numbers contained in incidental take statements in biological opinions on those fisheries. Numbers are generally annual estimates (after Griffin *et al.* 2006)

Fishery	NMFS Region	Loggerhead		Leatherback		Green		Hawksbill		Total	
		Total Take	# Killed	Total Take	# Killed	Total Take	# Killed	Total Take	# Killed	Total Take	# Killed
Bluefish	NER	6	3	0	0	0	0	0	0	6	3
Deep-sea red crab	NER	1	1	1	1	0	0	0	0	2	2
Herring	NER	6	3	1	1	1	1	0	0	8	5
Jonah crab	NER	0	0	2	2	0	0	0	0	2	2
Lobster	NER	2	2	5	5	0	0	0	0	7	7
Mackerel, squid, butterfish	NER	6	3	1	1	2	2	0	0	9	6
Monkfish	NER	4	1	2	1	2	1	0	0	8	3
Multispecies	NER	1	1	1	1	1	1	0	0	3	3
Pound net (Virginia)	NER	507	2	2	2	3	2	0	0	512	6
Sea scallop	NER	754	484	2	2	2	2	0	0	760	490
Skate	NER	1	1	1	1	1	1	0	0	3	3
Spiny dogfish	NER	3	2	1	1	1	1	0	0	5	4
Summer flounder, scup, sea bass	NER	19	5	0	0	2	2	0	0	21	7
Tilefish	NER	6	3	1	1	0	0	0	0	7	4
Dolphin fish and wahoo	SER	12	2	12	1	2	1	2	1	28	5
Atlantic pelagic	SER	623	146	660	183	35	8	35	8	1353	345
Sargassum	SER	3	3	0	0	0	0	0	0	3	3
Shark bottom longline and drift gillnet	SER	274	151	34	18	6	1	6	1	320	171
Pamlico Sound gillnet	SER	41	3	2	2	168	46	2	2	213	53
Shrimp trawling	SER	163160	3948	3090	80	18757	514	0	640	185007	5182
Totals		165429	4756	3778	292	18931	573	45*	652	188183	6273

* The biological opinion on shrimp trawl fisheries did not estimate the number of hawksbill sea turtles that might be captured in the fisheries, although it estimated the number that might be killed. Obviously, the fisheries would have to capture at least 640 hawksbill sea turtles to kill that many sea turtles

Scattered nesting has also been reported on Papua New Guinea, New Zealand, Indonesia, and New Caledonia; however, population sizes on these islands have not been ascertained. Survey data are not available for other nesting assemblages in the south Pacific (NMFS and USFWS 1998). In addition, loggerheads are not commonly found in U.S. Pacific waters, and there have been no documented strandings of loggerheads off the Hawai'ian Islands in nearly 20 years (1982-1999 stranding data, G. Balazs, NMFS, personal communication, 2000). There are very few records of loggerheads nesting on any of the many islands of the central Pacific, and the species is considered rare or vagrant on islands in this region (NMFS and USFWS 1998).

For several years, NMFS' biological opinions have established that most loggerhead sea turtles populations face high probabilities of extinction as a result of both environmental and demographic stochasticity. Demographic stochasticity, which is chance variation in the birth or death of an individual of the population, is facilitated by the increases in mortality rates of loggerhead populations resulting from the premature deaths of individual sea turtles associated with human activities (either removal of eggs or adult females that are killed on nesting beaches or that die as a result of being captured in fisheries) or incidental capture and mortality of individuals in various fisheries.

The information available suggests that loggerhead sea turtles have high probabilities of becoming extinct in the Pacific Ocean unless they are protected from the combined threats of entanglements in fishing gear, overharvests, and loss of their nesting habitat. The limited data available suggests that nesting aggregations of loggerhead sea turtles in the Pacific Ocean exist at sizes small enough to be classified as "small" populations (that is, populations that exhibit population dynamics that increase the extinction probabilities of the species or several of its populations) as evidenced by biases in the male to female ratios in the Pacific. These small sizes would increase the extinction probability of these nesting aggregations.

The status of loggerhead sea turtles in the Atlantic Ocean remains uncertain and controversial. For years, the south Florida nesting aggregation, which is the only major nesting aggregation in the western Atlantic Ocean, had been assumed to be stable or increasing. However, more recent data demonstrate that this nesting population is currently declining and probably has been declining for several years. Between 1998 and 2007, nest counts of loggerhead sea turtles in the State of Florida have declined by almost 50 percent to the lowest levels in the 19 years of Florida's monitoring program (Fish and Wildlife Research Institute 2007). Given that (1) the nesting aggregations that account for almost 90 percent of loggerhead nesting in the western Atlantic Ocean are declining, (2) the other nesting aggregations in the western Atlantic Ocean are substantially much smaller, and (3) large numbers of sea turtles from these smaller populations are captured or killed in commercial and other fisheries in the United States each year, we suspect that the extinction probabilities of loggerhead sea turtle populations in the Atlantic Ocean are only slightly lower than those of populations in the Pacific Ocean. The principle difference between the Atlantic and the Pacific may be this: loggerhead sea turtle populations in the Atlantic Ocean may currently be large enough to avoid the small population dynamics we have discussed previously, but the intensity of the anthropogenic pressure on their populations (in the form of numbers captured and killed in fisheries alone) appear to be large enough to accelerate the extinction probabilities of these populations.

Diving and Social Behavior

Studies of loggerhead diving behavior indicate varying mean depths and surface intervals, depending on whether they were located in shallow coastal areas (short surface intervals) or in deeper, offshore areas (longer surface intervals). The maximum recorded dive depth for a post-nesting female was 211-233 meters, while mean dive depths for both a post-nesting female and a subadult were 9-22 meters. Routine dive times for a post-nesting female were between 15 and 30 minutes, and for a subadult, between 19 and 30 minutes (Sakamoto *et al.* 1990 *cited in* Lutcavage and Lutz 1997). Two loggerheads tagged by Hawai'i-based longline observers in the North Pacific and attached with satellite-linked dive recorders were tracked for about 5 months. Analysis of the dive data indicate that most of the dives were very shallow - 70% of the dives were no deeper than 5 meters. In addition, the loggerheads spent approximately 40% of their time in the top meter and nearly all of their time at depths shallower than 100 meters. On 5% of the days, the turtles dove deeper than 100 meters; the deepest daily dive recorded was 178 meters (Polovina *et al.* 2003).

Polovina *et al.* (2004) reported that tagged turtles spent 40 percent of their time at the surface and 90 percent of their time at depths shallower than 40 meters. On only five percent of recorded dive days loggerheads dove to depths greater than 100 meters at least once. In the areas that the loggerheads were diving, there was a shallow thermocline at 50 meters. There were also several strong surface temperature fronts the turtles were associated with, one of 20°C at 28°N latitude and another of 17°C at 32°N latitude.

Vocalizations and Hearing

The information on loggerhead turtle hearing is very limited. Bartol *et al.* (1999) studied the auditory evoked potential of loggerhead sea turtles that had been captured in pound nets in tributaries to the Chesapeake Bay in Maryland and Virginia and concluded that loggerhead sea turtles had most sensitive hearing between 250 and 1000 Hz, with rapid decline above 1000 Hz (Bartol *et al.* 1999). This is similar to the results produced by Ridgway *et al.* (1969) who studied the auditory evoked potentials of three green sea turtles (in air and through mechanical stimulation of the ear). They concluded that the maximum sensitivity of green sea turtles occurred from 300 to 400 Hz with rapid declines for tones at lower and higher frequencies. They reported an upper limit for cochlear potentials without injury of 2000 Hz and a practical limit of about 1000 Hz.

These hearing sensitivities are similar to the hearing sensitivities reported for two terrestrial species: pond turtles (*Pseudemys scripta*) and wood turtles (*Chrysemys insculpta*). Pond turtles are reported to have best hearing responsiveness between 200 and 700 Hz, with slow declines below 100 Hz and rapid declines above 700 Hz and almost no sensitivity above 3000 Hz (Wever and Vernon 1956) the latter has sensitivities up to about 500 Hz, followed by a rapid decline above 1000 Hz and almost no responses beyond 3000 or 4000 Hz (Peterson 1966).

4.11 Designated Critical Habitat for North Atlantic Right Whales

Five areas have been reported to be critical to the survival and recovery of North Atlantic right whales: (1) coastal Florida and Georgia; (2) the Great South Channel, which lies east of Cape Cod; (3) Cape Cod and Massachusetts Bays; (4) the Bay of Fundy; and (5) Browns and Baccaro Banks off southern Nova Scotia. The first three areas occur in U.S. waters and have been designated by NMFS as critical habitat (59 FR 28793). North Atlantic right whales are most abundant in Cape Cod Bay between February and April (Hamilton and Mayo 1990; Schevill *et al.* 1986;

Watkins and Schevill 1982), in the Great South Channel in May and June (Kenney *et al.* 1986, Payne *et al.* 1990), and off Georgia/Florida from mid-November through March (Slay *et al.* 1996). Right whales also frequent the Bay of Fundy, Browns and Baccaro Banks (in Canadian waters), Stellwagen Bank and Jeffrey's Ledge in spring and summer months and use mid-Atlantic waters as a migratory pathway between winter calving grounds and their spring and summer nursery/feeding areas in the Gulf of Maine. A recent review and comparison of sighting data suggests that Jeffrey's Ledge may also be regularly used by right whales in late fall (October through December; Weinrich *et al.* 2000).

The availability of dense concentrations of zooplankton blooms in Cape Cod Bay in late winter and the Great South Channel in spring is described as the key factor for right whale utilization of these areas. Kraus and Kenney (1991) provide an overview of data regarding right whale use of these areas. Important habitat components in Cape Cod Bay include seasonal availability of dense zooplankton patches and protection from weather afforded by land masses surrounding the bay. The spring current regime and bottom topography of the Great South Channel result in nutrient rich upwelling conditions. These conditions support the dense plankton and zooplankton blooms utilized by right whales. The combination of highly oxygenated water and dense zooplankton concentrations are optimal conditions for the small schooling fishes (sand lance, herring and mackerel) that prey upon some of the same zooplankton as right whales. Therefore, the abundance of these fishes, in turn, may affect and be affected by the distribution of several piscivorous marine mammal species such as humpback, fin, minke, and pilot whales, Atlantic whitesided dolphins, and harbor porpoise (CeTAP 1982).

Overfishing has severely reduced the stocks of several groundfish species such as cod, haddock, and yellowtail flounder. Recovery of commercially targeted finfish stocks from their current overfished condition may reduce the biomass of small schooling fish that feed directly on zooplankton resources throughout the region. It is unknown whether zooplankton densities that occur seasonally in Cape Cod Bay or the Great South Channel could be expected to increase significantly. However, increased predation by groundfish on small schooling fish in certain areas and at specific critical periods may allow the necessary high zooplankton densities to be maintained in these areas for longer periods, or accumulate in other areas at levels acceptable to right whales.

Fishing is allowed within the Cape Cod Bay and Great South Channel right whale critical habitat. Lobster trap gear and anchored gillnet gear are believed to pose the most serious risks of entanglement and serious injury to right whales frequenting these waters. As a result, regulations developed under the ALWTRP restrict the use of lobster and anchored gillnet gear in Cape Cod Bay and Great South Channel critical habitat. The most restrictive measures apply during peak right whale abundance: January 1 to May 15 in Cape Cod Bay, and April 1 to June 30 in the Great South Channel critical habitat. Measures include prohibitions on the use of lobster trap gear and anchored gillnet gear in the Great South Channel critical habitat during periods of peak right whale abundance (with the exception of gillnet gear in the Great South Channel Sliver Area), and, for Cape Cod Bay critical habitat, anchored gillnet gear prohibitions and lobster trap restrictions during peak right whale abundance. During non-peak periods of right whale abundance, lobster trap and gillnet fishers must modify their gear by using weak links in net and/or buoy lines, follow gillnet anchoring requirements and meet mandatory breaking strengths for buoy line weak links, amongst others. Additional measures (i.e., gear marking requirements, and prohibitions on the use of floating line and the wet storage of gear) apply within as well as outside of critical habitat. All of these measures are intended to reduce the

likelihood of whale entanglements or the severity of an entanglement should an animal encounter anchored gillnet or lobster gear.

The critical habitat identified in the Southeast U.S. is used primarily as a calving and nursery area. The nearshore waters of northeast Florida and southern Georgia were formally designated as critical habitat for right whales on June 3, 1994 (59 FR 28793); ten years after they were first identified as a likely calving and nursery area for right whales. Since that time, 74 percent of all known, mature female North Atlantic right whales have been documented in this area (Kraus *et al.* 1993). While sightings off Georgia and Florida include primarily adult females and calves, juveniles and adult males have also been observed.

4.0 Environmental Baseline

By regulation, environmental baselines for biological opinions include the past and present impacts of all state, Federal or private actions and other human activities in the action area, the anticipated impacts of all proposed Federal projects in the action area that have already undergone formal or early section 7 consultation, and the impact of State or private actions which are contemporaneous with the consultation in process (50 CFR 402.02). The environmental baseline for this biological opinion includes the effects of several activities that affect the survival and recovery of endangered whales and threatened and endangered sea turtles in the action area.

A number of human activities have contributed to the current status of populations of large whales and sea turtles in the action area. Some of those activities, most notably commercial whaling, occurred extensively in the past, ended, and no longer appear to affect these whale populations, although the effects of these reductions likely persist today. Other human activities are ongoing and appear to continue to affect whale and sea turtles populations in the Action Areas for this consultation. The following discussion summarizes the principal phenomena that are known to affect these endangered whales and threatened and endangered sea turtles in the Action Areas.

Natural Mortality

The sources of natural mortality discussed in the species-specific narratives from the preceding section of this Opinion affect endangered and threatened whales and sea turtles in the Action Areas for this consultation as well. For example, the various habitat types sea turtles occupy along the Atlantic coast of the United States throughout their lives exposes these sea turtles to a wide variety of natural and anthropogenic threats. The Atlantic beaches on which loggerhead sea turtles nest and the nests themselves are threatened by hurricanes and tropical storms as well as the storm surges, sand accretion, and rainfall that are associated with hurricanes. For example, in 1992, all of the eggs over a 90-mile length of coastal Florida were destroyed by storm surges on beaches that were closest to the eye of Hurricane Andrew (Milton *et al.* 1994). Hatchlings sea turtles are hunted by predators like herons, gulls, dogfish, and sharks. Adult sea turtles are also killed by sharks and other large, marine predators and are killed by cold stunning and exposure to biotoxins.

Human-Induced Mortality

Commercial Whaling and Subsistence Hunting

Large whale population numbers in the proposed action areas have historically been impacted by commercial exploitation, mainly in the form of whaling. Prior to current prohibitions on whaling, such as the International Whaling Commission's 1966 moratorium, most large whale species had been depleted to the extent it was necessary to list them as endangered under the ESA of 1966. Nevertheless, fin whales are still hunted in subsistence fisheries

off West Greenland. In 2004, 5 males and 6 females were killed and landed; 2 other fin whales were struck and lost in the same year. In 2003 2 males and 4 females were landed and 2 other fin whales were struck and lost (IWC 2005). Between 2003 and 2007, the IWC set a catch limit of up to 19 fin whales in this subsistence fishery (IWC 2005), however, the IWC's Scientific Committee recommended limiting the number of fin whale killed in this fishery to 1 to 4 individuals until accurate population estimates are produced.

Ship Strikes

As discussed in the *Status of the Species* narratives for several of the whales that are considered in this Opinion, ship strikes pose significant threats to populations of endangered whales along the Atlantic coast, particularly North Atlantic right whales. Based on estimates contained in the U.S. Coast Guard's database on vessel arrivals in 26 port areas in 2003 and 2004, 25,532 vessels arrived at ports along the East Coast of the United States. By 2004, the number of arrivals increased by 7.3 percent, to 27,385 arrivals. Containerships represented most of the arrivals with 8,623 arrivals in 2003 (about one third of all arrivals) and 8,886 arrivals in 2004 (a little under one third of all arrivals). Tank ships were the second-most frequent type of vessel, with 5,439 arrivals in 2003 and 5,513 in 2004. Other vessel types include bulk carriers (3,149 arrivals in 2004), ro-ro cargo vessels (3,054 arrivals in 2004), and general cargo vessels (1,843 arrivals in 2004).

The mid-Atlantic region of the Atlantic coast had the highest levels of vessel traffic of the three regions on the Atlantic Coast, with 21,657 vessel arrivals in 2004. The Southeastern United States has the second-highest volume of vessel traffic on the East Coast, with 4,440 vessel arrivals in 2004, followed by the northeastern region which had 2,570 arrivals in 2004. In both of these years, the most active region was the Port of New York/New Jersey, with 5,426 and 5,550 vessel arrivals in 2003 and 2004, respectively. The Chesapeake Bay port region was second only to the Port of New York, with 4,486 and 4,875 arrivals in 2003 and 2004, respectively. Other port regions with more than 2,000 vessel arrivals in 2004 include the Southeastern United States (4,315 vessel arrivals), the Delaware Bay region (2,661 vessel arrivals), and the Block Island Sound region (2,563 vessel arrivals). In terms of single port areas, New York City had the most vessel arrivals (5,550 arrivals) in 2004, followed by Hampton Roads (2,834 arrivals), Philadelphia (2,661 arrivals), Jacksonville (2,517 arrivals), Savannah (2,474 arrivals), Charleston (2,473 arrivals), Baltimore (2,041 arrivals), and Port Canaveral (1,062 arrivals).

About 302 Federal vessels have been estimated to operate in waters off the East Coast, although all of these vessels probably do not operate at one time or in the same area. The percentage of time these vessels spend at sea varies with the specific mission and objectives of each agency. For example, a study conducted on Navy vessel traffic estimated that of the Navy's 121 East Coast vessels, there are 12 vessels on the East Coast within 200 nm (370.4 km) of shore at any given time (Filadelfo 2001).

Based on the records available, large whales have been struck by ships off almost every coastal state in the United States, although ship strikes are most common along the Atlantic Coast. More than half (56 percent) of the recorded ship strikes from 1975 to 2002 occurred off the coasts of the northeastern United States and Canada, while the mid-Atlantic and southeastern areas each accounted for 22 percent (Jensen and Silber 2003).

In particular, ship strikes represent the greatest threat to the continued existence of North Atlantic right whales: between 1999 and 2006, ships are confirmed to have struck 22 North Atlantic right whales, killing 13 of these

Table 10. East Coast Vessel Arrivals by Vessel Type, 2003 and 2004 (data from NOAA 2008)

Vessel Type	2003	2004
Bulk carrier	2,743	3,149
Combination carrier	150	106
Containership	8,623	8,886
Freight barge	243	274
General cargo vessel	1,752	1,843
Passenger vessel	1,229	1,666
Refrigerated cargo vessel	621	548
Ro-Ro cargo vessel	3,107	3,054
Tank barge	1,127	1,492
Tank ship	5,439	5,513
Towing vessel	416	745
Other ¹	82	109
Total	25,532	27,385

¹ Includes fishing vessels, industrial vessels, research vessels, and school ships.
Source: Nathan Associates Inc., 2005.

Table 11. Federal Vessels greater than 65 feet in length along the US East Coast (data from NOAA 2008)

Agency	Total Number	Number on East Coast
U.S. Navy	261 ^a	121
Maritime Administration (National Defense Reserve Fleet)	230	55 ^b
U.S. Coast Guard	250	108 ^c
National Science Foundation	25	5
NOAA	18	6
U.S. Army Corps of Engineers (Dredges – FY07 Operations)	11	4 ^d
EPA	1	1
Department of the Interior Agencies (MMS, FWS, NPS, USGS)	2	2 ^e
Total Federal vessels	798	302

whales (Jensen and Silber 2003, Knowlton and Kraus 2001, NMFS 2005b). Based on records collected between 1970 and 1999, about 60 percent of the right whales struck by ships along the Atlantic Coast of the United States, 60 percent occurred in waters off the northeast states and 20 percent occurred in waters off the mid-Atlantic or southeast states (Knowlton and Kraus 2001). Over the same time interval (1970 to 1999), these authors identified 25 (44.6 percent) unconfirmed serious injuries and mortalities from ship strikes and 31 (55.4 percent) from entanglements in fishing gear. Of these, 19 were fatal interactions (16 ship strikes, three entanglements); 10 possibly fatal (two ship strikes, eight entanglements); and 27 nonfatal (seven ship strikes, 20 entanglements). Based on these

confirmed mortalities, ships are responsible for more than one-third (16 out of 45, or 35.5 percent) of all confirmed right whale mortalities (a confirmed mortality is one observed under specific conditions defined by NMFS).⁶ Of the remaining mortalities that have been confirmed, three (6.7 percent) were due to entanglement in fishing gear; 13 (28.9 percent) were neonate deaths; and another 13 (28.9 percent) were deaths of non-calf animals from unknown causes (Knowlton and Kraus 2001).

Another study conducted over a similar period – 1970 to 2002 – examined 30 (18 adults and juveniles, and 12 calves) out of 54 reported right whale mortalities from Florida to Canada (Moore *et al.* 2005). Human interaction (ship strike or gear entanglement) was evident in 14 of the 18 adults examined, and trauma, presumably from vessel collision, was apparent in 10 out of the 14 cases. Trauma was also present in four of the 12 calves examined, although the cause of death was more difficult to determine in these cases. In 14 cases, the assumed cause of death was vessel collision; an additional four deaths were attributed to entanglement. In the remaining 12 cases, the cause of death was undetermined (Moore *et al.* 2005).

Glass *et al.* (2008) reported that there were 54 determinations of right whale mortality and serious injury between 2002 and 2006. Out of 21 verified right whale mortalities, 10 were from ship strikes and 3 were from entanglement. Entanglement was identified as the cause of four recorded serious injuries. There were also two documented serious injuries from ship strikes (Glass *et al.* 2008).

A summary paper on ship collisions and whales by Laist *et al.* (2001) reported that out of 28 recorded collisions resulting in lethal or severe injuries to whales in which vessel speed was known, 89 percent involved vessels traveling at 14 knots or faster and the remaining 11 percent involved vessels traveling at 10 to 14 knots. None occurred at speeds below 10 knots. The IWC database of vessel collisions identified 83 events where speed was recorded; the majority of serious injuries and mortalities occurred within a similar range of 15 to 20 knots (Van Waerbeek and Leaper 2008). With regard to the severity of injuries at increasing speeds, Pace and Silber (2005) found a predicted 45 percent chance of death or serious injury at 10 knots. Vanderlaan and Taggart (2007) came to a similar conclusion, determining that the probability of death from a collision was approximately 35-40 percent at 10 knots.

North Atlantic right whales appear to be either unable to detect approaching vessels or, while right whales are engaged in behavioral activities — for example, feeding, nursing, or mating — they ignore the visual or acoustic cues those vessels produce. Because right whales are buoyant and are slow swimmers, they may not be able to avoid oncoming vessels even if they are aware of its approach. When the vulnerability of right whales to ship strikes is combined with the density of ship traffic within the distribution of right whales, ship strikes seem almost inevitable.

⁶ There are four main criteria used to determine whether serious injury or mortality resulted from ship strikes: (1) propeller cut(s) or gashes that are more than approximately 8 cm in depth; (2) evidence of bone breakage determined to have occurred premortem; (3) evidence of haematoma or haemorrhaging; and (4) the appearance of poor health in the ship-struck animal (Knowlton and Kraus 2001).

Various types and sizes of vessels have been involved in ship strikes with large whales, including container/cargo ships/freighters, tankers, steamships, U.S. Coast Guard vessels, Navy vessels, cruise ships, ferries, recreational vessels, fishing vessels, whale-watching vessels, and other vessels (Jensen and Silber 2003). Vessel speed (if recorded) at the time of a large whale collision has ranged from 2 to 51 knots (Jensen and Silber, 2003). Vessels can be damaged during ship strikes (occasionally, collisions with large whales have even harmed or killed humans on board the vessels); of 13 recorded vessels that reported damages from a strike, all were traveling at a speed of at least 10 knots (Jensen and Silber 2003).

Entrapment and Entanglement in Commercial Fishing Gear

Several commercial fisheries operate in the Action Area for this consultation. The fisheries that have the most significant demographic effect on sea turtles are the shrimp trawl fisheries conducted off the southeast United States (from North Carolina to the Atlantic coast of Florida) and Gulf of Mexico (from the Gulf coast of Florida to Texas). Although participants in these fisheries are required to use Turtle Exclusion Devices, which are estimated to reduce the number of sea turtles trawlers capture by as much as 97 percent, each year these fisheries are expected to capture about 185,000 sea turtles each year and kill about 5,000 of the turtles captured. Loggerhead sea turtles account for most of this total: each these fisheries are expected to capture about 163,000 loggerhead sea turtles, killing almost 4,000 of them. These are followed by green sea turtles: about 18,700 green sea turtles are expected to be captured each year with more than 500 of them dying as a result of their capture (NMFS 2002).

Portions of the Atlantic pelagic fisheries for swordfish, tuna, shark, and billfish also operate in the Action Area and capture and kill the second highest numbers of sea turtles along the Atlantic coast. These fisheries, which operate off the coast of the southeast coast South Carolina and Georgia (with the exception of waters off Florida and southernmost Georgia that are closed to the longline component of these fisheries) and the Gulf of Mexico, include purse seine fisheries for tuna, harpoon fisheries for tuna and swordfish, commercial and recreational rod and reel fisheries, gillnet fisheries for shark, driftnet fisheries, pelagic longline fisheries, and bottom longline fisheries.

Between 1986 and 1995, this fishery captured and killed 1 northern right whale, 2 humpback whales, and two sperm whales. Between 1992 and 1998, the longline components of these fisheries are estimated to have captured more than 10,000 sea turtles (4,585 leatherback sea turtles and 5,280 loggerhead sea turtles), killing 168 of these sea turtles in the process (the latter estimate does not include sea turtles that might have died after being released; Johnson *et al.* 1999, Yeung 1999). Since then, all components of these fisheries are estimated to capture about 1,350 sea turtles each year, killing 345 sea turtles in the process.

Portions of the Atlantic sea scallop fisheries also operate in the Action Area (off North Carolina) and capture and kill the third highest numbers of sea turtles along the Atlantic coast. These fisheries are expected to capture about 750 loggerhead sea turtles each year, killing about 480 of them. Although these fisheries are only expected to capture 2 green, leatherback, and Kemp's ridley sea turtles each year, all of these turtles might die as a result of their capture.

In addition, sea turtles are captured and killed in several other Federal fisheries that operate along the Atlantic coast (see Table 4), although most of these fisheries capture and kill fewer sea turtles than the fisheries discussed in the preceding narratives. Of all the factors that influenced NMFS' decision to list sea turtles as threatened or endangered,

the most significant sources of injury or mortality of juvenile, subadult, and adult sea turtles are those associated with commercial fishing.

The fisheries discussed in this section of this Opinion are expected to continue into the foreseeable future at levels of effort that are roughly equivalent to current levels. As a result, we expect the number of sea turtles that are captured and killed in these fisheries to continue for the foreseeable future. These estimates mean that, every five years, more than 800,000 loggerhead sea turtles would be captured in these fisheries, with more than 23,000 of them dying as a result; about 19,000 leatherback sea turtles would be captured, with about 1,500 of them dying as a result; about 95,000 green sea turtles would be captured, with about 2,900 of them dying; and about 3,200 hawksbill sea turtles being captured and killed.

Habitat Degradation

Chronic exposure to the neurotoxins associated with paralytic shellfish poisoning from zooplankton prey has been shown to have detrimental effects on marine mammals. Estimated ingestion rates are sufficiently high to suggest that the PSP toxins are affecting marine mammals, possibly resulting in lower respiratory function, changes in feeding behavior and a lower reproduction fitness (Durbin *et al.* 2002). Other human activities, including discharges from wastewater systems, dredging, ocean dumping and disposal, aquaculture and additional impacts from coastal development are also known to impact marine mammals and their habitat.

Water Pollution. Coastal runoff and river discharges carry large volumes of petrochemical and other contaminants from agricultural activities, cities and industries into the Gulf of Mexico. The coastal waters of the Gulf of Mexico have more sites with high contaminant concentrations than other areas of the coastal United States, due to the large number of waste discharge point sources. Although these contaminant concentrations do not likely affect the more pelagic waters of the action area, the species of turtles analyzed in this biological opinion travel between nearshore and offshore habitats and may be exposed to and accumulate these contaminants during their life cycles. The contaminants that pose potential risks to the health of cetaceans, particularly North Atlantic right whales (O' Shea *et al.* 1994; Reijnders *et al.* 1999), include persistent organic pollutants (Polychlorinated biphenyls, polychlorinated dibenzo-p-dioxins, polychlorinated dibenzofurans, dichloro-diphenyl-trichloroethane, chlordanes, and hexachlorocyclohexane); flame retardants (Polybrominated diphenyl ethers); plasticizers (Phthalate esters); surfactants (Alkyphenol ethoxylates such as nonylphenoxyethoxylates); new-era pesticides and herbicides; municipal and industrial effluents (including endocrine-disrupting compounds such as synthetic estrogens, natural hormones, pulp byproducts); anti-fouling agents (organotin and replacement compounds); dielectric fluids: PCB replacements (e.g., polychlorinated naphthalenes, polybrominated biphenyls); aquaculture-related chemicals (such as antibiotics and pesticides); and metals such Methyl mercury.

Concentrations of organochlorines, including DDT, PCBs, HCHs, aldrin, and dieldrin, have been observed in many species of marine mammals, including right whales. PCBs have been found in samples of right whale blubber (Weisbrod *et al.* 2000) and, at low levels, in zooplankton sampled from Cape Cod Bay (Reeves *et al.* 2001). PCBs, DDT, and other organochlorines have been detected in northern right whale samples from the Bay of Fundy, Browns, and Baccarro Banks (Woodley *et al.* 1991 in NMFS 2005a). However, the available information does not allow us to

determine whether endangered or threatened species are exposed to concentrations to these compounds that are sufficiently high to reduce their ecology.

Another source of pollutants that may have an effect on right whale health and reproduction are biotoxins. Biotoxins are transferred to right whales through ingestion of copepods, such as *C. finmarchicus*, which consume paralytic shell-fish toxin-producing dinoflagellates such as *Alexandrium* and similar organisms (Doucette *et al.* 2006). Biotoxins are highly toxic compounds produced by harmful algal blooms.⁷ Five major classes of biotoxins are associated with harmful algal blooms: saxitoxins (responsible for paralytic shellfish poisoning); brevetoxins (responsible for neurotoxic shellfish poisoning in the southeastern United States); domoic acid (amnesic shellfish poisoning); okadaic acid and dinophysistoxins (diarrhetic shellfish poisoning); and ciguatoxins. The first three of these classes have been implicated in marine mammal mortality events (Reeves *et al.*, 2001).

An extensive review of environmental contaminants in turtles has been conducted by Meyers-Schöne and Walton (1994); however, most of this information relates to freshwater species. High concentrations of chlorobiphenyls and organochlorine pesticides in the eggs of the freshwater snapping turtle, *Chelydra serpentina*, have been correlated with population effects such as decreased hatching success, increased hatchling deformities and disorientation (Bishop *et al.* 1991 1994).

Very little is known about baseline levels and physiological effects of environmental contaminants on marine turtle populations (Witkowski and Frazier 1982, Bishop *et al.* 1991). There are a few isolated studies on organic contaminants and trace metal accumulation in green and leatherback sea turtles (Davenport and Wrench 1990, Aguirre *et al.* 1994). McKenzie *et al.* (1999) measured concentrations of chlorobiphenyls and organochlorine pesticides in marine turtles tissues collected from the Mediterranean (Cyprus, Greece) and European Atlantic waters (Scotland) between 1994 and 1996. Omnivorous loggerhead turtles had the highest organochlorine contaminant concentrations in all the tissues sampled, including those from green and leatherback turtles. It is thought that dietary preferences were likely to be the main differentiating factor among species. Decreasing lipid contaminant burdens with turtle size were observed in green turtles, most likely attributable to a change in diet with age. Sakai *et al.* (1995) found the presence of metal residues occurring in loggerhead turtle organs and eggs. More recently, Storelli *et al.* (1998) analyzed tissues from twelve loggerhead sea turtles stranded along the Adriatic Sea (Italy) and found that characteristically, mercury accumulates in sea turtle livers while cadmium accumulates in their kidneys, as has been reported for other marine organisms like dolphins, seals and porpoises by Law *et al.* (1991). Research is needed on the short- and long-term health and fecundity effects of chlorobiphenyl, organochlorine, and heavy metal accumulation in sea turtles.

The impacts from these activities are difficult to measure. However, some researchers have correlated contaminant exposure to possible adverse health effects in marine mammals. Studies of captive harbor seals have demonstrated a

⁷ Algae are photosynthetic plant-like organisms that live in water. Most species of algae or phytoplankton are not harmful and serve as the energy producers at the base of the food chain. Occasionally, the algae grow very fast or “bloom” and accumulate into dense, visible patches near the surface of the water. “Red Tide” is a common name for this situation, whereby certain phytoplankton species contain redish pigments and bloom such that the waters appear red (NMFS 2005a).

link between exposure to organochlorines (*e.g.*, DDT, PCBs, and polyaromatic hydrocarbons) and immunosuppression (Ross *et al.* 1995, Harder *et al.* 1992, De Swart *et al.* 1996). Organochlorines are chemicals that tend to bioaccumulate through the food chain, thereby increasing the potential of indirect exposure to a marine mammal via its food source. During pregnancy and nursing, some of these contaminants can be passed from the mother to developing offspring. Contaminants like organochlorines do not tend to accumulate in significant amounts in invertebrates, but do accumulate in fish and fish-eating animals. Thus, contaminant levels in planktivorous mysticetes have been reported to be one to two orders of magnitude lower compared to piscivorous odontocetes (Borell, 1993, O'Shea and Brownell 1994, O'Hara and Rice 1996, O'Hara *et al.* 1999).

Entrainment in Power Plants. Sea turtles entering coastal or inshore areas have been affected by entrainment in the cooling-water systems of electrical generating plants. At the St. Lucie nuclear power plant at Hutchinson Island, Florida, large numbers of green and loggerhead turtles have been captured in the seawater intake canal in the past several years. Annual capture levels from 1994 - 1997 have ranged from almost 200 to almost 700 green turtles and from about 150 to over 350 loggerheads. Almost all of the turtles are caught and released alive; NMFS estimates the survival rate at 98.5% or greater (1997e). Other power plants in south Florida, west Florida, and North Carolina have also reported low levels of sea turtle entrainment. A biological opinion completed in January 2000 estimates that the operations at the Brunswick Steam Electric Plant in Brunswick, North Carolina, may take 50 sea turtles in any combination annually, that are released alive. NMFS also estimated the total lethal take of turtles at this plant may reach 6 loggerhead, 2 Kemp's ridley or 3 green turtles annually. A biological opinion completed in June 1999 on the operations at the Crystal River Energy Complex in Crystal River, Florida, estimated the level of take of sea turtles in the plant's intake canal may reach 55 sea turtles with an estimated 50 being released alive every two years.

Anthropogenic Noise. The marine mammals that occur in the action area are regularly exposed to several sources of natural and anthropogenic sounds. Anthropogenic noises that could affect ambient noise arise from the following general types of activities in and near the sea, any combination of which can contribute to the total noise at any one place and time. These noises include transportation, dredging, construction; oil, gas, and mineral exploration in offshore areas; geophysical (seismic) surveys; sonars; explosions; and ocean research activities (Richardson *et al.* 1995).

Noise in the marine environment has received a lot of attention in recent years and is likely to continue to receive attention in the foreseeable future. Several investigators have argued that anthropogenic sources of noise have increased ambient noise levels in the ocean over the last 50 years (Jasny *et al.* 2005; NRC 1994, 1996, 2000, 2003, 2005; Richardson *et al.* 1995). Much of this increase is due to increased shipping as ships become more numerous and of larger tonnage (NRC 2003). Commercial fishing vessels, cruise ships, transport boats, airplanes, helicopters and recreational boats all contribute sound into the ocean (NRC 2003). The military uses sound to test the construction of new vessels as well as for naval operations. In some areas where oil and gas production takes place, noise originates from the drilling and production platforms, tankers, vessel and aircraft support, seismic surveys, and the explosive removal of platforms (NRC 2003). Many researchers have described behavioral responses of marine mammals to the sounds produced by helicopters and fixed-wing aircraft, boats and ships, as well as dredging, construction, geological explorations, etc. (Richardson *et al.* 1995). Most observations have been limited to short-term behavioral responses, which included cessation of feeding, resting, or social interactions. Several studies have

demonstrated short-term effects of disturbance on humpback whale behavior (Baker *et al.* 1983, Bauer and Herman 1986, Hall 1982, Krieger and Wing 1984), but the long-term effects, if any, are unclear or not detectable. Carretta *et al.* (2001) and Jasny *et al.* (2005) identified the increasing levels of anthropogenic noise as a habitat concern for whales and other cetaceans because of its potential effect on their ability to communicate.

Surface shipping is the most widespread source of anthropogenic, low frequency (0 to 1,000 Hz) noise in the oceans (Simmonds and Hutchinson 1996). The Navy estimated that the 60,000 vessels of the world's merchant fleet annually emit low frequency sound into the world's oceans for the equivalent of 21.9 million days, assuming that 80 percent of the merchant ships at sea at any one time (U.S. Navy 2001). The radiated noise spectrum of merchant ships ranges from 20 to 500 Hz and peaks at approximately 60 Hz. Ross (1976) has estimated that between 1950 and 1975 shipping had caused a rise in ambient ocean noise levels of 10 dB. He predicted that this would increase by another 5 dB by the beginning of the 21st century. NRC (1997) estimated that the background ocean noise level at 100 Hz has been increasing by about 1.5 dB per decade since the advent of propeller-driven ships.

Michel *et al.* (2001) suggested an association between long-term exposure to low frequency sounds from shipping and an increased incidence of marine mammal mortalities caused by collisions with shipping. At lower frequencies, the dominant source of this noise is the cumulative effect of ships that are too far away to be heard individually, but because of their great number, contribute substantially to the average noise background.

US Navy Activities. In 1997, NMFS issued a biological opinion on Navy training activities within and in the vicinity of the Atlantic Ocean right whale critical habitat off of the coasts of Georgia and Florida (NMFS 1997). That Opinion concluded that the Navy's training activities were not likely to jeopardize the continued existence of North Atlantic right whales and other endangered or threatened species or result in the destruction or adverse modification of critical habitat that had been designated in the action area for that consultation.

In the late 1990s, the U.S. Navy implemented several new mitigation measures that were designed to protect right whales. Because of these mitigation measures, NMFS concluded that current Navy operations out of Mayport, Florida were not likely to jeopardize the continued existence of endangered or threatened species under NMFS' jurisdiction (NMFS 1997).

Vessel operations and ordnance detonations adversely affect listed species of sea turtles and whales. U.S. Navy aerial bombing training in the ocean off the southeast U.S. coast involving drops of live ordnance (500 and 1,000-lb bombs) have been estimated to have injured or killed 84 loggerhead, 12 leatherback, and 12 green or Kemp's ridley sea turtles, in combination (NMFS 1997). The Navy ship-shock trials for the USS WINSTON S CHURCHILL was conducted in the proposed Action Area, although the U.S. Navy employed a suite of measures that appeared to protect marine mammal and sea turtle from being exposed to shock waves produced by the underwater detonations associated with the trial (Clarke and Norman 2005).

Between July 2006 and July 2008, the U.S. Navy conducted several Composite Training Unit or Joint Task Force Exercises in and seaward of the Cherry Point and Jacksonville-Charleston Operating Areas. These exercises included antisubmarine warfare training events that employed between 49 and 355 hours of mid-frequency active sonar and deployed between 15 and 170 DICASS sonobuoys. All but two of these exercises were conducted during

the summer (the exceptions were a Expeditionary Strike Group Composite Training Unit exercise conducted from mid-May to the first of June 2007 and a Carrier Strike Group Joint Task Force exercise conducted from late April to mid-May 2008), which would have avoided interactions with North Atlantic right whales and most other large cetaceans. The actual number of marine animals that might have been exposed to mid-frequency active sonar during these exercises, and their responses to any exposure, remains unknown; however, no marine animals were reported to have been struck or killed during any of these exercises

In August and September 2008, the U.S. Navy conducted a ship shock trial on the MESA VERDE in waters east of Jacksonville, Florida, using High Blast Explosive (HBX-1) for the detonations U.S. Navy 2008d). NMFS' biological opinion on the ship shock trial expected up to 36 sea turtles to be injured as a result of the ship shock trial and up to 1,727 turtles to be harassed as a result of their behavioral responses to the underwater detonations. The after action report for the ship shock trial could neither refute nor confirm these estimated number of animals that might have been harassed by the trials; however, surveys associated with the trial did not detect any dead or injured marine mammals or sea turtles during the shock trial event or during post-mitigation monitoring. In addition, no marine mammal or sea turtle stranding events have been attributed to the shock trial.

In 2002, the U.S. Navy establish right whale protective measures for all Atlantic Fleet activities occurring in the Northeast Operating Area. In December 2004, the U.S. Navy issued further guidance for all Fleet ships to increase awareness of right whale migratory patterns and implement additional protective measures along the mid-Atlantic coast, including areas where ships transit between southern New England and northern Florida. The Navy worked with NMFS to identify seasonal patterns of right whale occurrence in six major sections of the mid-Atlantic coast, paying particular attention to port and coastal areas where efforts to manage vessel traffic might be most appropriate. The Navy's resulting guidance directed Navy personnel to exercise extreme caution and operate at slow, safe speeds within 20 nautical mile arcs of specified coastal and port reference points. The guidance reiterated previous instructions that Navy ships post two lookouts, one of whom must have completed marine mammal recognition training, and emphasized the need for utmost vigilance in performance of these watchstander duties.

Entrainment in Power Plants. Sea turtles entering coastal or inshore areas have been affected by entrainment in the cooling-water systems of electrical generating plants. At the St. Lucie nuclear power plant at Hutchinson Island, Florida, large numbers of green and loggerhead turtles have been captured in the seawater intake canal in the past several years. Annual capture levels from 1994 - 1997 have ranged from almost 200 to almost 700 green turtles and from about 150 to over 350 loggerheads. Almost all of the turtles are caught and released alive; NMFS estimates the survival rate at 98.5% or greater (1997e). Other power plants in south Florida, west Florida, and North Carolina have also reported low levels of sea turtle entrainment. A biological opinion completed in January 2000 estimates that the operations at the Brunswick Steam Electric Plant in Brunswick, North Carolina, may take 50 sea turtles in any combination annually, that are released alive. NMFS also estimated the total lethal take of turtles at this plant may reach 6 loggerhead, 2 Kemp's ridley or 3 green turtles annually. A biological opinion completed in June 1999 on the operations at the Crystal River Energy Complex in Crystal River, Florida, estimated the level of take of sea turtles in the plant's intake canal may reach 55 sea turtles with an estimated 50 being released alive every two years.

Deep Water Ambient Noise. Urick (1983) provided a discussion of the ambient noise spectrum expected in the deep ocean. Shipping, seismic activity, and weather are primary causes of deep-water ambient noise. Noise levels between

20 and 500 Hz appear to be dominated by distant shipping noise that usually exceeds wind-related noise. Above 300 Hz, the level of wind-related noise might exceed shipping noise. Wind, wave, and precipitation noise originating close to the point of measurement dominate frequencies from 500 to 50,000 Hz. The frequency spectrum and level of ambient noise can be predicted fairly accurately for most deep-water areas based primarily on known shipping traffic density and wind state (wind speed, Beaufort wind force, or sea state) (Urick 1983). For frequencies between 100 and 500 Hz, Urick (1983) has estimated the average deep water ambient noise spectra to be 73 to 80 dB for areas of heavy shipping traffic and high sea states, and 46 to 58 dB for light shipping and calm seas.

Shallow Water Ambient Noise. In contrast to deep water, ambient noise levels in shallow waters (i.e., coastal areas, bays, harbors, etc.) are subject to wide variations in level and frequency depending on time and location. The primary sources of noise include distant shipping and industrial activities, wind and waves, and marine animals (Urick 1983). At any given time and place, the ambient noise level is a mixture of these noise types. In addition, sound propagation is also affected by the variable shallow water conditions, including the depth, bottom slope, and type of bottom. Where the bottom is reflective, the sound levels tend to be higher than when the bottom is absorptive.

Commercial and Private Marine Mammal Watching

In addition to the federal vessel operations, private and commercial shipping vessels, vessels (both commercial and private) engaged in marine mammal watching also have the potential to impact whales in the proposed action area. A recent study of whale watch activities worldwide has found that the business of viewing whales and dolphins in their natural habitat has grown rapidly over the past decade into a billion dollar (\$US) industry involving over 80 countries and territories and over 9 million participants (Hoyt 2001). In 1988, a workshop sponsored by the Center for Marine Conservation and the NMFS was held in Monterey, California to review and evaluate whale watching programs and management needs (CMC and NMFS 1988). That workshop produced several recommendations for addressing potential harassment of marine mammals during wildlife viewing activities that include developing regulations to restrict operating thrill craft near cetaceans, swimming and diving with the animals, and feeding cetaceans in the wild.

Since then, NMFS has promulgated regulations at 50 CFR 224.103 that specifically prohibit: (1) the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in disturbing or molesting a marine mammal; (2) feeding or attempting to feed a marine mammal in the wild; and (3) approaching humpback whales in Hawai'i and Alaska waters closer than 100 yards (91.4 m). In addition, NMFS launched an education and outreach campaign to provide commercial operators and the general public with responsible marine mammal viewing guidelines which in part state that viewers should: (1) remain at least 50 yards from dolphins, porpoise, seals, sea lions and sea turtles and 100 yards from large whales; (2) limit observation time to 30 minutes; (3) never encircle, chase or entrap animals with boats; (4) place boat engine in neutral if approached by a wild marine mammal; (5) leave the water if approached while swimming; and (6) never feed wild marine mammals. In January 2002, NMFS also published an official policy on human interactions with wild marine mammals which states that: "*NOAA Fisheries cannot support, condone, approve or authorize activities that involve closely approaching, interacting or attempting to interact with whales, dolphins, porpoises, seals or sea lions in the wild. This includes attempting to swim with, pet, touch or elicit a reaction from the animals.*"

Although considered by many to be a non-consumptive use of marine mammals with economic, recreational, educational and scientific benefits, marine mammal watching is not without potential negative impacts. One concern is that animals may become more vulnerable to vessel strikes once they habituate to vessel traffic (Swingle *et al.* 1993; Wiley *et al.* 1995). Another concern is that preferred habitats may be abandoned if disturbance levels are too high.

Several investigators have studied the effects of whale watch vessels on marine mammals (Amaral and Carlson 2005; Au and Green 2000, Cockeron 1995, Erbe 2002, Félix 2001, Magalhães *et al.* 2002, Richter *et al.* 2003, Scheidat *et al.* 2004, Simmonds 2005, Watkins 1986, Williams *et al.* 2002). The whale's behavioral responses to whale watching vessels depended on the distance of the vessel from the whale, vessel speed, vessel direction, vessel noise, and the number of vessels. The whales' responses changed with these different variables and, in some circumstances, the whales did not respond to the vessels, but in other circumstances, whales changed their vocalizations, surface time, swimming speed, swimming angle or direction, respiration rates, dive times, feeding behavior, and social interactions.

Recovery Actions

Several agencies have engaged in variety of actions that are designed to reduce the effects of human activities on endangered and threatened species in the Action Area. In 1993, NMFS formed the Southeast Implementation Team for the Right Whale Recovery Plan to address the goals of the Right Whale Recovery Plan within NMFS' Southeast Region. The recovery plan has identified entanglement in fishing gear and ship collisions as the two major direct human impacts affecting both species. Habitat degradation through pollution or other major habitat alteration processes caused by either human sources (discharge or disposal in the marine environment) or resource management activities (fishery or minerals management) is also identified as a major indirect impact requiring attention.

In 1993, the Government of Canada recognized the importance of a portion of the Roseway Basin by designating it as a Right Whale Conservation Area. This basin, which is about 20 nautical miles south of Cape Sable Island Nova Scotia, is one of only two known areas where large numbers of North Atlantic right whales gather on a seasonal basis in Canadian waters.

In 1999, the U.S. Coast Guard implemented a Mandatory Ship Reporting System that requires vessels larger than 300 gross registered tons (Department of the Navy ships are exempt) to report their location, course, speed, and destination upon entering the nursery and feeding areas of the right whale. At the same time, ships receive information on locations of right whale sightings, in order to avoid collisions with the animals. In the southeastern United States, the reporting system is from November 15 through April 15 of each year; the geographical boundaries include coastal waters within roughly 46 kilometers (km) (25 nautical miles [nm]) of shore along a 167 km (90 nm) stretch of the Atlantic coast in Florida and Georgia. In the northeastern United States, the reporting system is year-round and the geographical boundaries include the waters of Cape Cod Bay, Massachusetts Bay, and the Great South Channel east and southeast of Massachusetts; it includes all of Stellwagen Bank National Marine Sanctuary.

An Early Warning System for right whales has been operational in areas of the southeastern U.S. for several years. This system identifies the known location of right whales within and adjacent to the winter calving area from Savannah, Georgia, to Sebastian Inlet, Florida, from 1 December through 31 May (when right whales are assumed to occur in these waters) and provides this information to mariners. This system has successfully diverted shipping to avoid right whales on several occasions, thus decreasing the threat of vessel collisions.

On 1 July 2007, NOAA and the U.S. Coast Guard implemented a shift in the Traffic Separation Scheme servicing Boston to reduce the threat of vessel collisions with right whales and other whale species. The realignment is expected to result in a 58% reduction in the risk of ship strikes to right whales, and an 81% risk reduction in ship strikes of other large whale species occurring in the area.

In 2002, the International Maritime Organization unanimously adopted a Canadian proposal to amend the Bay of Fundy Traffic Separation Scheme to reducing the relative probability of a ship strike in the Roseway Basin by about 80 percent. The Canadian Government proposed establishing a seasonal “Area to be Avoided” in the Roseway Basin, which would apply to ships of 300 gross tonnage or greater, during the seven-month period from June 1 to December 31 when the largest percentage of Right Whales is known to be in the area and when the risk of ship strikes is greatest. The International Maritime Organization’s Maritime Safety Committee adopted Canada’s proposal at its 83rd session in Copenhagen Denmark 3-12 October 2007; the newly designated recommended seasonal “Area to be Avoided” took effect six months after it was adopted and was in place prior to the seasonal return of the Right Whales to the Roseway Basin in the spring and summer of 2008.

In October 2008, NMFS established regulations that implement a 10-knot speed restriction for all vessels 65 ft (19.8 m) or longer in certain locations along the east coast of the U.S. Atlantic seaboard at certain times of the year to reduce the likelihood of deaths and serious injuries to endangered North Atlantic right whales that result from collisions with ships. Evidence suggests that the likelihood of death and serious injury to large whales struck by ships is related to ship speed. The regulations limit ship speed during times and in areas where relatively high right whale and ship densities overlap near a number of U.S. east coast ports, at calving/nursery areas in waters off Georgia and Florida, and in New England waters.

The Impact of the Baseline on Listed Resources

Although listed resources are exposed to a wide variety of past and present state, Federal or private actions and other human activities that have already occurred or continue to occur in the action area as well as Federal projects in the action area that have already undergone formal or early section 7 consultation, and State or private actions that are contemporaneous with this consultation, the impact of those activities on the status, trend, or the demographic processes of threatened and endangered species remains largely unknown.

Impact on Endangered Whales. Historically, commercial whaling had occurred in the action area and had caused all of the large whales to decline to the point where the whales faced risks of extinction that were high enough to list them as endangered species. Since the end of commercial whaling, the primary threat to these species has been eliminated; however, populations sizes of the endangered whales along the Atlantic Coast of the United States still remain at population sizes that are fractions of their population sizes that are estimated to have existed prior to

whaling. Nevertheless, populations of species like humpback whales have increased substantially from post-whaling populations levels and appear to be recovering despite the number of individuals that have been killed or injured as a result of ship strikes, interactions with fishing gear, and increased levels of ambient sound along the Atlantic coast. Blue, fin, sei, and sperm whales also exist at smaller population sizes as a result of the legacy of whaling along the Atlantic Ocean, although we know considerably less about the potential effects of many of the stressors associated with the activities considered in this *Environmental Baseline* on growth rates, trend, or age-structure of their populations.

Recent attention has focused on the emergence of a wide number of anthropogenic sound sources in the action area and their role as an pollutant in the marine environment. Relationships between specific sound sources, or anthropogenic sound generally, and the responses of marine mammals to those sources are still subject to extensive scientific research and public inquiry but no clear patterns have emerged. As a result, the potential consequences of these activities on threatened and endangered marine mammals remains uncertain.

Gauthier and Sears (1999), Weinrich *et al.* (1991, 1992), Clapham and Mattila (1993), Clapham *et al.* (1993) concluded that close approaches for biopsy samples or tagging caused humpback whales to respond or caused them to exhibit “minimal” responses when approaches were “slow and careful.” This caveat is important and is based on studies conducted by Clapham and Mattila (1993) of the reactions of humpback whales to biopsy sampling in breeding areas in the Caribbean Sea. These investigators concluded that the way a vessel approaches a group of whales had a major influence on the whale’s response to the approach; particularly cow and calf pairs. Based on their experiments with different approach strategies, they concluded that experienced, trained personnel approaching humpback whales slowly would result in fewer whales exhibiting responses that might indicate stress.

At the same time, several lines of evidence suggest that these human activities might have greater consequences for individual whales (if not for whale populations). Several investigators reported behavioral responses to close approaches that suggest that individual whales might experience stress responses. Baker *et al.* (1983) described two responses of whales to vessels, including: (1) “horizontal avoidance” of vessels 2,000 to 4,000 meters away characterized by faster swimming and fewer long dives; and (2) “vertical avoidance” of vessels from 0 to 2,000 meters away during which whales swam more slowly, but spent more time submerged. Watkins *et al.* (1981) found that both fin and humpback whales appeared to react to vessel approach by increasing swim speed, exhibiting a startled reaction, and moving away from the vessel with strong fluke motions.

Bauer (1986) and Bauer and Herman (1986) studied the potential consequences of vessel disturbance on humpback whales wintering off Hawai’i. They noted changes in respiration, diving, swimming speed, social exchanges, and other behavior correlated with the number, speed, direction, and proximity of vessels. Results were different depending on the social status of the whales being observed (single males when compared with cows and calves), but humpback whales generally tried to avoid vessels when the vessels were 0.5 to 1.0 kilometer from the whale. Smaller pods of whales and pods with calves seemed more responsive to approaching vessels.

Baker *et al.* (1983) and Baker and Herman (1987) summarized the response of humpback whales to vessels in their summering areas and reached conclusions similar to those reached by Bauer and Herman (1986): these stimuli are probably stressful to the humpback whales in the action area, but the consequences of this stress on the individual

whales remains unknown. Studies of other baleen whales, specifically bowhead and gray whales document similar patterns of short-term, behavioral disturbance in response to a variety of actual and simulated vessel activity and noise (Richardson *et al.*, 1985; Malme *et al.* 1983). For example, studies of bowhead whales revealed that these whales oriented themselves in relation to a vessel when the engine was on, and exhibited significant avoidance responses when the vessel's engine was turned on even at distance of approximately 900 m (3,000 ft). Weinrich *et al.* (1992) associated "moderate" and "strong" behavioral responses with alarm reactions and stress responses, respectively.

Jahoda *et al.* (2003) studied the response of 25 fin whales in feeding areas in the Ligurian Sea to close approaches by inflatable vessels and to biopsy samples. They concluded that close vessel approaches caused these whales to stop feeding and swim away from the approaching vessel. The whales also tended to reduce the time they spent at surface and increase their blow rates, suggesting an increase in metabolic rates that might indicate a stress response to the approach. In their study, whales that had been disturbed while feeding remained disturbed for hours after the exposure ended. They recommended keeping vessels more than 200 meters from whales and having approaching vessels move at low speeds to reduce visible reactions in these whales.

Beale and Monaghan (2004) concluded that the significance of disturbance was a function of the distance of humans to the animals, the number of humans making the close approach, and the frequency of the approaches. These results would suggest that the cumulative effects of the various human activities in the action area would be greater than the effects of the individual activity. None of the existing studies examined the potential effects of numerous close approaches on whales or gathered information of levels of stress-related hormones in blood samples that are more definitive indicators of stress (or its absence) in animals.

As we discussed in the *Status of the Species* section of this Opinion, the legacy effects of whaling appear to have had and continue to have greatest effect on endangered Northern Atlantic right whales by reducing them to a population size that is sufficiently small to experience "small population dynamics" (Caughley 1994, Lande 1993, Lande *et al.* 2003, Melbourne and Hastings 2008). At these population sizes, we would expect North Atlantic right whales to have higher probabilities of becoming extinct because of demographic stochasticity, demographic heterogeneity (Coulson *et al.* 2006, Fox *et al.* 2006) —including stochastic sex determination (Lande *et al.* 2003) — and the effects of phenomena interacting with environmental variability. Demographic stochasticity refers to the randomness in the birth or death of an individual in a population, which results in random variation on how many young that individuals produce during their lifetime and when they die. Demographic heterogeneity refers to variation in lifetime reproductive success of individuals in a population (generally, the number of reproductive adults an individual produces over their reproductive lifespan), such that the deaths of different individuals have different effects on the growth or decline of a population (Coulson *et al.* 2006). Stochastic sex determination refers to the randomness in the sex of offspring such that sexual ratios in population fluctuate over time (Melbourne and Hastings 2008).

At small population sizes, population's experience higher extinction probabilities because of their population size, because stochastic sexual determination leaves them with all males or all females (which occurred to the heath hen and dusky seaside sparrow just before they became extinct), or because the loss of individuals with high reproductive success has a disproportionate effect on the rate at which the population declines (Coulson *et al.* 2006).

North Atlantic right whales exist at population sizes sufficiently low to experience all or some of these forms of stochasticity and the evidence available suggests that the death of individual females disproportionately increases the rate at which the population declines. Based on the number of other species in similar circumstances that have become extinct (and the small number of species that have avoided extinction in similar circumstances), the longer North Atlantic right whales remain in these circumstances, the greater their extinction probability becomes. We do not yet know to what degree the U.S. and Canadian Traffic Separation Schemes, speed restrictions, and vessel routing activities that NOAA has established along the Atlantic Coast of the United States would reduce the number of North Atlantic right whales that are killed or injured during collisions with ships.

The same statement does not appear to be true for blue, fin, humpback, sei, or sperm whales in the action areas for this consultation., which appear to be increasing in population size — or, at least, their population sizes do not appear to be declining — despite their continued exposure to the direct and indirect effects of the activities discussed in the *Environmental Baseline*. Although we do not have information on other measures of the demographic status of these species (for example, age structure, gender ratios, or the distribution of reproductive success) that would facilitate a more robust assessment of the probable impact of the *Environmental Baseline*⁸, we infer from their increasing abundance that the *Environmental Baseline* is not currently preventing their population size from increasing.

Impact on Endangered and Threatened Sea Turtles. Several of the categories of activities described in this *Environmental Baseline* have had significant and adverse consequences for nesting aggregations of sea turtles whose individuals occur in the Action Area. In particular, the commercial fisheries that have been described have captured substantial numbers of green, hawksbill, leatherback, and loggerhead sea turtles each year.

Although only small percentages of these sea turtles are estimated to have died as a result of their capture, the actual number of sea turtles that are estimated to have died in these fisheries each year for the past 5 to 10 years (or longer) still amounts to about 6,000 sea turtles each year. When we add the percentage of sea turtles that have suffered injuries or handling stress sufficient to have caused them to delay the age at which they reach maturity or the frequency at which they return to nesting beaches, the consequences of these fisheries on nesting aggregations of sea turtles would be greater than we have estimated.

These fisheries are expected to continue into the foreseeable future at levels of effort that are roughly equivalent to current levels. As a result, we expect the number of sea turtles that are captured and killed in these fisheries to continue for the foreseeable future. These estimates mean that, every five years, more than 800,000 loggerhead sea turtles would be captured in these fisheries, with more than 23,000 of them dying as a result of that capture; about 19,000 leatherback sea turtles would be captured, with about 1,500 of them dying; about 95,000 green sea turtles would be captured, with about 2,900 of them dying; and about 3,200 hawksbill sea turtles being captured and killed.

⁸ Increases in a population's abundance normally indicates that a population is "healthy" or is improving in status; however, because populations can increase while experiencing low juvenile survival (for example, if low juvenile survival is coupled with reduced adult mortality) or when those individuals that are most sensitive to a stress regime die, leaving the most resistant individuals, increases in abundance are not necessarily indicative of the long-term viability of a species.

Given that we are certain that nest counts of species like loggerhead sea turtles have been declining and are currently declining, these additional mortalities seem likely to increase the rate at which nesting aggregations of this species are declining. Even if these mortalities did not increase the rate at which these nesting aggregations are declining, merely continuing the rate at which they are currently declining would be sufficient to increase the probability of nest counts in these nesting aggregations to decline to zero. Because we know that populations of sea turtles cannot increase over time if the number of nest counts decline, the mortalities associated with these fisheries are likely to increase probability of these populations of sea turtles becoming extinct in the wild.

5.0 Effects of the Proposed Action

In *Effects of the Action* sections of Opinions, NMFS presents the results of its assessment of the probable direct and indirect effects of federal actions that are the subject of a consultation as well as the direct and indirect effects of interrelated, and interdependent actions on threatened and endangered species and designated critical habitat. As we described in the *Approach to the Assessment* section of this Opinion, we organize our effects' analyses using an stressor identification - exposure – response – risk assessment framework; we conclude this section with an *Integration and Synthesis of Effects* that integrates information we presented in the *Status of the Species* and *Environmental Baseline* sections of this Opinion with the results of our exposure and response analyses to estimate the probable risks the proposed action poses to endangered and threatened species.

Before we present our effects analyses, we need to address a few definitions. The Endangered Species Act does not define “harassment” nor has NMFS defined this term, pursuant to the ESA, through regulation. However, the Marine Mammal Protection Act of 1972, as amended, defines “harassment” as “any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal or marine mammal stock in the wild or has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering” [16 U.S.C. 1362(18)(A)]. For military readiness activities, this definition of “harassment” has been amended to mean “any act that disrupts or is likely to disturb a marine mammal or marine mammal stock by causing disruption of natural behavioral patterns including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering to a point where such behaviors are abandoned or significantly altered” (Public Law 106-136, 2004). The latter portion of these definitions (that is, “..causing disruption of behavioral patterns including.. migration, breathing, nursing, breeding, feeding, or sheltering”) is almost identical to the U.S. Fish and Wildlife Service’s regulatory definition of harass.³

For this Opinion, we define “harassment” similarly: “an intentional or unintentional human act or omission that creates the probability of injury to an individual animal by disrupting one or more behavioral patterns that are essential to the animal’s life history or its contribution to the population the animal represents.” We are particularly concerned about changes in animal behavior that are likely to result in animals that fail to feed, fail to breed

³ An intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.4)

successfully, or fail to complete their life history because those changes may have adverse consequences for populations of those species.

5.1 Potential Stressors

The U.S. Navy has conducted training activities in the Northeast Operating Area, Virginia Capes Range Complex, Cherry Point Range Complex, Jacksonville Range Complex, and the action area of the active sonar training activities associated with the Atlantic Fleet Active Sonar Training for several decades and these potential stressors have been associated with most, if not all, of those exercises. As a result, it is more accurate to say that the U.S. Navy’s proposed action consists of continuing mine warfare, surface warfare, air warfare, strike warfare, amphibious warfare, electronic combat operations, and research, development, test, and evaluation activities in the Action Area; the Permits Division’s proposed action consists of authorizing the “take” of marine mammals associated with those training activities. By extension, the potential stressors associated with the Navy’s proposal are stressors that have been part of the Action Area as well.

As discussed in the *Approach to the Assessment* section of this Opinion, the U.S. Navy’s proposed training activities along the Atlantic Coast of the United States are likely to produce the following potential stressors:

Table 12. Potential stressors associated with the training the U.S. Navy proposes to conduct in the Northeast Operating Area and Virginia Capes, Cherry Point, and Jacksonville Range Complexes

Potential Stressor	Training Area			
	Northeast	Virginia Capes	Cherry Point	Jacksonville
1 Collisions risks associated with Navy vessels	Y	Y	Y	Y
2 Disturbance associated with Navy surface vessels and aircraft	Y	Y	Y	Y
3 Shock waves (pressure waves) from underwater detonations	N	Y	Y	Y
4 Sound waves produced by the underwater detonations	N	Y	Y	Y
5 Chemicals in the explosives that are introduced into the water during detonations	N	Y	Y	Y
6 Expended ordnance and debris fields	N	Y	Y	Y
Stressors Associated with Interrelated Activities (Atlantic Fleet Active Sonar Training)				
7 Mid-frequency active sonar	Y	Y	Y	Y
8 High-frequency active sonar	Y	Y	Y	Y
9 Explosive source associated with IEER system	Y	Y	Y	Y
10 Parachutes associated with sonobuoys	Y	Y	Y	Y

We discuss each of these potential stressors in greater detail in the descriptions that follow. We follow those descriptions with a presentation of our exposure analyses, followed by the results of our response analyses. As outlined in the introductory paragraph of this section, we conclude our effects analyses with an Integration and Synthesis which contains the results of our risk analyses.

5.1.1 Collision Risks Associated with Navy Vessel Traffic

As discussed in the *Status of the Species* narratives and the *Environmental Baseline* baseline section of this Opinion, ship strikes pose significant threats to populations of endangered whales along the Atlantic coast, particularly North Atlantic right whales. As discussed in the *Description of the Proposed Action* section of this Opinion, many of the training activities the U.S. Navy proposes to conduct in the Northeast Operating Areas, Virginia Capes Range Complex, Cherry Point Range Complex, and Jacksonville Range Complex are interrelated with active sonar training activities the U.S. Navy proposed to conduct along the Atlantic Coast of the United States. For example, mine countermeasures training, composite training unit exercises, and joint task force exercises involve combinations of ordnance discussed as part of the *Description of the Proposed Action* as well as active sonar systems discussed in our 2009 Opinion on the Atlantic Fleet Active Sonar Training, which are interrelated with the proposed actions that are the primary focus of this Opinion. In fact, some of the vessels involved in these activities engage in both mine countermeasures training and employ active sonar as part of the same training activity. As a result, we consider the potential stressors represented by vessel traffic associated with the proposed training exercises and vessel traffic that was associated with active sonar training activities.

Vessel traffic actually represents a suite of stressors or stress regimes that pose several potential hazards to endangered and threatened species in the Northeast Operating Area, Virginia Capes Range Complex, Cherry Point Range Complex, and Jacksonville Range Complex. First, the size and speed of these surface vessels pose some probability of collisions with marine mammals and sea turtles. Second, surface vessel traffic and aircraft potentially represent an acute or chronic source of disturbance to marine animals in the Northeast Operating Areas and the three range complexes. We discuss the potential risks of collisions as stressors in this sub-section and potential disturbance associated with Navy vessel traffic in the next sub-section.

The U.S. Navy estimated that the proposed training activities would result in about 1,420 steaming days per year in the Virginia Capes Range Complex, 950 steaming days in the Cherry Point Range Complex, and 1,050 steaming days in the Jacksonville Range Complex⁹. Vessel movements unrelated to training activities — for example, for storm evasion, deployment transits, and movements in basins to rearrange ships for repairs, berthing, loading, and off-loading from designated piers — would increase these estimates. With the Transit Protection System the U.S. Navy proposes to employ at Kings Bay, Georgia, the U.S. Navy would employ up to 16 escort security boats that would engage in between 130 to 170 events per year or 10 to 15 times per month.

The size of the ships involved in the proposed training activities would range from 362 feet (a nuclear submarine) to 1,092 feet (for a nuclear-powered aircraft carrier). A variety of smaller craft such as service vessels engaged in routine operations or employed as opposition forces during training events would also be operating within the different range complexes. During training activities, ship speeds generally range from 10 to 14 knots; however, these vessels would also operate within the entire spectrum at higher speeds during specific events, such as pursuing and overtaking hostile vessels, evasive maneuvers, and maintenance or performance checks (such as ship trials). The

⁹ The U.S. Navy calculated steaming days by summing the number of steaming hours proposed in each range complex, dividing by 24 hours per day, and rounding to the nearest 10 days.

size and speeds of smaller vessels would vary. For example, the rigid hull inflatable boat Warfare RHIB is 35 feet in length and has a speed greater than 40 knots.

5.1.2 Disturbance Associated with Surface Vessel Traffic and Aircraft

As discussed in the preceding subsection, the U.S. Navy estimated that the proposed training activities would result in about 1,420 steaming days per year in the Virginia Capes Range Complex, 950 steaming days in the Cherry Point Range Complex, and 1,050 steaming days in the Jacksonville Range Complex. Vessel movements unrelated to training activities — for example, for storm evasion, deployment transits, and movements in basins to rearrange ships for repairs, berthing, loading, and off-loading from designated piers — would increase these estimates. With the Transit Protection System the U.S. Navy proposes to employ at Kings Bay, Georgia, the U.S. Navy would employ up to 16 escort security boats that would engage in between 130 to 170 events per year or 10 to 15 times per month.

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Because of the number of vessels involved in U.S. Navy training exercises, their speed, their use of course changes as a tactical measure, and sounds associated with their engines and displacement of water along their bowline, the available evidence leads us to expect marine mammals to treat Navy vessels as potential stressors. Further, without considering differences in sound fields associated with any active sonar used during Navy training activities, the available evidence suggests that major training exercises (for example, COMPTUEX, JTFEX, IAC, and SEASWITI), unit- and intermediate-level exercises, and RDT&E activities would represent different stress regimes because of differences in the number of vessels involved, vessel maneuvers, and vessel speeds.

Studies of interactions between surface vessels and marine mammals have demonstrated that surface vessels also represent a source of acute and chronic disturbance for marine mammals (Au and Green 1990, Au and Perryman 1982, Bain *et al.* 2006, Bauer 1986, Bejder 1999, 2006a, 2006b; Bryant *et al.* 1984, Corkeron 1995, Erbé 2000, Félix 2001, Goodwin and Cotton 2004, Hewitt 1985, Lemon *et al.* 2006, Lusseau 2003, 2006; Lusseau and Bejder 2007, Magalhães *et al.* 2002, Ng and Leung 2003, Nowacek *et al.* 2001, Richter *et al.* 2003, 2006; Scheidat *et al.* 2004, Simmonds 2005, Watkins 1986, Williams and Ashe 2007, Williams *et al.* 2002, 2006a, 2006b; Würsig *et al.* 1998). Specifically, in some circumstances, marine mammals respond to vessels with the same behavioral repertoire and tactics they employ when they encounter predators, although it is not clear what environmental cue or cues marine animals might respond to: the sounds of waters being displaced by the ships, the sounds of the ships' engines, or a combination of environmental cues surface vessels produce while they transit

These studies establish that free-ranging cetaceans engage in avoidance behavior when surface vessels move toward them. It is not clear whether these responses are caused by the physical presence of a surface vessel, the underwater noise generated by the vessel, or an interaction between the two (Goodwin and Green 2004; Lusseau 2006). Several authors, however, suggest that the noise generated by the vessels is probably an important contributing factor to the responses of cetaceans to the vessels (Blane and Jackson 1994 *et al.* 1992, 1994), so we may not be able to treat the effects of vessel traffic as independent of engine and other sounds associated with the vessels.

Disturbance Associated with Aircraft. Several of the activities the U.S. Navy proposes to conduct in the Virginia Capes, Cherry Point, and Jacksonville Range Complexes also involve some level of activity from aircraft that include helicopters, maritime patrols, and fighter jets. Low-flying aircraft produce sounds that marine mammals can hear when they occur at or near the ocean's surface. Helicopters generally tend to produce sounds that can be heard at or below the ocean's surface more than fixed-wing aircraft of similar size and larger aircraft tend to be louder than smaller aircraft. Underwater sounds from aircraft are strongest just below the surface and directly under the aircraft. Sounds from aircraft would not have physical effects on marine mammals but represent acoustic stimuli (primarily low-frequency sounds from engines and rotors) that have been reported to affect the behavior of some marine mammals.

Although several studies have demonstrated the potential adverse effects of aircraft on pinnipeds on haul-out sites or rookeries, Richardson *et al.* (1995) reported that there is no evidence that single or occasional aircraft flying above large whales and pinnipeds in-water cause long-term displacement of these mammals. However, several authors have reported that sperm whales do not react to fixed-wing aircraft or helicopters in some circumstances (Clarke 1956, Gambell 1968, Green *et al.* 1992) and react in others (Clarke 1956, Fritts *et al.* 1983, Mullin *et al.* 1991, Patenaude *et al.* 2006, Richter *et al.* 2003, 2006, Smultea *et al.* 2008, Würsig *et al.* 1998).

5.1.3 Shock Waves and Sound Waves Produced by Underwater Detonations

The U.S. Navy plans to continue to employ several kinds of explosive ordnance on the Virginia Capes, Cherry Point, and Jacksonville Range Complexes. In the Northeast Operating Areas, the U.S. Navy only proposes training activities that include man overboard drills, towed array operations (passive), small arms training, and surface gunnery (inert only), so those training activities would not result in underwater detonations.

Explosives detonated underwater introduce loud, impulsive, broadband sounds into the marine environment. At its source, the acoustic energy of an explosive is, generally, much greater than that of a sonar, so careful treatment of them is important, since they have the potential to injure. Three source parameters influence the effect of an explosive: the net effective weight of the explosive, the type of explosive material, and the detonation depth. The net explosive weight accounts for the first two parameters. The net explosive weight of an explosive is the weight of only the explosive material in a given round, referenced to the explosive power of TNT.

The detonation depth of an explosive is particularly important due to a propagation effect known as surface-image interference. For sources located near the sea surface, a distinct interference pattern arises from the coherent sum of the two paths that differ only by a single reflection from the pressure-release surface. As the source depth and/or the source frequency decreases, these two paths increasingly, destructively interfere with each other, reaching total

cancellation at the surface (barring surface-reflection scattering loss). Since most of the explosives the Navy uses in the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes are munitions that detonate essentially upon impact, the effective source depths are very shallow so the surface-image interference effect can be pronounced. In order to limit the cancellation effect (and thereby provide exposure estimates that tend toward the worst case), relatively deep detonation depths are used. To remain consistent with previous models the Navy has used, the Navy used source depths of one foot for gunnery rounds. For missiles and bombs, the Navy used source depths of 2 meters. For MK-48 torpedoes, which detonate immediately below a target's hull, the Navy used nominal depths of 50 feet for their analyses.

The number of endangered or threatened species that might be exposed to explosions associated with this ordnance treat each in-water explosion as an independent event. The cumulative effect of a series of explosives can often be estimated by addition if the detonations are spaced widely in time and space which would provide marine animal's sufficient time to move out of an area affected by an explosion. As a result, the populations of animals that are exposed to in-water explosions are assumed to consist of different animals each time.

5.1.4 Expended Ordnance

Many of the activities the U.S. Navy plans to conduct on the Virginia Capes, Cherry Point, and Jacksonville Range Complex introduce expended ordnance and other fragments into the marine environment. In the Northeast Operating Areas, expended materials would consist of small arms munitions and inert surface gunnery. In the Northeast Operating Areas, the U.S. Navy only proposes training activities that include man overboard drills, towed array operations (passive), small arms training, and surface gunnery (inert only), so the only expended ordnance in those Operating Areas would be from small arms training.

BOMBS. The majority of the bombs, the U.S. Navy would employ during training activities it conducts on the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes would be practice bombs that are not equipped with explosive warheads. For example, 61 percent of the bombs the U.S. Navy has employed on the Virginia Capes Range Complex were practice bombs without explosive warheads while 39 percent of the bombs dropped during exercises on the range complex contained high explosives; 99 percent of those bombs would explode within 5 feet of the ocean surface (U.S. Navy 2005b) leaving only fragments.

Practice bombs entering the water would consist of materials like concrete, steel, and iron, and would not contain the combustion chemicals found in the warheads of explosive bombs. These components are consistent with the primary building blocks of artificial reef structures. The steel and iron, although durable, would corrode over time, with no noticeable environmental impacts. The concrete is also durable and would offer a beneficial substrate for benthic organisms. After sinking to the bottom, the physical structure of bombs would be incorporated into the marine environment by natural encrustation and/or sedimentation (U.S. Navy 2006b).

MISSILES. Missiles would be fired by aircraft, ships, and Naval Special Warfare operatives at a variety of airborne and surface targets on the Virginia Capes, Cherry Point, and Jacksonville Range Complexes. In general, the single largest hazardous constituent of missiles is solid propellant, which is primarily composed of rubber (polybutadiene) mixed with ammonium perchlorate (for example, solid double-base propellant, aluminum and ammonia propellant

grain, and arcite propellant grain). Hazardous constituents are also used in igniters, explosive bolts, batteries (potassium hydroxide and lithium chloride), and warheads (for example, PBX-N highexplosive components; PBXN-106 explosive; and PBX (AF)-108 explosive). Chromium or cadmium may also be found in anti-corrosion compounds coating exterior missile surfaces. In the event of an ignition failure or other launch mishap, the rocket motor or portions of the unburned propellant may cause environmental effects. Experience with Hellfire missiles has shown that if the rocket motor generates sufficient thrust to overcome the launcher hold-back, all of the rocket propellant is consumed. In the rare cases where the rocket does not generate sufficient thrust to overcome the holdback (hang fire or miss fire), some propellant may remain unburned but the missile remains on the launcher. Jettisoning the launcher is a possibility for hang fire or miss fire situations, but in most cases the aircraft returns to base where the malfunctioning missile is handled by explosive ordnance disposal personnel

Non-explosive practice missiles generally do not explode upon contact with the target or sea surface. The main environmental effect would be the physical structure of the missile entering the water. Practice missiles do not use rocket motors and, therefore, do not have potentially hazardous rocket fuel. Exploding warheads may be used in air-to-air missile exercises, but those missile would explode at an offset to the target in the air, disintegrate, and fall into the ocean to avoid damaging the aerial target. High explosive missiles used in air-to-surface exercises explode near the water surface (U.S. Navy 2006a). For example, missiles employed during a HARMEX would detonate 30 - 60 feet (9.1 – 18.3 m) above the ocean surface.

The principal potential stressor from missiles would be unburned solid propellant residue. Solid propellant fragments would sink to the ocean floor and undergo changes in the presence of seawater. The concentration would decrease over time as the leaching rate decreased and further dilution occurred. The aluminum would remain in the propellant binder and eventually would be oxidized by seawater to aluminum oxide. The remaining binder material and aluminum oxide would pose no threat to the marine environment (DoN, 1996).

TARGETS. At-sea targets are usually remotely operated airborne, surface, or subsurface traveling units, most of which are designed to be recovered for reuse. Aerial and surface targets would be deployed annually in the Virginia Capes, Cherry Point, and Jacksonville Range Complexes. Small concentrations of fuel and ionic metals would be released during battery operation.

A typical aerial target drone is powered by a jet fuel engine, generates radio frequency (RF) signals for tracking purposes, and is equipped with a parachute to allow recovery. Drones also contain oils, hydraulic fluid, batteries, and explosive cartridges as part of their operating systems. There are also recoverable, remotely controlled target boats and underwater targets designed to simulate submarines. If severely damaged or displaced, targets may sink before they can be retrieved. Aerial targets employed on the Virginia Capes, Cherry Point, and Jacksonville Range Complexes would include AST/ALQ/ESM pods, Banner drones, BQM-74E drones, Cheyenne, Lear Jets, and Tactical Air-Launched Decoys, which are the only expended targets (these targets are non-powered, air-launched, aerodynamic vehicle).

Surface targets would include Integrated Maritime Portable Acoustic Scoring and Simulator Systems, Improved Surface Tow Targets, QST-35 Seaborne Powered Targets, and expendable marine markers (smoke floats). Expended surface targets commonly used in addition to marine markers include cardboard boxes, 55-gallon steel drums, and a

10-foot-diameter red balloon tethered by a sea anchor (also known as a “killer tomato”). Floating debris, such as Styrofoam, may be lost from target boats.

Most target fragments would sink quickly in the sea. Expended material that sinks to the sea floor would gradually degrade, be overgrown by marine life, and/or be incorporated into the sediments. Floating non-hazardous expended material may be lost from target boats and would either degrade over time or wash ashore as flotsam. Non-hazardous expended materials are defined as the parts of a device made of non-reactive material. Typical non-reactive material includes metals such as steel and aluminum; polymers, including nylon, rubber, vinyl, and plastics; glass; fiber; and concrete. While these items represent persistent seabed litter, their strong resistance to degradation and their chemical composition mean they do not chemically contaminate the surrounding environment by leaching heavy metals or organic compounds.

GUN AMMUNITION. Naval gun fire within the Virginia Capes, Cherry Point, and Jacksonville Range Complexes would use non-explosive and explosive 5-inch and 76-millimeter (mm) rounds, and non-explosive, practice, 2.75-inch rockets. More than 80 percent of the 5-inch and 76-mm rounds training rounds and all of the rockets would be non-explosive and contain an iron shell and sand, iron grit, or cement filler. Rapid-detonating explosive would be used in explosive rounds. Unexploded shells and non-explosive practice munitions would not be recovered and would sink to the ocean floor. Solid metal components (mainly iron) of unexploded ordnance and non-explosive practice munitions would also sink.

High-explosive, 5-inch shells are typically fuzed to detonate within 3 feet of the water surface. Shell fragments rapidly decelerate through contact with the surrounding water and settle to the sea floor. Unrecovered ordnance would also sink to the ocean floor. Iron shells and fragments would be corroded by seawater at slow rates, with comparably slow release rates. Over time, natural encrustation of exposed surfaces would occur, reducing the rate at which corrosion occurred. Rates of deterioration would vary, depending on the material and conditions in the immediate marine and benthic environment. However, the release of contaminants from unexploded ordnance, nonexplosive practice munitions, and fragments would not result in measurable degradation of marine water quality.

The rapid-detonating explosive material of unexploded ordnance would not typically be exposed to the marine environment. Should the rapid-detonating explosive be exposed on the ocean floor, it would break down within a few hours (U.S. Navy 2001). Over time, the rapid-detonating explosive residue would be covered by ocean sediments or diluted by ocean water.

In the past, about 96 anti-swimmer grenade training events have been performed on the Jacksonville Range Complex per year. 80 explosive grenades would be used per year (not all events would employ explosive grenades during exercises). Mine Neutralization events involve Explosive Ordnance Disposal (EOD) detachments placing explosive charges next to or on non-explosive practice mines. Charges used by EOD divers consist of 20-lbs explosives, which reflects the size of charges EOD divers use to detonate mines in combat or real-world conditions. In the past, about 18 20-lbs charges would be used per year. The combustion products from the detonation of high explosives are commonly found in sea water— carbon monoxide, carbon dioxide, hydrogen, water, nitrogen, and ammonia. The primary contaminants released from explosives used in mine warfare training are nitroaromatic compounds such as trinitrotoluene, rapid-detonating explosive, and octogen (High Melting Explosive; URS *et al.* 2000).

CHAFF. Radio frequency chaff (chaff) is an electronic countermeasure designed to reflect radar waves and obscure aircraft, ships, and other equipment from radar-tracking sources. Chaff is non-hazardous and consists of aluminum-coated glass fibers (about 60% silica and 40% aluminum by weight) ranging in lengths from 0.3 to 3 inches with a diameter of about 40 micrometers. Chaff is released or dispensed from military vehicles in cartridges or projectiles that contain millions of chaff fibers. When deployed, a diffuse cloud of fibers undetectable to the human eye is formed. Chaff is a very light material that can remain suspended in air anywhere from 10 minutes to 10 hours. It can travel considerable distances from its release point, depending on prevailing atmospheric conditions (Arfsten *et al.* 2002).

For each chaff cartridge used, a plastic end-cap and Plexiglas piston is released into the environment in addition to the chaff fibers. The end-cap and piston are both round and are 1.3 inches in diameter and 0.13 inches thick (Spargo, 2007). Chaff would be used during chaff exercises throughout the Virginia Capes, Cherry Point, and Jacksonville Range Complexes. The fine, neutrally buoyant chaff streamers act like particulates in the water, temporarily increasing the turbidity of the ocean's surface. However, they are quickly dispersed and turbidity readings return to normal. The end-caps and pistons would sink; however, some may remain at or near the surface if it were to fall directly on a dense *Sargassum* mat. The expended material could also be transported long distances before becoming incorporated into the bottom sediments.

Based on the dispersion characteristics of chaff, large areas of open water within the Virginia Capes, Cherry Point, and Jacksonville Range Complexes would be exposed to chaff, but the chaff concentrations would be low. For example, Hullar *et al.* (1999) calculated that a 4.97-mile by 7.46-mile area (37.1 square miles or 28 square nautical miles) would be affected by deployment of a single cartridge containing 150 grams of chaff. The resulting chaff concentration would be about 5.4 grams per square nautical mile. This corresponds to fewer than 179,000 fibers per square nautical mile or fewer than 0.005 fibers per square foot, assuming that each canister contains five million fibers.

5.1.5 Chemicals in Explosive Charges and Ordnance

The chemical products of deep underwater explosions are initially confined to a thin, circular area called a "surface pool." Young (1995) estimated that 100% of the solid explosion products and 10% of the gases remain in the pool, which is fed by upwelling currents of water entrained by the rising bubble produced by a detonation (see Table 8). After the turbulence of an explosion has dispersed, the surface pool would stabilize and chemical products would become uniformly distributed within the pool. A surface pool is usually not visible after about five minutes. As a surface pool continues to expand, chemical products would be further diluted and become undetectable. Because of continued dispersion and mixing, there would be no buildup of explosion products in the water column.

The concentrations of chemicals associated with the explosive materials are not hazardous to marine mammals, sea turtles, their prey, competitors, or predators. Those chemicals are not likely to adversely affect these species.

5.1.6 Active Sonar

As discussed in the *Description of the Proposed Action* section of this Opinion, many of the training activities the U.S. Navy proposes to conduct in the Northeast Operating Areas, Virginia Capes Range Complex, Cherry Point

Range Complex, and Jacksonville Range Complex are interrelated with active sonar training activities the U.S. Navy proposed to conduct along the Atlantic Coast of the United States. Any of these training activities could employ any of the bombing exercises, gunnery exercises, mine warfare activities, missile exercises, or other activities discussed in the *Description of the Proposed Action* as well as active sonar systems discussed in our 2009 Opinion on the Atlantic Fleet Active Sonar Training (which is why we treat them as interrelated activities).

Table 13. Predicted concentrations of explosion products in seawater, compared with permissible concentrations (from U.S. Navy 2007)

Explosion Product	Predicted Concentration (mg/L)	Permissible Concentration (mg/L)
Carbon dioxide (CO ₂)	0.00262	1.0
Carbon monoxide (CO)	0.0293	0.552
Ammonia (NH ₃)	0.00230	0.092b
Ethane (C ₂ H ₆)	0.00469	120
Propane (C ₃ H ₈)	0.00135	120
Hydrogen cyanide (HCN)	0.000298	0.001 - 0.036
Methane (CH ₄)	0.000126	120
Methyl alcohol (CH ₃ OH)	0.0000107	3.60
Formaldehyde (CH ₂ O)	0.00000534	0.0414
Carbon (C)	0.143	NA
Acetylene (C ₂ H ₂)	0.00000668	73
Phosphine (PH ₃)	0.00000935	0.0055
Aluminum oxide (Al ₂ O ₃)	0.434	NA

During mine countermeasures training the U.S. Navy proposes to conduct in the Virginia Capes, Cherry Point, and Jacksonville Range Complexes, the U.S. Navy employs several ship or submarine-mounted mid-frequency active sonar systems: AN/SQS-53, AN/SQS-56, AN/SQQ-32, AN/BQQ-5 or 10. Helicopters engaged in airborne MCM training use equipment that includes: AN/AQS-20 Mine Hunting System (employing side-looking sonar); AN/AES-1 Airborne Laser Mine Detection System; and AN/ALQ-220 Organic Airborne Surface Influence Sweep.

COMPOSITE TRAINING UNIT EXERCISES (or COMPTUEX) are Integration Phase, at-sea, major range events. When they involve carrier strike groups, these exercises integrate an aircraft carrier and carrier air wing with surface and submarine units. When they involve expeditionary strike groups, these exercises integrate amphibious ships with their associated air wing, surface ships, submarines, and Marine Expeditionary Unit. Along the Atlantic Coast. As proposed, these exercises would occur within and seaward of the Virginia Capes, Cherry Point, and Jacksonville-Charleston Operating Areas. However, based on eight after-action-reports the U.S. Navy submitted on major training exercises it conducted from the summer of 2006 through the summer of 2008, all but two occurred primarily within the Cherry Point and Charleston Operating Areas, with smaller portions occurring in the Jacksonville Operating Areas. Only one of these major training exercises occurred within the Virginia Capes Operating Area. If this pattern is representative of what we might expect in the future, we would expect most of the major training exercises to occur in the Cherry Point Operating Area with portions occurring in the Charleston-Jacksonville Operating Areas.

Live-fire activities that may take place during a COMPTUEX include long-range air strikes, Naval Surface Fire Support (which are discussed in greater detail in narratives that follow), and surface-to-air, surface-to-surface, and air-to-surface missile exercises. A Marine Expeditionary Unit also conducts realistic training based on anticipated operational requirements and to further develop the required coordination between Navy and Marine Corps forces. Special Operations training may also be integrated with the exercise scenario. These exercises typically last for 21 days and may include two 1-day, scenario-driven, “mini” battle problems, culminating with a scenario-driven 3-day final battle problem.

Sonars employed in these exercises include AN/SQS-53, AN/SQS-56, AN/AQS-13 or AN/AQS-22 dipping sonar, and the AN/BQQ-10 sonar. Up to 218 tonal sonobuoys, 28 explosive source sonobuoys (AN/SSQ-110A), 5 receiver sonobuoys (AN/SSQ-101), and four acoustic device countermeasures (MK-1, MK-2, MK-3, MK-4, noise acoustic emitter, and the AN/SLQ-25A NIXIE) are typically used per exercise. The number of passive sonobuoys deployed during these exercises can vary.

JOINT TASK FORCE EXERCISES are also major range events that are the culminating exercises in Integrated Phase training for Carrier and Expeditionary Strike Groups. For Expeditionary Strike Groups, Joint Task Force Exercises incorporate Amphibious Ready Group Certification Exercises for amphibious ships and Special Operations Capable Certification for Marine Expeditionary Units. Activities conducted during these exercises include littoral anti-submarine warfare activities, coordinated anti-submarine warfare activities, Improved Extended Echo Ranging (IEER) Systems training, and freestyle exercises. They typically include other Defense Department services or Allied forces.

When schedules allow, these exercises may be conducted concurrently for a Carrier Strike Group and an Expeditionary Strike Group. These exercises normally last for 10 days (not including a 3-day force protection exercise that occurs in-port) and occur two times per year in shallow and deep water portions located within and seaward of the Virginia Capes, Cherry Point, and Jacksonville-Charleston Operating Areas.

Carrier Strike Group COMPTUEX and Joint Task Force Exercises often take place concurrently to produce exercises that are called Combined Carrier Strike Group COMPTUEX/JTFEX. Typically, four guided missile destroyers, two fast frigates, and three submarines participate in a Joint Task Force Exercises. Sonars employed in this scenario include the AN/SQS-53, AN/SQS-56, AN/AQS-13 or AN/AQS-22 dipping sonar, and the AN/BQQ-10 sonars. Up to 174 tonal sonobuoys (e.g., AN/SSQ-62), 28 explosive source sonobuoys (AN/SSQ-110A), five receiver sonobuoys (AN/SSQ-101), and 2 four acoustic device countermeasures (MK-1, MK-2, MK-3, MK-4, noise acoustic emitter, and the AN/SLQ-25A NIXIE) are typically used per exercise. The number of passive sonobuoys that are deployed during these exercises can vary.

High-frequency active sonar

Several of the torpedoes and the AN/BQS-15 sonar system, which Navy submarines use for under-ice navigation and mine-hunting, produce high-frequency sounds (see Table 5). In addition, two of the active sonar systems the U.S. Navy employs as part of its mine warfare scenarios – AN/AQS-14, which is an active-controlled, helicopter-towed mine-hunting active sonar and AN/AQS-24 which is an upgraded version of AN/AQS-14 – operate at frequencies higher than 200 kHz.

Mid-frequency active sonar

Naval sonars operate on the same basic principle as fish-finders (which are also a kind of sonar): brief pulses of sound, or “pings,” are projected into the ocean and an accompanying hydrophone system in the sonar device listens for echoes from targets such as ships, mines or submarines. Several sonar systems are likely to be employed during the active sonar training activities the U.S. Navy plans to conduct in the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes, but several systems pose potential risks to listed resources (we should note that other navies that might be involved in some of the active sonar training exercises, such as Joint Task Force Exercises, employ similar active sonar systems as well, but we do not have the information necessary to describe those systems).

As discussed in the *Description of the Proposed Action*, a variety of surface ships participate in Navy training exercises, including guided missile cruisers, destroyers, guided missile destroyers, and frigates. Some ships (e.g., aircraft carriers) do not have any onboard active sonar systems, other than fathometers. Others, like guided missile cruisers, are equipped with active as well as passive sonars for submarine detection and tracking. The primary surface ship sonars considered are

1. The AN/SQS-53 which is a large, active-passive, bow-mounted sonar that has been operational since 1975. AN/SQS-53 is the U.S. Navy’s most powerful surface ship sonar and is installed on Ticonderoga (22 units) and Arleigh Burke I/II/IIIa (51 units) class vessels in the U.S. Navy (Polmar 2001, D’Spain *et al.* 2006). This sonar transmits at a center frequency of 3.5 kHz at source levels of 235 dB_{RMS} re: 1 μPa at 1 meter. The sonar has pulse durations between 1 and 2 seconds, with about 24-second intervals between pulses. AN/SQS-53 operates at depths of about 7 meters.

The AN/SQS-53 is a computer-controlled, hull-mounted surface-ship sonar that has both active and passive operating capabilities, providing precise information for anti-submarine warfare weapons control and guidance. The system is designed to perform direct-path anti-submarine warfare search, detection, localization, and tracking from a hull-mounted transducer array. The AN/SQS-53 sonar is installed on Arleigh Burke Class guided missile destroyers and Ticonderoga Class guided missile cruisers.

The AN/SQS-53 Kingfisher is a modification that provides a surface ship with the ability to detect mine-like objects. However, Navy vessels would use this sonar only when entering and leaving a port. As a result, we would not expect endangered marine mammals to be exposed to this sonar system, although sea turtles that occur in the ports are likely to be exposed to active sonar from this system.

2. The AN/SQS-56 system is a lighter active-passive bow-mounted sonar that has been operational since 1977. AN/SQS-56 is installed on FFG-7 (33 units) class guided missile frigates in the U.S. Navy (Polmar 2001, D’Spain *et al.* 2006). This sonar transmits at a center frequency of 7.5 kHz and a source level of 225 dB_{RMS} re: 1 μPa at 1 meter source level. This sonar also has pulse durations between 1 and 2 seconds, with about 24-second intervals between pulses. AN/SQS-56 operates at depths of about 6 meters.

Sonar Systems Associated with Submarines

As discussed in the *Description of the Proposed Action*, tactical military submarines (i.e. 29 attack submarines as of 2008) equipped with hull-mounted mid-frequency use active sonar to detect and target enemy submarines and surface ships. The predominant active sonar system mounted on submarines is AN/BQQ-10 sonar that is used to detect

and target enemy submarines and surface ships. Two other systems — AN/BQQ-5 and AN/BSY-1/2 — have operational parameters that would affect marine mammals in ways that are similar to the AN/BQQ-10.

1. AN/BQQ-10 (also known as Advanced Rapid Commercial-Off-the-Shelf Insertion— a four-phase program for transforming existing submarine sonar systems (i.e., AN/BQQ -5) from legacy systems to more capable and flexible active and passive systems with enhanced processing using commercial-off-the-shelf components. The system is characterized as mid-frequency active sonar, although the exact frequency range is classified. The AN/BQQ-10 is installed on Seawolf Class SSNs, Virginia Class SSNs, Los Angeles Class SSNs, and Ohio Class SSBN/nuclear guided missile submarines (SSGNS). The BQQ-10 systems installed on Ohio Class SSBNs do not have an active sonar capability.
2. AN/BQQ-5 – a bow- and hull-mounted passive and active search and attack sonar system. The system includes the TB-16 and TB-23 or TB-29 towed arrays and Combat Control System MK 2. This sonar system is characterized as MFA, although the exact frequency range is classified. The AN/BQQ-5 (Figure C-4) sonar system is installed on Los Angeles Class nuclear attack submarines (SSNs) and Ohio Class ballistic missile nuclear submarines (SSBNs), although the AN/BQQ-5 systems installed on Ohio Class SSBNs do not have an active sonar capability. The AN/BQQ-5 system is being phased out on all submarines in favor of the AN/BQQ-10 sonar.

In addition, Seawolf Class attack submarines, Virginia Class attack submarines, Los Angeles Class attack submarines, and Ohio Class nuclear guided missile submarines also have the AN/BQS-15 sonar system, which uses high-frequency for under-ice navigation and mine-hunting. However, Navy submarines would use this sonar system only when entering and leaving a port. As a result, we would not expect endangered marine mammals to be exposed to this sonar system, although sea turtles that occur in the ports might be exposed to active sonar from this system.

Sonar Systems Associated with Aircraft.

As discussed in the *Description of the Proposed Action*, aircraft sonar systems that typically operate during Navy training exercises include sonobuoys and dipping sonar. Current dipping sonar systems used by the Navy are either AN/SQS-22 or AN/AQS -13. AN/AQS -13 is an older and less powerful dipping sonar system (maximum source level 215 dB re $\mu\text{Pa}\cdot\text{s}^2$ at 1m) than the AN/AQS -22 (maximum source level 217 dB re $\mu\text{Pa}\cdot\text{s}^2$ at 1m). In its modeling, the Navy assumed that all dipping sonar were AN/AQS -22. P-3 aircraft may deploy sonobuoys while helicopters may deploy sonobuoys or dipping sonars (the latter are used by carrier-based helicopters). Sonobuoys are expendable devices used by aircraft for the detection of underwater acoustic energy and for conducting vertical water column temperature measurements. Dipping sonar is an active or passive sonar device lowered on cable by helicopters to detect or maintain contact with underwater targets. In addition, the U.S. Navy employs tonal sonobuoys (DICASS, AN/SSQ-62) and the Improved Extended Echo Ranging (IEER) System discussed in the *Description of the Proposed Action*.

1. The AN/SSQ-62C Directional Command Activated Sonobuoy System (DICASS) sonar system is part of a sonobuoy that operates under direct command of fixed-wing aircraft or helicopters. The system can determine the range and bearing of the target relative to the sonobuoys position and can deploy to various depths within the water column. After it enters the water, the sonobuoy transmits sonar pulses (continuous

waveform or linear frequency modulation) upon command from the aircraft. The echoes from the active sonar signal are processed in the buoy and transmitted to the receiving station onboard the launching aircraft.

2. AN/SSQ-110A Explosive Source Sonobuoy – a commandable, air-dropped, high source level explosive sonobuoy. The AN/SSQ-110A explosive source sonobuoy is composed of two sections, an active (explosive) section and a passive section. The upper section is called the “control buoy” and is similar to the upper electronics package of the AN/SSQ-62 DICASS sonobuoy. The lower section consists of two signal underwater sound explosive payloads of Class A explosive weighing 1.9 kg (4.2 lbs) each. The arming and firing mechanism is hydrostatically armed and detonated. Once in the water, the signal underwater sound charges explode, creating a loud acoustic signal. The echoes from the explosive charge are then analyzed on the aircraft to determine a submarine’s position. The AN/SSQ-110A explosive source sonobuoy is deployed by maritime patrol aircraft.
3. AN/SSQ-125 Advanced Extended Echo Ranging (AEER) Sonobuoy - a third generation of multi-static active acoustic search systems to be developed under the Extended Echo Ranging family of the systems and is being developed as the replacement for the AN/SSQ-110A. The AN/SSQ-125 sonobuoy is composed of two sections, the control section and the active source section. The control section is similar to the upper electronics package of the AN/SSQ-62 DICASS sonobuoy. The lower section consists of the active sonar source. The echoes from pings of the sonar are then analyzed on the aircraft to determine a submarine’s position. The AN/SSQ-125 sonobuoy will be deployed by maritime patrol aircraft.

Torpedoes

Torpedoes (primarily MK-46 and MK-48) are the primary anti-submarine warfare weapon used by surface ships, aircraft, and submarines. The guidance systems of these weapons can be autonomous or electronically controlled from the launching platform through an attached wire. The autonomous guidance systems are acoustically based. They operate either passively, exploiting the emitted sound energy by the target, or actively ensounding the target and using the received echoes for guidance.

In addition to these torpedoes, the U.S. Navy employs Acoustic Device Countermeasures in several of their training exercises. These countermeasures (which include MK-1, MK-2, MK-3, MK-4, noise acoustic emitter, and the AN/SLQ-25A NIXIE) act as decoys by making sounds that simulate submarines to avert localization or torpedo attacks.

Mine Warfare Sonar Systems

As discussed in the *Description of the Proposed Action*, the U.S. Navy uses a variety of different sonar systems during mine warfare training exercises. These sonar systems are typically high-frequency sonars (i.e., greater than 10 kHz) that detect, locate, and characterize moored and bottom mines and can be deployed by helicopters, unmanned underwater vehicles, surf zone crawlers, or surface ships. The majority of mine warfare systems are deployed by helicopters and typically operate at high (greater than 200 kHz) frequencies. The types of tactical acoustic sources used during mine warfare sonar training activities include the following:

SURFACE SHIP SONARS. Guided missile destroyers, fast frigates, and guided missile cruisers can use their hull-mounted sonars (AN/SQS-53 and AN/SQS-56) in the object detection (Kingfisher) mode. These ships, as well as mine

hunters, may utilize over-the-side unmanned underwater vehicle systems containing sonar sensor packages to detect and classify mine shapes. Navy minesweepers use the AN/SQQ-32, a variable depth mine detection and classification high-frequency active sonar system. In addition, mine hunters are equipped with underwater acoustic communication systems.

SUBMARINE SONARS. Submarines can use a sail-mounted sonar, AN/BQS-15, to detect mines and objects. In addition, they employ the AN/BLQ-11 Long Term Mine Reconnaissance System which is an unmanned underwater vehicle that, when in operation, can be launched and recovered through the torpedo tubes by all classes of submarines. It can be equipped with mid-frequency active sonar to detect mines and is intended to extend a submarine's reach for mine reconnaissance missions.

In addition, the U.S. Navy employs active sonar systems from aircraft as part of its mine warfare scenarios. Two systems in particular – AN/AQS-14, which is an active-controlled, helicopter-towed mine-hunting active sonar and AN/AQS-24 which is an upgraded version of AN/AQS-14 – operate above 200 kHz.

The duration, rise times, and wave form of sonar transmissions that would be used during Navy training exercise are classified; however, the characteristics of the transmissions that were used during the Bahamas exercises might help illustrate attributes of the transmissions from these two sonar sources. During the Bahamas exercises, these two sonars transmitted 1 – 2 second pulses once every 24 seconds (D'Spain *et al.* 2006). Pulses had rise times of 0.1 – 0.4 seconds and typically consisted of three waveforms with nominal bandwidths up to 100 Hz (D'Spain *et al.* 2006). Both sonar create acoustic fields that are omnidirectional in azimuth, although AN/SQS-53 also can create beams covering 120° azimuthal sectors that can be swept from side to side during transits (D'Spain *et al.* 2006). Waveforms of both sonar systems are frequency modulated with continuous waves (D'Spain *et al.* 2006).

Sound Propagation

Near an ocean's surface (roughly the uppermost 150 feet), the sound field will be normally dominated by sound generated by wave action, rain, and other surface activity; that would mask most anthropogenic sounds. Below the surface area of this mixed layer, depth (pressure) dominates the sound speed profile and the sound's speed *increases* with depth. Below the mixed layer, sea temperatures drop rapidly in an area referred to as the thermocline. In this region, temperature dominates the sound speed profile and speed decreases with depth. Finally, beneath the thermocline, the temperature becomes fairly uniform and increasing pressure causes the sound speed profile to increase with depth.

Acoustic waveguides, which include surface ducts as well as the SOFAR (sonar fixing and ranging) channel and deep sound channel of deep waters, focus sound from sources within the waveguide to long ranges. Surface ducts are acoustic waveguides that occur in the uppermost part of the water column when water near the surface are mixed by convection by surface wave activity generated by atmospheric winds. This mixing forms a surface layer with nearly constant temperatures so that sound speeds in the layer increase with depth. If sufficient energy is subsequently reflected downward from the surface, the sound can become "trapped" by a series of repeated upward refractions and downward reflections to create surface ducts or "surface channels". Surface ducts commonly form in the winter because the surface is cooled relative to deeper water; as a result, surface ducts are predictable for certain locations at specific times of the year.

Table 14. Description and attributes of sonar sources proposed for use along the Atlantic Coast of the United States

System	Center Frequency (kHz)	Source Level (re 1 μ Pa)	Associated Platform	System Description	Annual Quantity	Unit
AN/SQS-53	3.5	235	DDG and CG hull-mounted sonar (surface ship)	ASW search, detection, & localization; utilized 70% in search mode and 30% track mode	3214	Hours
AN/SQS-56	7.5	225	FFG hull-mounted sonar (surface ship)	ASW search, detection, & localization; Utilized 70% in search mode and 30% track mode	1684	Hours
AN/SQS-53 and AN/SQS-56 (Kingfisher)	MF	Classified	DDG, CG, and FFG hull-mounted sonar (object detection)	Only used when entering and leaving port	216	Hours
AN/BQQ-5 or 10****	MF	Classified	Submarine hull-mounted sonar	ASW search and attack (approximately one ping per two hours when in use)	9976	Pings
AN/AQS-13	10	215	Helicopter dipping sonar	ASW sonar lowered from hovering helicopter (approximately 10 pings/dip, 30 seconds between pings)	1476	Dips
AN/AQS-22	4.1	217	Helicopter dipping sonar	ASW sonar lowered from hovering helicopter (approximately 10 pings/dip, 30 seconds between pings)	1476	Dips
MK-48 Torpedo	HF	Classified	Submarine fired exercise torpedo	ASW sonar lowered from hovering helicopter (approximately 10 pings/dip, 30 seconds between pings)	32	Torpedoes
MK-46 or 54 Torpedo	HF	Classified	Surface ship and aircraft fired exercise torpedo	Recoverable and non-explosive exercise torpedo; sonar is active approximately 15 min per torpedo run	24	Torpedoes
Tonal sonobuoy (DICASS) (AN/SSQ-62)	8	201	Helicopter and MPA deployed	Remotely commanded expendable sonar-equipped buoy (approximately 12 pings per use, 30 secs between pings)	5853	Buoys
IEER (AN/SSQ-110A)	Impulsive - Broadband	Classified	MPA deployed	ASW system consists of explosive acoustic source buoy (contains two 4.1 lb charges) and expendable passive receiver sonobuoy	872	Buoys
AN/SLQ-25 (NIXIE)	MF	Classified	DDG, CG, and FFG towed array (countermeasure)	Towed countermeasure to avert localization and torpedo attacks (approximately 20 mins per use)	332	Hours
AN/SQQ-32	HF	Classified	MCM over the side system (mine-hunting)	Used during mine warfare training events detect, classify, and localize bottom and moored mines	4474	Hours
AN/BQS-15	HF	Classified	Submarine navigational sonar	Only used when entering and leaving port	450	Hours
ADC MK-1, MK-2, MK-3, and MK-4 ADCs**	MF	Classified	Submarine deployed countermeasure	Expendable acoustic device countermeasure (approximately 20 mins per use)	225	ADCs
Noise Acoustic Emitters (NAE)	MF	Classified	Submarine deployed countermeasure	Expendable acoustic countermeasure (20 mins per use)	127	NAEs
AN/SSQ-125	MF	Classified	MPA deployed	ASW system consists of active sonobuoy and expendable passive receiver sonobuoy	872***	Buoys

Table 15. Training scenarios and the number of activities associated with those scenarios, but operating area

Training Scenario	Operating Area					Totals
	Northeast	Virginia Capes	Cherry Point	Jacksonville – Charleston	Gulf of Mexico	
Independent Unit-Level Training						
Surface Ship ASW	-	69	91	292	5	457
Surface Ship Object Detection/Navigational Sonar	-	68	-	40	-	108
Helicopter ASW	-	25	25	115	-	165
Submarine ASW	30	10	14	45	1	100
Submarine Object Detection/Navigational Sonar	165	78	-	57	-	300
Maritime Patrol Aircraft ASW (tonal sonobuoy)	238	79	111	356	7	791
Maritime Patrol Aircraft ASW (explosive source sonobuoy)	34	34	34	34	34	170
Surface Ship Mine Warfare Exercise	-	-	-	-	266	266
Coordinated Unit-Level Training						
SEASWITI	-	-	-	4	-	4
IAC	-	0.2	1.4	2.4	1	5
Group Sail	-	3	4	13	-	20
SCC Operations	0.4	-	-	1.6	-	2
RONEX and GOMEX Exercises	-	-	-	-	8	8
Strike Group Training						
ESG and CSG Composite Training Unit Exercise	-	0.2	1.4	2.4	1	5
Joint Task Force Exercise	-	0.2	0.6	1.2	0	2
Maintenance						
Surface Ship Sonar Maintenance	-	61	82	263	4	410
Submarine Sonar Maintenance	30	10	14	45	1	100
Event Totals	497.4	437.6	378.4	1271.6	328	2913

Sound trapped in a surface duct can travel for relatively long distances with its maximum range of propagation dependent on the specifics of the sound speed profile, the frequency of the sound, and the reflective characteristics of the surface. As a general rule, surface duct propagation will increase as the temperature becomes more uniform and depth of the layer increases. For example, a sound's transmission is improved when windy conditions create a well-mixed surface layer or in high-latitude midwinter conditions where the mixed layer extends to several hundred feet deep.

5.1.7 Explosive Source associated with the Improved Extended Echo Ranging (IEER) System

One of the systems the U.S. Navy proposes to employ as part of the proposed active sonar training include explosive charges that provide a sound source. The AN/SSQ-110A Explosive Source Sonobuoy is composed of two sections, an active (explosive) section and a passive section. The lower, explosive section consists of two signal underwater sound explosive payloads of Class A explosive weighing 1.9 kg (4.2 lbs) each. The arming and firing mechanism is hydrostatically armed and detonated. Once in the water, the signal underwater sound charges explode, creating a loud acoustic signal.

The number of endangered or threatened species that might be exposed to explosions associated with this ordnance treat each in-water explosion as an independent event. The cumulative effect of a series of explosives can often be estimated by addition if the detonations are spaced widely in time and space which would provide marine animal's sufficient time to move out of an area affected by an explosion. As a result, the populations of animals that are exposed to in-water explosions are assumed to consist of different animals each time.

5.1.8 Parachutes Released During Deployment of Sonobuoys

When AN/SQS-62 DICASS sonobuoys impact the water surface after being deployed from aircraft, their parachute assemblies of sonobuoys are jettisoned and sink away from the sonobuoy, while a float containing an antenna is inflated. The parachutes are made of nylon and are about 8 feet in diameter. At maximum inflation, the canopies are between 0.15 to 0.35 square meters (1.6 to 3.8 squared feet). The shroud lines range from 0.30 to 0.53 meters (12 to 21 inches) in length and are made of either cotton polyester with a 13.6 kilogram (30 pound) breaking strength or nylon with a 45.4 kilogram (100 pound) breaking strength. All parachutes are weighted with a 0.06 kilogram (2 ounce) steel material weight, which would cause the parachute to sink from the surface within about 15 minutes, although actual sinking rates depend on ocean conditions and the shape of the parachute.

The subsurface assembly descends to a selected depth, and the sonobuoy case falls away and sea anchors deploy to stabilize the hydrophone (underwater microphone). The operating life of the seawater battery is eight hours, after which the sonobuoy scuttles itself and sinks to the ocean bottom. For the sonobuoys, concentrations of metals released from batteries were calculated to be 0.0011 mg/L lead, 0.000015mg/L copper, and 0.0000001mg/L silver.

5.2 Exposure Analysis

As discussed in the *Approach to the Assessment* section of this opinion, our exposure analyses are designed to determine whether listed resources are likely to co-occur with the direct and indirect beneficial and adverse effects of

actions and the nature of that co-occurrence. In this step of our analyses, we try to identify the number, age (or life stage), and gender of the individuals that are likely to be exposed to an Action's effects and the populations or subpopulations those individuals represent.

Based on the limited empirical information available, we cannot use that information to estimate the number of endangered or threatened marine animals that might be exposed to the training activities the U.S. Navy plans to conduct in the Northeast Operating Area, the Virginia Capes Range Complex, Cherry Point Range Complex, and the Jacksonville Range Complex from June 2009 through June 2014. Although Navy watchstanders have reported the number of large or small cetaceans they observed during some of the exercises that have been conducted along the Atlantic Coast of the United States in the past, those observations do not identify particular species, only represent individuals that were at the ocean's surface, and only represent those individuals that might have been sighted given the sea surface and visibility conditions when the observations were reported. Because marine animals only spend a portion of their time at the ocean's surface and because the ability to detect marine animals depends on sea states and visibility, the number of marine mammals reported by Navy watchstanders would not correspond to the number of marine animals actually exposed to Navy activities in the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes. Further, the area encompassed by sound fields produced by activities like active sonar transmissions are so large that it would be almost impossible to identify or estimate the number of different marine species that are actually be exposed to the sound field, the received levels associated with the exposure, or changes in the pattern of exposures over the course of an exercise or test.

As a result, the U.S. Navy, NMFS, and most other entities (for example, oil and gas industries for drilling platforms, geophysics organizations that conduct seismic surveys, etc.) that try to estimate the number of marine animals that might be exposed to active sound sources in the marine environment rely on computer models, simulations, or some kind of mathematical algorithm to estimate the number of animals that might be exposed to a sound source. Like all models, these approaches are based on assumptions and are sensitive to those assumptions.

It is important to note that these simulations tend to over-estimate the number of marine mammals that might be exposed to one or more of the activities the U.S. Navy plans to conduct along the Atlantic coast of the U.S. In most cases, these over-estimates will be substantial and could imply that marine mammals are continuously exposed to the training activities the U.S. Navy plans to conduct in the Northeast Operating Area, the Virginia Capes Range Complex, Cherry Point Range Complex, and the Jacksonville Range Complex from June 2009 through June 2014. However, most exposures will be periodic or episodic rather than continuous; marine mammals might not be exposed to entire training events that occur in deeper, pelagic waters and may be exposed several times to training events that occur in coastal waters.

5.2.1 Exposure to Navy Vessel Traffic

As discussed in the preceding section on *Stressors* that would be associated with the proposed action and the interrelated Atlantic Fleet Active Sonar Training activities, the U.S. Navy estimated that the proposed training activities would result in about 1,420 steaming days per year in the Virginia Capes Range Complex, 950 steaming days in the Cherry Point Range Complex, and 1,050 steaming days in the Jacksonville Range Complex. Vessel movements unrelated to training activities — for example, for storm evasion, deployment transits, and movements in

basins to rearrange ships for repairs, berthing, loading, and off-loading from designated piers — would increase these estimates. With the Transit Protection System the U.S. Navy proposes to employ at Kings Bay, Georgia, the U.S. Navy would employ up to 16 escort security boats that would engage in between 130 to 170 events per year or 10 to 15 times per month.

The ships involved in the proposed training activities would range in size from 362 feet (a nuclear submarine) to 1,092 feet (for a nuclear-powered aircraft carrier). A variety of smaller craft such as service vessels engaged in routine operations or employed as opposition forces during training events would also be operating within the different range complexes. During training activities, ship speeds generally range from 10 to 14 knots; however, these vessels would also operate within the entire spectrum at higher speeds during specific events, such as pursuing and overtaking hostile vessels, evasive maneuvers, and maintenance or performance checks (such as ship trials). The size and speeds of smaller vessels would vary. For example, rigid hull inflatable boat Warfare RHIB is 35 feet in length and has a speed greater than 40 knots.

Probability of an Encounter (a Collision). Despite the significant risks ship strikes pose for endangered and threatened whales and sea turtles, only a few methods to estimate the probability of encounters between whales and ships are available. Of these, the methodology developed by Vanderlaan and her co-authors (2008) seems the most relevant: they developed a method for estimating the probability of an encounter between North Atlantic right whales and surface vessels in the Bay of Fundy and the Scotia Shelf, including an encounter that results in the death of a whale. That method would require us to estimate the probability of an encounter between a whale and a ship (which is a function of the relative probability of a whale occurring in a particular cell and the probability of a ship occurring in the same cell) and the probability of an encounter being lethal if it occurred (which is a function of the vessel's speed). We could use the equation they proposed to estimate the probability of an encounter between a Navy vessel and a right whale being lethal for the whale¹⁰, but we do not have the information necessary to use the approach Vanderlaan and her co-authors developed to estimate the probability of a whale encountering a vessel.

Nevertheless, U.S. Navy vessels have struck and killed several whales along the Atlantic Coast of the United States, including whales that are listed as endangered. Of the 134 records of ship strikes involving large whales, 23 represented reports of whales having been struck by U.S. Navy vessels (Jensen and Silber 2004). Seven of these 23 records represented whales that had been struck by Navy vessels along the Atlantic coast, from Canada south to Key West, Florida, between 1945 and 2001. Two of these seven records represented minke whales, one record represented either a minke or small sei whale, a fourth record represented a sperm whale, and the species involved in the remaining three records were unknown.

More recently, a Navy amphibious assault ship struck a large whale off the Chesapeake Light House on 17 November 2004. A few hours later, around noon, the Virginia Aquarium stranding hotline received a report of a live

¹⁰ Vanderlaan and her co-authors (2008) calculated the probability of an encounter being lethal as:

$$[\text{Pr}(\text{Lethal}|\text{Encounter})] = 1/[1+\exp^{-(-4.89+0.41x)}]$$

where x is the mean vessel speed, in knots, in a particular cell. This equation presupposed an estimate of the probability of an encounter.

injured large whale with a fresh wound on the tail where the left fluke lobe was missing. On 24 November 2004, a pregnant female right whale was necropsied at Ocean Sands, North Carolina; the necropsy concluded that the right whale had died from blood loss caused by a traumatic wound to her left fluke lobe (which was missing) and damage to surrounding tissue and bone. The necropsy concluded that the wound was consistent with a wound caused by a ship strike. The information available, however, does not allow us to determine whether or not the right whale had been struck by the Navy vessel. Nevertheless, we could rule out several of the large whales that occur in the eastern Atlantic Ocean — Bryde's, blue, sei, and sperm whales — because they are not likely to occur in waters off the Chesapeake Bay Lighthouse; as a result, the whale was probably either a fin, humpback, minke, or right whale.

A vessel cannot strike an animal that it does not encounter. To gain insight into the number of whales U.S. Navy vessel might encounter, we analyzed data from eight after-action-reports the U.S. Navy submitted on major training exercises it conducted from the summer of 2006 through the summer of 2008 within the Cherry Point and Charleston Operating Areas and portions of the Jacksonville and Virginia Capes Operating Areas. U.S. Navy watchstanders reported sightings of whales in 3 of the 8 exercises (probability of an encounter during an exercise = 0.3750) and sightings of sea turtles in 1 of the 8 exercises (probability of an encounter during an exercise = 0.1250); during three of these eight training exercises, the U.S. Navy reported no sightings of either whales, small cetaceans, or sea turtles. Of the four major training exercises in which marine mammals or sea turtles were sighted, the mean number of sightings was 1.235 per day or 0.0515 sightings per hour. About 12 percent of these sightings were made at distances greater than 1,000 meters (maximum reported distance was 10,000 yards), which would lead us to conclude that a whale is not likely to be struck if it is observed by U.S. Navy watchstanders.

If we assume that the annual number of steaming days U.S. Navy vessels engaged in during 2006 and 2007 were representative of the annual number of steaming days between 1945 and 2009 (this assumption is almost certainly incorrect, but we do not have data on the number of steaming days over the entire 60-year period to apply to this question) and use the number of whales the Navy has struck over that 60-year time interval to estimate the probability of a collision in the future, Navy vessels would have a 0.0000472 probability of striking a whale in any year over the next five years or a probability of 0.000236 over the five-year period. With an estimated 3,450 steaming days per year, U.S. Navy vessels have a 99.99 percent probability of *not* striking a whale in any given year or a 99.97 percent probability of *not* striking a whale over the five-year period of the proposed MMPA regulations. Although these probabilities are sufficiently small for us to conclude that a strike is “not likely,” we would not be able to conclude that a strike would be impossible over the next five years

Measures Designed to Reduce the Probability of a Collision. In the preceding analyses, we did not consider measures the U.S. Navy proposes to employ to avoid striking a whale; in this subsection, we consider those measures and consider whether individual measures or the entire set are likely to reduce the probability of (1) a Navy vessel striking a whale over the five-year period of the proposed MMPA regulations and (2) killing a whale that has been struck.

Vanderlaan *et al.* (2008) argued that the two most simple and practical methods of reducing the probability of a vessel striking and killing a whale are (1) altering vessel traffic routing in and around known whale habitats to reduce a vessel's probability of encountering a whale or (2) reducing vessel speeds to reduce the whale's probability of being killed if it is struck by a vessel. They argued that only the vessel re-routing option would reduce the

likelihood of exposing marine mammals to vessels that are underway. The U.S. Navy, however, proposes another option that consists of

1. avoiding training in specific areas that are important to North Atlantic right whales;

Specifically, the U.S. Navy does not plan to conduct active sonar activities within the Stellwagen Bank, Monitor, Gray's Reef, Flower Garden Banks, or Florida Keys National Marine Sanctuaries and has proposed to avoid these sanctuaries by observing a 5 km (2.7 nautical mile or nm) buffer around those areas. In addition, the only kind of exercise the U.S. Navy plans to conduct inside the critical habitat that has been designated for North Atlantic right whales off the southeast coast of the United States and Associated Area of Concern (the area extending 5 nm seaward of the boundaries of the critical habitat designation) during the calving season for right whale would be precision anchorage drills and swept channel exercises. In addition, Navy vessels in the designated critical habitat would be able to employ the Shipboard Electronic System Evaluation Facility range with clearance and advice from Fleet Area Control and Surveillance Facility-Jacksonville.

2. avoiding training in specific areas during times when right whales are likely to occur in those areas;
3. ensuring that U.S. Navy vessels are aware of the large-scale distribution of whales in the areas in which training activities would occur and avoid the areas in which whales have been reported;

FACSFAC JAX would advise ships of all reported whale sightings in the vicinity of the critical habitat and Associated Area of Concern prior to conducting surface ship object detection exercises in the southeast North Atlantic right whale critical habitat from 15 November to 15 April. To the extent operationally feasible, Navy ships would avoid conducting training in the vicinity of recently sighted right whales. Navy ships would maneuver to maintain at least 457 m (500 yd) separation from any observed whale, consistent with the safety of the ship (these requirements would not apply if a vessel's safety were threatened, such as when change of course would create an imminent and serious threat to person, vessel, or aircraft, and to the extent vessels are restricted in the ability to maneuver).

Navy aircraft participating in exercises at sea would conduct and maintain, when operationally feasible and safe, surveillance for marine species of concern as long as it does not violate safety constraints or interfere with the accomplishment of primary operational duties.

When whales have been sighted in the area, Navy vessels would increase vigilance and take reasonable and practicable actions to avoid collisions and activities that might result in close interaction of naval assets and marine mammals. Actions may include changing speed and/or direction and are dictated by environmental and other conditions (*e.g.*, safety, weather).

Prior to transiting the Great South Channel or Cape Cod Bay critical habitat areas, ships would obtain the latest right whale sightings and other information needed to make informed decisions regarding safe speed. Any vessel operating in the vicinity of a North Atlantic right whale shall consider additional speed reductions as per Rule 6 of International Navigational Rules. The Great South Channel critical habitat is defined by the following coordinates: 41°00N, 69°05W; 41°45N, 69°45W; 42°10N, 68°31W; 41°38N,

68°13W. The Cape Cod Bay critical habitat is defined by the following coordinates: 42°04.8N, 70°10W; 42°12N, 70°15W; 42°12N, 70°30W; 41°46.8N, 70°30W.

During the time intervals identified in Table 16, U.S. Navy vessels would practice increased vigilance with respect to avoidance of vessel-whale interactions along the mid-Atlantic coast, including transits to and from any mid-Atlantic ports not specifically identified above. All surface (d) units transiting within 56 km (30 nm) of the coast in the mid-Atlantic would ensure at least two watchstanders are posted, including at least one lookout that has completed required Marine Species Awareness Training.

Table 16. North Atlantic Right Whale Migration Port References

Region	Months	Port Reference Points
South and East of Block Island	September–October and March–April	20 nm seaward of line between 41°4.49N to 71°51.15W and 41°18.58N to 70°50.23W
New York / New Jersey	Sep–Oct and Feb–Apr	40°30.64N to 73°57.76W
Delaware Bay (Philadelphia)	Oct–December and February–March	38°52.13N to 75°1.93W
Chesapeake Bay (Hampton Roads and Baltimore)	November–December and February–April	37°1.11N to 75°57.56W
North Carolina	December–April	34°41.54N to 76°40.20W
South Carolina	October–April	33°11.84N to 79°8.99W 32°43.39N to 79°48.72W

During calving season and within the consultation area (roughly an area to 80 nm seaward from Charleston, South Carolina, south to Sebastian Inlet, Florida) particular measures remain in effect in accordance with NMFS’ 1997 Biological Opinion on U.S. Navy training activities off the southeastern United States (NMFS 1997). The U.S. Navy proposes to continue implementing the following measures from that biological opinion during the North Atlantic right whale calving season (November 15 – April 15):

- 3.1 Naval vessels operating within North Atlantic right whale critical habitat¹¹ and the Associated Area of Concern would exercise extreme caution and use slow safe speed, that is, the slowest speed that is consistent with essential mission, training, and operations.
- 3.2 Exercise extreme caution and use slow, safe speed when a whale is sighted by a vessel or when the vessel is within 5 nm of a reported new sighting less than 12 hours old.
- 3.3 Circumstances could arise where, in order to avoid North Atlantic right whale(s), speed reductions could mean vessels must reduce speed to a minimum at which it can safely keep on course (bare steerageway) or vessels could come to an all stop.

¹¹ This critical habitat is the area from 31-15N to 30-15N extending from the coast out to 28 km (15 nm), and the area from 28-00N to 30-15N from the coast out to 9 km (5 nm).

- 3.4 During the North Atlantic right whale calving season north-south transits through the critical habitat are prohibited, except for those exercises that necessarily operate at a slow, safe speed. Naval vessel transits through the area shall be in an east-west direction, and shall use the most direct route available during the calving season.
 - 3.5 Naval vessel operations in the North Atlantic right whale critical habitat and Associated Area of Concern during the calving season would be undertaken during daylight and periods of good visibility, to the extent practicable and consistent with mission, training, and operation. When operating in the critical habitat and Associated Area of Concern at night or during periods of poor visibility, vessels would operate as if in the vicinity of a recently reported North Atlantic right whale sighting.
 - 3.6 Fleet Area Control and Surveillance Facility-Jacksonville shall coordinate ship/aircraft clearance into the operating area based on prevailing conditions, including water temperature, weather conditions, whale sighting data, mission or event to be conducted and other pertinent information. Commander Submarine Atlantic (COMSUBLANT) would coordinate any submarine operations that may require clearance with Fleet Area Control and Surveillance Facility-Jacksonville. Fleet Area Control and Surveillance Facility-Jacksonville would provide data to ships and aircraft, including U.S. Coast Guard if requested, and would recommend modifying, moving or canceling events as needed to prevent whale encounters. Commander Submarine Group Ten (COMSUBGRU TEN) would provide same information/guidance to subs.
 - 3.7 Fleet Area Control and Surveillance Facility-Jacksonville would coordinate local procedures for whale data entry, update, retrieval and dissemination using joint maritime command information system. Ships not yet Officer in Tactical Command Information Exchange subsystem capable, including U.S. Coast Guard, would communicate via satellite communication, high frequency, telephone or international marine/maritime satellite.
4. Ensuring that U.S. Navy vessels are aware of whales that occur within the vicinity of their vessel or are likely to detect whales that occur in their vicinity and avoid whales they detect;
- All surface units transiting within 30 nm (55 km) of the coast in the mid-Atlantic would ensure at least two watchstanders are posted, including at least one lookout that has completed required marine mammal awareness training. While underway, surface vessels would have at least two lookouts with binoculars; surfaced submarines would have at least one lookout with binoculars. Lookouts already posted for safety of navigation and man-overboard precautions may be used to fill this requirement. As part of their regular duties, lookouts would watch for and report to the Officer of the Deck the presence of marine mammals and sea turtles.
- Prior to transiting or training in the critical habitat ships would contact Fleet Area Control and Surveillance Facility-Jacksonville to obtain latest whale sighting and other information needed to make informed decisions regarding safe speed and path of intended movement. Submarines shall contact Commander Submarine Group Ten for similar information. Ships and aircraft desiring to train/operate inside the critical habitat or within the warning/operating area shall coordinate clearance with Fleet Area Control and

Surveillance Facility-Jacksonville. Submarines shall obtain same clearance from CTF-82 (Commander Submarine Atlantic).

U.S. Naval vessels would maneuver to keep at least 500-yd (460 m) away from any observed whale and avoid approaching whales head-on. This requirement would not apply if a vessel's safety were threatened, such as when change of course would create an imminent and serious threat to a person, vessel, or aircraft, and to the extent vessels are restricted in their ability to maneuver. Restricted maneuverability includes, but is not limited to, situations when vessels are engaged in dredging, submerged operations, launching and recovering aircraft or landing craft, minesweeping operations, replenishment while underway and towing operations that severely restrict a vessel's ability to deviate course. Vessels would take reasonable steps to alert other vessels in the vicinity of the whale.

Navy vessels would avoid knowingly approaching any whale head on and would maneuver to keep at least 1,500 ft (460 m) away from any observed whale, consistent with vessel safety. Where feasible and consistent with mission and safety, vessels would avoid closing to within 200 yards (183 m) of sea turtles and marine mammals other than whales.

Floating weeds, algal mats, *Sargassum* rafts, clusters of seabirds, and jellyfish are good indicators of sea turtles and marine mammals. Therefore, U.S. Navy vessels would employ increased vigilance in watching for sea turtles and marine mammals where those indicators are present.

5. Reducing the speeds of U.S. Navy vessels that are in areas in which whales have been reported or whales those vessels detect.

While in transit, naval vessels would be alert at all times, use extreme caution, and proceed at a "safe speed" so that the vessel can take proper and effective action to avoid a collision with any marine animal and could be stopped within a distance appropriate to the prevailing circumstances and conditions.

When transiting within the critical habitat that has been designated for North Atlantic right whales off the southeastern United States or Associated Area of Concern, vessels would be required to use extreme caution and operate at a safe speed so as to be able to avoid collisions with North Atlantic right whales and other marine mammals, and stop within a distance appropriate to the circumstances and conditions. Speed reductions (adjustments) would be required when a whale is sighted by a vessel or when the vessel is within 9 km (5 nm) of a reported new sighting less than one week old.

We would not expect vessel traffic associated with the Transit Protection System the U.S. Navy proposes to employ at Kings Bay, Georgia (up to 16 escort security boats that would engage in between 130 to 170 events per year or 10 to 15 times per month) to represent a risk of ship strikes because the escort vessels are small and are deployed to insure the safety of the submarines they escort. Because of that mission, those vessels seem likely to detect any whales in the transit area and avoid or prevent those whales from colliding with the submarine and any escort vessels.

5.2.2 Exposure to Surface Vessel Traffic and Aircraft: Disturbance

As we discussed earlier in this section of the Opinion, vessel traffic and aircraft potentially represent an acute or chronic source of disturbance to marine animals in the Northeast Operating Areas and the Virginia Capes, Cherry

Point, and Jacksonville Range Complexes. Studies of interactions between surface vessels and marine mammals have demonstrated that surface vessels also represent a source of acute and chronic disturbance for marine mammals (Au and Green 1990, Au and Perryman 1982, Bain *et al.* 2006, Bauer 1986, Bejder 1999, 2006a, 2006b; Bryant *et al.* 1984, Corkeron 1995, Erbé 2000, Félix 2001, Goodwin and Cotton 2004, Hewitt 1985, Lemon *et al.* 2006, Lusseau 2003, 2006; Lusseau and Bejder 2007, Magalhães *et al.* 2002, Ng and Leung 2003, Nowacek *et al.* 2001, Richter *et al.* 2003, 2006; Scheidat *et al.* 2004, Simmonds 2005, Watkins 1986, Williams and Ashe 2007, Williams *et al.* 2002, 2006a, 2006b; Würsig *et al.* 1998). Specifically, in some circumstances, marine mammals respond to vessels with the same behavioral repertoire and tactics they employ when they encounter predators, although it is not clear what environmental cue or cues marine animals might respond to: the sounds of waters being displaced by the ships, the sounds of the ships' engines, or a combination of environmental cues surface vessels produce while they transit.

These studies establish that free-ranging cetaceans engage in avoidance behavior when surface vessels move toward them. It is not clear whether these responses are caused by the physical presence of a surface vessel, the underwater noise generated by the vessel, or an interaction between the two (Goodwin and Green 2004; Lusseau 2006). Several authors, however, suggest that the noise generated by the vessels is probably an important contributing factor to the responses of cetaceans to the vessels (Blane and Jackson 1994 *et al.* 1992, 1994), so we may not be able to treat the effects of vessel traffic as independent of engine and other sounds associated with the vessels.

For surface vessels, the set of variables that help determine whether marine mammals are likely to be disturbed include:

1. *number of vessels.* The behavioral repertoire marine mammals have used to avoid interactions with surface vessels appears to depend on the number of vessels in their perceptual field (the area within which animals detect acoustic, visual, or other cues) and the animal's assessment of the risks associated with those vessels (the primary index of risk is probably vessel proximity relative to the animal's flight initiation distance).

Below a threshold number of vessels (which probably varies from one species to another, although groups of marine mammals probably shared sets of patterns), studies have shown that whales will attempt to avoid an interaction using horizontal avoidance behavior. Above that threshold, studies have shown that marine mammals will tend to avoid interactions using vertical avoidance behavior, although some marine mammals will combine horizontal avoidance behavior with vertical avoidance behavior (see *Response Analyses* for further discussion);
2. *the distance between vessel and marine mammals* when the animal perceives that an approach has started and during the course of the interaction;
3. *the vessel's speed and bearing;*
4. *the predictability of the vessel's path.* That is, whether the vessel stays on a single path or makes continuous or frequent course changes;
6. *noise associated with the vessel* (particularly engine noise) and the rate at which the engine noise increases (which the animal may treat as evidence of the vessel's speed);

7. *the type of vessel* (displacement versus planing), which marine mammals may interpret as evidence of a vessel's maneuverability.

Because of the number of vessels involved in U.S. Navy training exercises, their speed, their use of course changes as a tactical maneuver, and sounds produced by their engines and by the displacement of water along their bowline, we would expect marine mammals to perceive Navy vessels as potential stressors. Further, without considering differences in sound fields associated with any active sonar used during Navy training activities, the available evidence suggests that major training exercises (for example, COMPTUEX, JTFEX, IAC, and SEASWITI), unit- and intermediate-level exercises, and RDT&E activities would represent different stress regimes because of differences in the number of vessels involved, vessel maneuvers, and vessel speeds.

Based on eight after-action-reports the U.S. Navy submitted on major training exercises it conducted from the summer of 2006 through the summer of 2008 within the Cherry Point and Charleston Operating Areas and portions of the Jacksonville and Virginia Capes Operating Areas, U.S. Navy watchstanders reported sightings of whales in 3 of the 8 exercises (probability of an encounter during an exercise = 0.3750) and sightings of sea turtles in 1 of the 8 exercises (probability of an encounter during an exercise = 0.1250); during three of these eight training exercises, the U.S. Navy reported no sightings of either whales, small cetaceans, or sea turtles. Of the five major training exercises in which marine mammals or sea turtles were sighted, the mean number of sightings was 1.235 per day or 0.0515 sightings per hour.

Sounds emitted by large vessels can be characterized as low-frequency, continuous, and tonal, and sound pressure levels at a source will vary according to speed, burden, capacity and length (Richardson *et al.* 1995). Vessels ranging from 135 to 337 meters (*Nimitz*-class aircraft carriers, for example, have lengths of about 332 meters) generate peak source sound levels from 169-200 dB between 8 Hz and 430 Hz. Given the sound propagation of low frequency sounds, a vessel that produces sounds in this range might be detected more than 100 kilometers from their source (Ross 1976 *in* Polefka 2004).

Sea turtles would be expected to detect approaching vessels via auditory and/or visual cues based on knowledge of their sensory biology (Bartol and Ketten 2006, Bartol and Musick 2003, Ketten and Bartol 2006, Lewenson *et al.* 2004). Little information is available on how turtles respond to vessel approaches. Hazel *et al.* (2007) reported sea turtle reaction time was greatly dependent on the speed of the vessel; sea turtles were able to react faster to slower moving vessels than to faster moving vessels. Also, sea turtle reactions to vessels elicited short-term responses. Sea turtle hearing sensitivity is not well studied. Several studies using green, loggerhead, and Kemp's ridley turtles suggest that sea turtles are most sensitive to low-frequency sounds, although this sensitivity varies slightly by species and age class (Bartol *et al.* 1999, Ketten and Bartol 2006, Lenhardt 1994, Ridgway *et al.* 1969).

Disturbance Associated with Aircraft. Several of the activities the U.S. Navy proposes to conduct in the Virginia Capes, Cherry Point, and Jacksonville Range Complexes also involve some level of activity from aircraft that include helicopters, maritime patrols, and fighter jets. Low-flying aircraft produce sounds that marine mammals can hear when they occur at or near the ocean's surface. Helicopters generally tend produce sounds that can be heard at or below the ocean's surface more than fixed-wing aircraft of similar size and larger aircraft tend to be louder than smaller aircraft. Underwater sounds from aircraft are strongest just below the surface and directly under the aircraft.

Sounds from aircraft would not have physical effects on marine mammals but represent acoustic stimuli (primarily low-frequency sounds from engines and rotors) that have been reported to affect the behavior of some marine mammals.

Although several studies have demonstrated the potential adverse effects of aircraft on pinnipeds on haul-out sites or rookeries, Richardson *et al.* (1995) reported that there is no evidence that single or occasional aircraft flying above large whales and pinnipeds in-water cause long-term displacement of these mammals. However, several authors have reported that sperm whales do not react to fixed-wing aircraft or helicopters in some circumstances (Clarke 1956, Gambell 1968, Green *et al.* 1992) and react in others (Clarke 1956, Fritts *et al.* 1983, Mullin *et al.* 1991, Patenaude *et al.* 2006, Richter *et al.* 2003, 2006, Smultea *et al.* 2008, Würsig *et al.* 1998).

Although we recognize sounds produced by aircraft as a potential stressor, we do not have sufficient information to estimate the probability of marine animals being exposed to aircraft noise associated with the training exercises and other activities the U.S. Navy plans to conduct in the Virginia Capes, Cherry Point, and Jacksonville Range Complexes from June 2009 through June 2014.

5.2.3 Exposure to Shock Waves and Sound Waves Produced by Underwater Detonations

The U.S. Navy plans to continue to employ several kinds of explosive ordnance on the Virginia Capes, Cherry Point, and Jacksonville Range Complexes (the U.S. Navy does not propose to employ explosive ordnance on the Northeast Operating Areas). Explosives detonated underwater introduce loud, impulsive, broadband sounds into the marine environment. At its source, the acoustic energy of an explosive is, generally, much greater than that of a sonar, so careful treatment of it is important, since it has the potential to injure. Three source parameters influence the effect of an explosive: the net effective weight of the explosive warhead, the type of explosive material, and the detonation depth. The net explosive weight accounts for the first two parameters. The net explosive weight of an explosive is the weight of only the explosive material in a given round, referenced to the explosive power of TNT.

The detonation depth of an explosive is particularly important due to a propagation effect known as surface-image interference. For sources located near the sea surface, a distinct interference pattern arises from the coherent sum of the two paths that differ only by a single reflection from the pressure-release surface. As the source depth and/or the source frequency decreases, these two paths increasingly, destructively interfere with each other, reaching total cancellation at the surface (barring surface-reflection scattering loss). Since most of the explosives the Navy uses on the Virginia Capes, Cherry Point, and Jacksonville Range Complexes are munitions that detonate essentially upon impact, the effective source depths are very shallow so the surface-image interference effect can be pronounced. In order to limit the cancellation effect (and thereby provide exposure estimates that tend toward the worst case), relatively deep detonation depths are used. To remain consistent with previous models the Navy has used, the Navy used source depths of one foot for gunnery rounds. For missiles and bombs, the Navy used source depths of 1 meter. For anti-swimmer grenades, the Navy used depths of 2 meters for their analyses.

Each in-water explosion was treated as an independent event to estimate the number of endangered or threatened species that might be exposed to explosions associated with this ordnance. The cumulative effect of a series of explosives can often be estimated by addition if the detonations are spaced widely in time and space which would

provide marine animal's sufficient time to move out of an area affected by an explosion. As a result, the populations of animals that are exposed to in-water explosions are assumed to consist of different animals each time.

Exposure of Listed Species to Underwater Detonations

The approach the U.S. Navy used to estimate the number of endangered and threatened species that might be "taken" as a result of being exposed to underwater detonations associated with the training activities the U.S. Navy plans to conduct on the Virginia Capes, Cherry Point, and Jacksonville Range Complexes produced the following results:

BLUE WHALES. Because of their northern distribution, no blue whales are likely to be exposed to underwater detonations on the Virginia Capes, Cherry Point, or Jacksonville Range Complexes.

FIN WHALE. The U.S. Navy estimated that about 2 fin whales might be exposed annually (10 over the course of the 5 year regulations) to underwater detonations on the Virginia Capes Range Complex and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure. No fin whales are likely to be exposed to underwater detonations on the Cherry Point or Jacksonville Range Complexes

HUMPBACK WHALE. The U.S. Navy estimated that about 2 humpback whales might be exposed annually (10 over the course of the 5 year regulations) to underwater detonations on the Virginia Capes Range Complex and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure. No humpback whales are likely to be exposed to underwater detonations on the Cherry Point or Jacksonville Range Complexes.

RIGHT WHALE. The U.S. Navy concluded that no North Atlantic whales are likely to be exposed to underwater detonations on the Virginia Capes Range Complex and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure. No North Atlantic right whales are likely to be exposed to underwater detonations on the Cherry Point or Jacksonville Range Complexes

SEI WHALE. Because of their pelagic distribution and low densities in the range complex, the U.S. Navy concluded that no sei whales are likely to be exposed to underwater detonations on the Virginia Capes Range Complex and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure. No sei whales are likely to be exposed to underwater detonations on the Cherry Point or Jacksonville Range Complexes

SPERM WHALE. The U.S. Navy concluded that 2 sperm whales might be exposed annually (10 over the course of the 5 year regulations) to underwater detonations on the Virginia Capes Range Complex (primarily during a firing exercise) and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure. No sperm whales are likely to be exposed to underwater detonations on the Cherry Point or Jacksonville Range Complexes

UNSPECIFIED SEA TURTLES. On the Virginia Capes Range Complex, the U.S. Navy concluded that 336 hardshell sea turtles (327 during bombing exercises and 9 during firing exercises) might be exposed to underwater detonations at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would elicit behavioral responses that we would classify as harassment (that is, a significant disruption in normal behavior patterns, such as breeding or feeding).

On the Cherry Point Range Complex, the U.S. Navy concluded that no hardshell sea turtles might be exposed to underwater detonations and experience behavioral harassment, physiological stress responses, or noise-induced hearing loss as a result of that exposure. No sea turtles are likely to be exposed to the training activities the U.S. Navy proposes to conduct in the Northeast Operating Areas.

On the Jacksonville Range Complex, the U.S. Navy concluded that 4 green, hawksbill, or loggerhead sea turtles might be exposed to underwater detonations (during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. Another four of these turtles would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 psi as result of their exposure to missile exercises, which would correspond to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion.

KEMP'S RIDLEY SEA TURTLES. The U.S. Navy estimated that 627 Kemp's ridley sea turtles might be exposed to underwater detonations on the Virginia Capes Range Complex (613 during bombing exercises and 14 during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile exercises, 15 Kemp's ridley sea turtles would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 pounds per square inch-msec (psi), whichever encompasses the largest geographic range, which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. Six Kemp's ridley sea turtles might be exposed to underwater detonations at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi, which corresponds to an exposure in which 50 percent of the animals would be expected to experience rupture of their tympanic membrane, an injury that correlates with measures of permanent hearing impairment (specifically, a 30 percent incidence of permanent loss of hearing sensitivity or PTS; Ketten 1998).

On the Cherry Point Range Complex, the U.S. Navy concluded that no Kemp's ridley sea turtles might be exposed to underwater detonations and experience behavioral harassment, physiological stress responses, or noise-induced hearing loss as a result of that exposure.

The U.S. Navy estimated that 1 Kemp's ridley sea turtle might be exposed to underwater detonations on the Jacksonville Range Complex (during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile exercises, another Kemp's ridley sea turtle would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 psi, which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. No Kemp's ridley sea turtles were expected to be exposed at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi as a result of exercises on the Jacksonville Range Complex.

LEATHERBACK SEA TURTLES. On the Virginia Capes Range Complex, the U.S. Navy estimated that 10 leatherback sea turtles might be exposed to underwater detonations (during bombing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. No leatherback sea turtles were expected to be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$, 23 psi, 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi as a result of exercises on the Virginia Capes Range Complex.

On the Cherry Point Range Complex, the U.S. Navy concluded that no leatherback sea turtles might be exposed to underwater detonations and experience behavioral harassment, physiological stress responses, or noise-induced

hearing loss as a result of that exposure. No sea turtles are likely to be exposed to the training activities the U.S. Navy proposes to conduct in the Northeast Operating Areas.

On the Jacksonville Range Complex, the U.S. Navy estimated that 8 leatherback sea turtles might be exposed to underwater detonations (during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile exercises, three leatherback sea turtle would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 psi, which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. No leatherback sea turtles were expected to be exposed at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi as a result of exercises on the Jacksonville Range Complex.

LOGGERHEAD SEA TURTLES. On the Virginia Capes Range Complex, the U.S. Navy estimated that 496 loggerhead sea turtles might be exposed to underwater detonations on the Virginia Capes Range Complex (482 during bombing exercises and 14 during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile and mining exercises, 16 and 3 (respectively) loggerhead sea turtles would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 pounds per square inch-msec (psi), which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. Five loggerhead sea turtles might be exposed to underwater detonations and experience noise-induced hearing loss as a result of their exposure. at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi, which corresponds to an exposure in which 50 percent of the animals would be expected to experience rupture of their tympanic membrane, an injury that correlates with measures of permanent hearing impairment (specifically, a 30 percent incidence of permanent loss of hearing sensitivity or PTS; Ketten 1998).

On the Cherry Point Range Complex, the U.S. Navy concluded that no loggerhead sea turtles might be exposed to underwater detonations and experience behavioral harassment, physiological stress responses, or noise-induced hearing loss as a result of that exposure. No sea turtles are likely to be exposed to the training activities the U.S. Navy proposes to conduct in the Northeast Operating Areas.

On the Jacksonville Range Complex, the U.S. Navy estimated that 8 loggerhead sea turtles might be exposed to underwater detonations (during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile and mining exercises, 6 and 1 (respectively) loggerhead sea turtles would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 pounds per square inch-msec (psi), which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. No loggerhead sea turtles were expected to be exposed at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi as a result of exercises on the Jacksonville Range Complex.

CRITICAL HABITAT FOR NORTH ATLANTIC RIGHT WHALES. The U.S. Navy does not propose to conduct training activities involving underwater detonations or high explosive charges within the boundaries of critical habitat that has been designated for North Atlantic right whales.

Indirect Exposure Pathways

Sea turtles could be adversely affected if the underwater detonations in the Virginia Capes, Cherry Point, or Jacksonville Range Complexes resulted in the death and injury to prey species or destroyed *Sargassum* rafts and

debris lines, which provide habitat for juvenile sea turtles. To prevent sea turtles from being exposed to underwater detonations, detonations would be postponed if large concentrations of jellyfish were detected within the Safety Range.

Sargassum rafts and debris lines, which may serve as habitat for juveniles of several sea turtle species, are easily detected by aerial observers. The protective measures plan includes procedures to avoid these features during site selection. Pre-detonation monitoring would include aerial observations to identify large *Sargassum* rafts and debris lines that could drift into the Safety Range prior to detonation. Finally, a detonation would be postponed if any large *Sargassum* rafts or debris lines were present in the Safety Range. These measures would not only reduce the probability of exposing sea turtles, it would reduce the probability of exposing sea turtles to reductions in the quantity, quality, or availability of prey or cover.

5.2.4 Exposure to Expended Ordnance

The U.S. Navy argued that endangered and threatened species might be exposed to expended ordnance and other materials only if they ingested those materials (U.S. Navy 2009b). Blue, fin, North Atlantic right, and sei whales feed at the surface or in the water column and are not likely to ingest ordnance that had fallen to the ocean floor. Humpback whales also feed predominantly in the water column, but have been reported to disturb bottom sediment in an attempt to flush prey (Hain *et al.* 1995). Based on our review of the limited literature available and our knowledge of the feeding habits of these species of whales, we agree with the U.S. Navy's conclusion that these species are not likely to be exposed to ordnance-related material.

Sperm whales frequently feed on or near the bottom (Whitehead *et al.* 1992) and have been reported to incidentally ingest foreign objects while foraging (Walker and Coe 1990). The estimated density of ordnance-related material in offshore areas preferred by sperm whales would probably be a negligible component of the ocean environment; consequently, a sperm whale probability of encountering and ingesting a piece of expended ordnance is sufficiently small to be discountable. As a result, we agree with the U.S. Navy's conclusion that sperm whales are not likely to be exposed to ordnance-related material.

On the other hand, endangered and threatened sea turtles in the Action Areas for this consultation are likely to be exposed to expended material through ingestion and physical encounter. Sea turtles of all sizes and species are known to ingest a wide variety of marine debris, including plastic bags, plastic sheeting, balloons, Styrofoam beads, monofilament fishing line, and tar are also known to be ingested (NRC 1990, Lutz 1990, Bjorndal 1994). Although marine debris has been reported to have killed sea turtles, they are more commonly reported to impair or disable sea turtles sublethally without killing them (NRC 1990, Bjorndal 1994).

Ordnance-related material would settle to the sea floor where it could be available for ingestion by benthic foraging sea turtles. The probability of sea turtles ingesting this material would depend on factors such as the size of the material, the likelihood the material would be mistaken for prey, and the level benthic foraging that occurs in the impact area (which is a function of benthic habitat quality), prey availability, and species-specific foraging strategies.

Most of the ordnance fired in the Virginia Capes Range Complex would be conducted more than 12 nm offshore where sea turtles are less likely to engage in foraging behavior (a majority of benthic foraging by green, hawksbill,

Kemp's ridley, and loggerhead turtles occurs in nearshore areas Lutcavage *et al.* 1997). However, water depths in Navy Cherry Point and the Jacksonville Range Complexes ranges from about 20 m to greater than 200 m at distances greater than 3 nm from shore. As a result, green, hawksbill, Kemp's ridley, and loggerhead sea turtles might be exposed to expended ordnance on the Cherry Point and Jacksonville Range Complexes. Leatherback sea turtles are less likely to be exposed to expended materials in any of these ranges because they are not benthic feeders.

5.2.5 Exposure to Chemicals in Explosive Charges and Ordnance

Endangered and threatened species that are within the vicinity of an underwater detonation are more likely to be exposed to the pressure wave and sound waves than chemicals associated with the charge. As discussed in the *Stressors* subsection of this Opinion, after the turbulence of an explosion has dispersed, the surface pool would stabilize and chemical products would become uniformly distributed within the pool. A surface pool is usually not visible after about five minutes. As a surface pool continues to expand, chemical products would be further diluted and become undetectable. Because of continued dispersion and mixing, there would be no buildup of explosion products in the water column.

Because of its short duration, small surface area, and the large geographic area in which the training activities are likely to occur, endangered and threatened species are not likely to be exposed to these chemicals.

5.2.6 Exposure to Active Sonar

As discussed in our 2009 Opinions on the Atlantic Fleet Active Sonar Training, the information available did not allow us to empirically estimate the number of marine mammals that might be exposed to mid-frequency active sonar during the activities that are proposed to occur in the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes that might compare with counts reported by an observer with perfect knowledge of patterns of marine mammal abundance in these action areas.

The narratives that follow present the results of the method the U.S. Navy and NMFS' Permits Division used to estimate the number of marine mammals that might be "taken" (as that term is defined pursuant to the MMPA) in their 2008 Environmental Impact Statement on Atlantic Fleet Active Sonar Training to estimate the number of marine mammals that might be "taken" (as that term is defined pursuant to the MMPA) during active sonar training activities the U.S. Navy conducts. This "take" has been addressed regulations that NMFS' Permits Division promulgated earlier this year and has been authorized for 2009 by Letters of Authorization NMFS' Permits Division issued in January 2009.

MITIGATION MEASURES TO MINIMIZE THE LIKELIHOOD OF EXPOSURE TO MID-FREQUENCY ACTIVE SONAR. The Navy planned to implement a suite of mitigation measures to prevent marine mammals from being exposed to mid frequency active sonar at high received levels. As discussed in the *Description of the Proposed Action*, these measures are centered on safety zones that trigger reductions in maximum transmission levels depending on the proximity of one or more marine mammals to surface vessels, helicopters, and submarines that might be transmitting active sonar or preparing to transmit.

Because the U.S. Navy does not plan to conduct active sonar training activities within the Stellwagen Bank, Monitor, Gray's Reef, Flower Garden Banks, and Florida Keys National Marine Sanctuaries and will avoid these sanctuaries by observing a 5 km (2.7 nautical mile or nm) buffer, individual endangered or threatened animals that occur in these areas would not be exposed to mid-frequency active sonar at received levels greater than about 170 dB (based on estimates of propagation distances and assuming that a vessel near the boundary of this buffer zone would be transmitting active sonar).

Because the U.S. Navy did not propose to conduct active sonar training in North Atlantic right whale critical habitat with the exception of object detection and navigation off shore Mayport, Florida and Kings Bay, Georgia; helicopter anti-submarine warfare training activities offshore Mayport, Florida; and torpedo exercises in the northeast during the months of August and September, any endangered or threatened species that occur in designated critical habitat off Massachusetts would not be exposed to high received levels of active sonar.

These other measures the U.S. Navy proposed to implement rely primarily on Navy watchstanders, helicopter pilots, and other Navy assets detecting marine mammals visually so that the Navy can take the appropriate action. To the degree that the Navy detects marine mammals visually, these safety zones might reduce the number of marine mammals that are exposed to mid-frequency active sonar or the intensity of their exposure. However, the effectiveness of visual monitoring is limited to daylight hours, and its effectiveness declines during poor weather conditions (JNCC 2004). In line transect surveys, the range of effective visual sighting (the distance from the ship's track or the *effective strip width*) varies with an animal's size, group size, reliability of conspicuous behaviors (blows), pattern of surfacing behavior, and positions of the observers (which includes the observer's height above the water surface). For most large baleen whales, effective strip width can be about 3 km (1.6 nm) up through Beaufort 6 (Buckland *et al.* 1993). For harbor porpoises the effective strip width is about 250 m (273 yd), because they are much smaller and less demonstrative on the surface than baleen whales (Palka 1996).

Further, several studies of interactions between seismic surveys and marine mammals and a proposed low-frequency active sonar system and marine mammals concluded that dedicated marine mammal observers were more effective at detecting marine mammals, were more effective at detecting marine mammals at greater distances than Navy watchstanders (watchstanders of the Navies of other countries), were better at identifying the marine mammal to species, and reported a broader range of behaviors than other personnel (Aicken *et al.* 2005; Stone 2000, 2001, 2003). It is not clear, however, how the U.S. Navy's watchstanders and lookouts, who are specifically trained to identify objects in the water surrounding Navy vessels compare with observers who are specifically trained to detect and identify marine mammals. NMFS is working with the Navy to determine the effectiveness of this component of Navy monitoring program and the degree to which it is likely to minimize the probability of exposing marine mammals to mid-frequency active sonar.

A multi-year study conducted on behalf of the United Kingdom's Ministry of Defense (Aicken *et al.* 2005) concluded that Big Eye binoculars were not helpful. Based on these studies, we would conclude that requiring surface vessels equipped with mid-frequency active sonar to have Big Eye binoculars in good working order is not likely to increase the number of marine mammals detected at distances sufficient to avoid exposing them to received levels that might result in adverse consequences.

The percentage of marine animals Navy personnel would not detect, either because they will pass unseen below the surface or because they will not be seen at or near the ocean surface, is difficult to determine. However, for minke whales, Schweder *et al.* (1992) estimated that visual survey crews did not detect about half of the animals in a strip width. Palka (1996) and Barlow (1988) estimated that visual survey teams did not detect about 25 percent of the harbor porpoises in a strip width. The information available leads us to conclude that the combinations of safety zones triggered by visual observations would still allow most marine mammals and sea turtles to be exposed to mid-frequency active sonar transmissions because most marine animals will not be detected at the ocean's surface.

Exposure Estimates for Atlantic Fleet Active Sonar Training

Over the past year, the U.S. Navy updated the approach it used to estimate the number of marine mammals that might be exposed to the active sonar training activities the U.S. Navy plans to conduct in the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes each over the five-year period beginning in January 2009. What follows is a brief summary of the approach the Navy used to estimating the number of marine animals that might be exposed to active sonar and experience behavioral harassment, noise-induced loss in hearing sensitivity, or other impairment as a result of that exposure; for more details, refer to Appendix H of the U.S. Navy's Environmental Impact Statement on Atlantic Fleet Active Sonar Training (U.S. Navy and 2008).

The U.S. Navy's approach focused on a suite of representative provinces based on sound velocity profiles, bathymetries, and bottom types. Within each of these provinces, the U.S. Navy modeled transmission losses in 5 meter increments and used the results to build sound fields (based on maximum sound pressure levels). The U.S. Navy then calculated an impact volume, which is the volume of water in which an acoustic metric exceeds a specified threshold; in this case, the metric is either energy flux density (in a limited band or across a full band), peak pressure, or positive impulse. By multiplying impact volumes with estimates of animal densities in three dimensions (densities distributed by area and depth), the U.S. Navy estimated the expected number of animals that might be exposed to an acoustic metric (energy flux density, peak pressure, or positive impulse) at levels that exceed specified thresholds. Specifically, the U.S. Navy calculated impact volumes for sonar operations (using energy flux density to estimate the probability of injury), peak pressure, and a Goertner modified positive impulse (for onset of slight lung injury associated with explosions).

To calculate impact volumes, the U.S. Navy used a "risk continuum" (a curve that related the probability of a behavioral response given exposure to a received level that is generally represented by sound pressure level, but included sound exposure level to deal with threshold shifts) that the U.S. Navy and NMFS developed then multiplied that area by a vector that represented the densities of the different species of marine animals that are expected to occur in the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes. The risk continuum, which the U.S. Navy adapted from a mathematical model developed by Feller (1968), was estimated using three data sources: data from controlled experiments conducted at the U.S. Navy's Space and Naval Warfare Systems Center in San Diego, California (Finneran *et al.* 2001, 2003, 2005; Finneran and Schlundt 2004; Schlundt *et al.* 2000), data from a reconstruction of an incident in which killer whales were probably exposed to mid-frequency active sonar (Fromm 2004, Department of the Navy 2003), and a suite of studies of the response of baleen whales to low-frequency sound sources (Nowacek *et al.* 2004).

This approach to estimating the number of endangered and threatened marine mammals that might be “taken” as a result of being exposed to active sonar associated with the activities the U.S. Navy intend to conduct each year from 2009 through 2014 on the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes produced the following results:

BLUE WHALES. Based on the U.S. Navy’s exposure models, each year we would expect about 800 instances in which blue whales might be exposed to active sonar associated with AFAST training activities and be “taken” as a result of that exposure (see Table 17). All of these exposure events are likely to occur in the Northeast Operating Areas, which means they are likely to result from exposure to active sonar associated with submarines and maritime patrol aircraft (see Table 15).

Table 17. Number of exposure events involving active sonar that are likely to result in the “take” of endangered species of whale by operating area

Species	Operating Areas Offshore of the Southeastern United States								
	Virginia Capes			Cherry Point			Jacksonville - Charleston		
	PTS	TTS	Dose-Function	PTS	TTS	Dose-Function	PTS	TTS	Dose-Function
Blue whale	-	-	-	-	-	-	-	-	-
Fin whale	0	1	68	0	1	10	-	-	-
Humpback whale	0	4	403	0	6	686	0	19	2371
North Atlantic right whale	0	1	45	0	0	30	0	3	363
Sei whale	0	1	10	0	1	10	-	-	-
Sperm whale	0	36	3087	0	4	317	0	17	1517

Species	Northeast			Gulf of Mexico			Totals		
	PTS	TTS	Dose-Function	PTS	TTS	Dose-Function	PTS	TTS	Dose-Function
Blue whale	0	0	801	-	-	-	0	0	801
Fin whale	0	0	802	-	-	-	0	2	880
Humpback whale	0	0	702	0	1	10	0	30	4172
North Atlantic right whale	0	0	224	-	-	-	0	4	662
Sei whale	0	0	1035	-	-	-	0	2	1055
Sperm whale	0	1	4404	0	5	370	0	63	9695

FIN WHALES. Based on the U.S. Navy’s exposure models, each year we would expect about 880 instances in which fin whales might be exposed to active sonar associated with AFAST training activities and be “taken” as a result of that exposure (see Table 17). Like blue whales, all of these exposure events are likely to occur in the Northeast

Operating Areas, which means they are likely to result from exposure to active sonar associated with submarines and maritime patrol aircraft (see Table 15).

HUMPBACK WHALES. Based on the U.S. Navy's exposure models, each year we would expect about 4,172 instances in which humpback whales might be exposed to active sonar associated with AFAST training activities and be "taken" as a result of that exposure (see Table 17). Unlike blue and fin whales, some of these exposure events are likely to occur in the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes, which means they are likely to result from exposure to any of the active sonar training activities the U.S. Navy proposed to conduct in the Action Area (see Table 15).

NORTH ATLANTIC RIGHT WHALES. Based on the U.S. Navy's exposure models, each year we would expect about 660 instances in which North Atlantic right whales might be exposed to active sonar associated with AFAST training activities and be "taken" as a result of that exposure (see Table 17). All of these exposure events are likely to occur in the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes. As a result, North Atlantic right whales are not likely to be exposed to active sonar associated with surface ship mine warfare exercises, RONEX, or Gulf of Mexico exercises, which only occur in the Gulf of Mexico (see Table 15).

SEI WHALES. Based on the U.S. Navy's exposure models, each year we would expect about 1,055 instances in which sei whales might be exposed to active sonar associated with AFAST training activities and be "taken" as a result of that exposure (see Table 17).

SPERM WHALES. Based on the U.S. Navy's exposure models, each year we would expect about 9,690 instances in which sperm whales might be exposed to active sonar associated with AFAST training activities and be "taken" as a result of that exposure (see Table 17). Like humpback whales, some of these exposure events are likely to occur in the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes, which means they are likely to result from exposure to any of the active sonar training activities the U.S. Navy proposes to conduct in the Action Areas for this consultation (see Table 15).

5.2.7 Exposure to Parachutes Released During Deployment of Sonobuoys

When AN/SQS-62 DICASS sonobuoys impact the water surface after being deployed from aircraft, their parachute assemblies of sonobuoys deployed by aircraft are jettisoned and sink away from the sonobuoy, while a float containing an antenna is inflated. The parachutes are made of nylon and are about 8 feet in diameter. At maximum inflation, the canopies are between 0.15 to 0.35 square meters (1.6 to 3.8 squared feet). The shroud lines range from 0.30 to 0.53 meters (12 to 21 inches) in length and are made of either cotton polyester with a 13.6 kilogram (30 pound) breaking strength or nylon with a 45.4 kilogram (100 pound) breaking strength. All parachutes are weighted with a 0.06 kilogram (2 ounce) steel material weight, which would cause the parachute to sink from the surface within about 15 minutes, although actual sinking rates depend on ocean conditions and the shape of the parachute.

The subsurface assembly descends to a selected depth, and the sonobuoy case falls away and sea anchors deploy to stabilize the hydrophone (underwater microphone). The operating life of the seawater battery is eight hours, after which the sonobuoy scuttles itself and sinks to the ocean bottom. For the sonobuoys, concentrations of metals released from batteries were calculated to be 0.0011 mg/L lead, 0.000015mg/L copper, and 0.0000001mg/L silver.

Sea turtles that occur in the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes might encounter one or more of the parachutes after they have been jettisoned from these sonobuoys and could become entangled as a result. Whales also might encounter one or more of these parachutes and become entangled as it sinks to the bottom or once it is on the seafloor. We cannot, however, determine whether such interactions are probable, given the relatively small number of sonobuoys that would be employed in each of the exercises, the relatively large geographic area involved, and the relatively low densities of sea turtles and whales that are likely to occur in the Action Area.

5.3 Response Analyses

As discussed in the *Approach to the Assessment* section of this biological opinion, response analyses determine how listed resources are likely to respond after being exposed to an Action's effects on the environment or directly on listed species themselves. For the purposes of consultations on activities involving active sonar, our assessments try to detect the probability of lethal responses, sensory impairment (permanent and temporary threshold shifts and acoustic masking), physiological responses (particular stress responses), behavioral responses, and social responses that might result in reducing the fitness of listed individuals. Ideally, our response analyses consider and weigh evidence of adverse consequences, beneficial consequences, or the absence of such consequences.

It is important to begin these analyses by stating that, to the best of our knowledge, no data or other information are available from actual exposures of endangered or threatened marine mammals to mid-frequency active sonar in either captive or natural settings. We are aware of the studies of the behavioral responses of small cetaceans exposed to mid-frequency active sonar that are being conducted at the U.S. Navy's instrumented training range in the Bahamas (the AUTEK range); however, those studies are still in their infancy and no data from them are available at the time of this writing. We are also aware of and have cited initial data available from controlled exposure experiments that are being conducted on killer whales by the Norwegian Defense Ministry; we will incorporate additional information from those studies as the information becomes available.

Without empirical information on the actual responses of endangered and threatened species to the stressors associated with the proposed actions, we reviewed the best scientific and commercial data available to assess the probable responses of endangered and threatened species to vessel and aircraft traffic, underwater detonations, mid-frequency active sonar. In the narratives that follow this introduction, we summarize the best scientific and commercial data on the responses of marine animals to these potential stressors. Then we use that information to make inferences about the probable responses of the endangered and threatened we are considering in this Opinion.

5.3.1 Potential Responses of Listed Species to Vessel Traffic

As we discussed earlier in this section of the Opinion, studies of interactions between surface vessels and marine mammals have demonstrated that surface vessels also represent a source of acute and chronic disturbance for marine mammals. Specifically, in some circumstances, marine mammals respond to vessels with the same behavioral repertoire and tactics they employ when they encounter predators, although it is not clear what environmental cue or cues marine animals might respond to: the sounds of waters being displaced by the ships, the sounds of the ships' engines, or a combination of environmental cues surface vessels produce while they transit. The narratives that

follow discuss the potential responses of endangered and threatened marine mammals and sea turtles to vessel traffic.

MARINE MAMMALS. Numerous studies of interactions between surface vessels and marine mammals have demonstrated that free-ranging marine mammals engage in avoidance behavior when surface vessels move toward them. It is not clear whether these responses are caused by the physical presence of a surface vessel, the underwater noise generated by the vessel, or an interaction between the two (Goodwin and Green 2004; Lusseau 2006). However, several authors suggest that the noise generated during motion is probably an important factor (Blane and Jackson 1994, Evans *et al.* 1992, 1994). These studies suggest that the behavioral responses of marine mammals to surface vessels are similar to their behavioral responses to predators.

As we discussed previously, based on the suite of studies of the behavioral responses of marine mammals to vessel approaches (Au and Green 1990, Au and Perryman 1982, Bain *et al.* 2006, Bauer 1986, Bejder 1999, 2006a, 2006b; Bryant *et al.* 1984, Corkeron 1995, David 2002, Erbé 2000, Félix 2001, Magalhães *et al.* 2002, Goodwin and Cotton 2004, Hewitt 1985, Lusseau 2003, 2006; Lusseau and Bejder 2007, Ng and Leung 2003, Nowacek *et al.* 2001, Richter *et al.* 2003, 2006; Scheidat *et al.* 2004, Simmonds 2005, Watkins 1986, Williams and Ashe 2007, Williams *et al.* 2002, 2006a, 2006b; Würsig *et al.* 1998), the set of variables that help determine whether marine mammals are likely to be disturbed by surface vessels include:

1. *number of vessels.* The behavioral repertoire marine mammals have used to avoid interactions with surface vessels appears to depend on the number of vessels in their perceptual field (the area within which animals detect acoustic, visual, or other cues) and the animal's assessment of the risks associated with those vessels (the primary index of risk is probably vessel proximity relative to the animal's flight initiation distance).

Below a threshold number of vessels (which probably varies from one species to another, although groups of marine mammals probably shared sets of patterns), studies have shown that whales will attempt to avoid an interaction using horizontal avoidance behavior¹². Above that threshold, studies have shown that marine mammals will tend to avoid interactions using vertical avoidance behavior, although some marine mammals will combine horizontal avoidance behavior with vertical avoidance behavior (Bryant *et al.* 1984, Cope *et al.* 2000, David 2002, Lusseau 2003, Kruse 1991, Nowacek *et al.* 2001, Stensland and Berggren 2007, Williams and Ashe 2007);

2. *the distance between vessel and marine mammals* when the animal perceives that an approach has started and during the course of the interaction (Au and Perryman 1982, David 2002, Hewitt 1985, Kruse 1991);
3. *the vessel's speed and bearing* (David 2002);

¹² As discussed in the *Approach to the Assessment* section of this Opinion, we distinguish between "avoidance," "evasion," and "escape" using the distinctions proposed by Weihs and Webb (1984): "avoidance" is a shift in position by prey before a potential predator begins an attack; "evasion" is an response by potential prey to an perceived attack from a potential predator; and "escape" is the most acute form of evasive behavior.

4. *the predictability of the vessel's path*. That is, cetaceans are more likely to respond to approaching vessels when vessels stay on a single or predictable path (Acevedo 1991, Angradi *et al.* 1993; Browning and Harland 1999; Lusseau 2003, 2006; Williams *et al.* 2002, 2006a, 2006b) than when it engages in frequent course changes (Evans *et al.* 1994, Lusseau 2006, Williams *et al.* 2002)
6. *noise associated with the vessel* (particularly engine noise) and the rate at which the engine noise increases (which the animal may treat as evidence of the vessel's speed; David 2002, Lusseau 2003, 2006);
7. *the type of vessel* (displacement versus planing), which marine mammals may be interpret as evidence of a vessel's maneuverability (Goodwin and Cotton 2004);
8. the behavioral state of the marine mammals (David 2002, Lusseau 2003, 2006; Würsig *et al.* 1998). For example, Würsig *et al.* (1998) concluded that whales were more likely to engage in avoidance responses when the whales were "milling" or "resting" than during other behavioral states.

Most of the investigations cited earlier reported that animals tended to reduce their visibility at the water's surface and move horizontally away from the source of disturbance or adopt erratic swimming strategies (Corkeron 1995, Lusseau 2003, Lusseau 2004, 2005a; Notarbartolo di Sciara *et al.* 1996, Nowacek *et al.* 2001, Van Parijs and Corkeron 2001, Williams *et al.* 2002). In the process, their dive times increased, vocalizations and jumping were reduced (with the exception of beaked whales), individuals in groups move closer together, swimming speeds increased, and their direction of travel took them away from the source of disturbance (Edds and Macfarlane 1987, Baker and Herman 1989, Kruse 1991, Polacheck and Thorpe 1990, Evans *et al.* 1992, Lütkebohle 1996, Nowacek *et al.* 1999). Some individuals also dove and remained motionless, waiting until the vessel moved past their location. Most animals finding themselves in confined spaces, such as shallow bays, during vessel approaches tended to move towards more open, deeper waters (Stewart *et al.* 1982, Kruse 1991). We assume that this movement would give them greater opportunities to avoid or evade vessels as conditions warranted.

Although most of these studies focused on small cetaceans (for example, bottlenose dolphins, spinner dolphins, spotted dolphins, harbor porpoises, beluga whales, and killer whales), studies of large whales have reported similar results for fin and sperm whales (David 2002, Notarbartolo di Sciara *et al.* 1996, 2002). Baker *et al.* (1983) reported that humpbacks in Hawai'i responded to vessels at distances of 2 to 4 km. Richardson *et al.* (1985) reported that bowhead whales (*Balaena mysticetus*) swam in the opposite direction of approaching seismic vessels at distances between 1 and 4 km and engage in evasive behavior at distances under 1 km. Fin whales also responded to vessels at a distances of about 1 km (Edds and Macfarlane 1987).

Some cetaceans detect the approach of vessels at substantial distances. Finley *et al.* (1990) reported that beluga whales seemed aware of approaching vessels at distances of 85 km and began to avoid the approach at distances of 45-60 km. Au and Perryman (1982) studied the behavioral responses of eight schools of spotted and spinner dolphins (*Stenella attenuata* and *S. longirostris*) to an approaching ship (the NOAA vessel *Surveyor*: 91.4 meters, steam-powered, moving at speeds between 11 and 13 knots) in the eastern Pacific Ocean (10°15 N lat., 109°10 W long.). They monitored the response of the dolphin schools to the vessel from a Bell 204 helicopter flying a track line ahead of the ship at an altitude of 366 – 549 meters (they also monitored the effect of the helicopter on dolphin movements and concluded that it had no observable effect on the behavior of the dolphin schools). All of the schools continuously adjusted their direction of swimming by small increments to continuously increase the distance

between the school and the ship over time. The animals in the eight schools began to flee from the ship at distances ranging from 0.9 to 6.9 nm. When the ship turned toward a school, the individuals in the school increased their swimming speeds (for example, from 2.8 to 8.4 knots) and engaged in sharp changes in direction.

Hewitt (1985) reported that five of 15 schools of dolphin responded to the approach of one of two ships used in his study and none of four schools of dolphin responded to the approach of the second ship (the first ship was the NOAA vessel *David Jordan Starr*; the second ship was the *Surveyor*). Spotted dolphin and spinner dolphins responded at distances between 0.5 to 2.5 nm and maintained distances of 0.5 to 2.0 nm from the ship while striped dolphins allows much closer approaches. Lemon *et al.* (2006) reported that bottlenose dolphin began to avoid approaching vessels at distances of about 100 m.

Würsig *et al.* (1998) studied the behavior of cetaceans in the northern Gulf of Mexico in response to survey vessels and aircraft. They reported that *Kogia* species and beaked whales (ziphiids) showed the strongest avoidance reactions to approaching ships (avoidance reactions in 11 of 13 approaches) while spinner dolphins, Atlantic spotted dolphins, bottlenose dolphins, false killer whales, and killer whales either did not respond or approached the ship (most commonly to ride the bow). Four of 15 sperm whales avoided the ship while the remainder appeared to ignore its approach.

Because of the number of vessels involved in U.S. Navy training exercises, their speed, their use of course changes as a tactical measure, and sounds associated with their engines and displacement of water along their bowline, the available evidence leads us to expect marine mammals to treat Navy vessels as potential stressors. Further, without considering differences in sound fields associated with any active sonar that is used during these exercises, the available evidence suggests that major training exercises (for example, COMPTUEX, JTFEX exercises), unit- and intermediate-level exercises, and RDT&E activities would represent different stress regimes because of differences in the number of vessels involved, vessel maneuvers, and vessel speeds.

Animals that perceive an approaching potential predator, predatory stimulus, or disturbance stimulus have four behavioral options (see Blumstein 2003 and Nonacs and Dill 1990):

- a. ignore the disturbance stimulus entirely and continue behaving as if a risk of predation did not exist;
- b. alter their behavior in ways that minimize their perceived risk of predation, which generally involves fleeing immediately;
- c. change their behavior proportional to increases in their perceived risk of predation which requires them to monitor the behavior of the predator or predatory stimulus while they continue their current activity, or
- d. take proportionally greater risks of predation in situations in which they perceive a high gain and proportionally lower risks where gain is lower, which also requires them to monitor the behavior of the predator or disturbance stimulus while they continue their current activity.

The latter two options are energetically costly and reduce benefits associated with the animal's current behavioral state. As a result, animals that detect a predator or predatory stimulus at a greater distance are more likely to flee at a greater distance (see Holmes *et al.* 1993, Lord *et al.* 2001). Some investigators have argued that short-term

avoidance reactions can lead to longer term impacts such as causing marine mammals to avoid an area (Salden 1988, Lusseau 2005) or alter a population's behavioral budget (Lusseau 2004) which could have biologically significant consequences on the energetic budget and reproductive output of individuals and their populations.

SEA TURTLES. Based on knowledge of the sensory biology of sea turtles (Bartol and Musick, 2003; Levenson *et al.*, 2004; Ketten and Bartol, 2006; Moein Bartol and Ketten, 2006), they are likely to detect approaching water vessels via auditory or visual cues, however, there is limited information on how sea turtles are likely to respond to vessel approaches. Hazel *et al.* (2007) reported that turtles fled frequently in encounters with a slow-moving (2.2 knots) vessel, but infrequently in encounters with a moderate-moving (5.9 knots) vessel, and only rarely in encounters with a fast-moving (10.3 knots) vessel. However, they did not determine whether sea turtles reacted to the sound produced by the vessel, the presence of the vessel itself, or some other cue.

Hazel *et al.* (2007) reported that sea turtles reacted to approaching vessels in a variety of ways. Benthic turtles launched upwards at a shallow angle and began swimming. The majority of the turtles swam away from the vessel while some swam along the vessel's track and some crossed in front of the vessel's track before swimming away. Sea turtle reaction time was greatly dependent on the speed of the vessel; sea turtles were able to react faster to slower moving vessels than to faster moving vessels. All of these responses were short-term responses that did not seem likely to have adverse long-term consequences for the individual sea turtles.

5.3.2 Potential Responses of Listed Species to Underwater Detonations

The U.S. Navy proposes to employ a suite of measures to prevent endangered and threatened marine mammals and sea turtles from being exposed to underwater detonations and mining operations during the activities they plan to conduct in the Virginia Capes, Cherry Point, and Jacksonville Range Complexes (including sinking exercises). These measures involve site-selection procedures, exclusion zones, and monitoring protocols that comply with Marine Protection, Research, and Sanctuaries Act permits as well as procedures developed and tested during the ship shock trial on the USS WINSTON S CHURCHILL. These monitoring protocols were studied extensively (Clarke and Norman 2005) and those studies concluded that the monitoring protocols effectively insured that marine mammals or sea turtles did not occur within 3.7 kilometers of the underwater detonations.

Despite these protective measures, the U.S. Navy identified numerous instances in which either endangered whales or threatened or endangered sea turtles might be exposed to pressure waves or sound fields associated with underwater detonations at received levels that would cause behaviors that would be considered behavioral harassment, temporarily cause noise-induced hearing loss.

FIN WHALE. The U.S. Navy estimated that about 2 fin whales might be exposed to underwater detonations on the Virginia Capes Range Complex and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure. No fin whales are likely to be exposed to underwater detonations on the Cherry Point or Jacksonville Range Complexes

HUMPBACK WHALE. The U.S. Navy estimated that about 2 humpback whales might be exposed to underwater detonations on the Virginia Capes Range Complex and experience behavioral harassment or noise-induced loss of

hearing sensitivity as a result of that exposure. No humpback whales are likely to be exposed to underwater detonations on the Cherry Point or Jacksonville Range Complexes.

Humpback whales were not reported to change their short-term behavior or distribution in feeding areas in response to explosions with received levels of about 150dB re 1 μ Pa/Hz at 350Hz (Lien *et al.* 1993, Todd *et al.* 1996). However, at least two individuals were probably killed by the high-intensity, impulsive blasts and had extensive mechanical injuries in their ears (Ketten *et al.* 1993, Todd *et al.* 1996). The explosions may also have increased the number of humpback whales entangled in fishing nets as they avoided the area in which the detonations occurred (Todd *et al.* 1996).

RIGHT WHALE. The U.S. Navy concluded that no North Atlantic whales are likely to be exposed to underwater detonations on the Virginia Capes Range Complex and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure. No North Atlantic right whales are likely to be exposed to underwater detonations on the Cherry Point or Jacksonville Range Complexes

SEI WHALE. Because of their pelagic distribution and low densities in the range complex, the U.S. Navy concluded that no sei whales are likely to be exposed to underwater detonations on the Virginia Capes Range Complex and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure. No sei whales are likely to be exposed to underwater detonations on the Cherry Point or Jacksonville Range Complexes

SPERM WHALE. The U.S. Navy concluded that 2 sperm whales might be exposed to underwater detonations on the Virginia Capes Range Complex (primarily during a firing exercise) and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure. No sperm whales are likely to be exposed to underwater detonations on the Cherry Point or Jacksonville Range Complexes

RESPONSES OF MARINE MAMMALS TO UNDERWATER DETONATIONS. To date, there have been no controlled studies on the hearing capabilities of humpback whales. Data from the limited studies on bottlenose dolphins (Ridgeway *et al.* 1997) and beluga whales (Ridgeway in press) suggest that the auditory effects of underwater noise on cetaceans differ from the more studied terrestrial mammals. Although marine mammals possess auditory mechanics similar to terrestrial mammals (air filled middle ear), the cetacean ear is adapted to accommodate rapid pressure changes. The extent and result of that accommodation, however, is unknown. At least one researcher concluded that cetaceans are more vulnerable to blast injuries because of their marine adaptations (Richardson *et al.* 1995).

In 1996 Todd *et al.* described the effects of construction site underwater explosions on humpback whales. The explosions took place in a narrow, shallow fjord-like area and ranged from charges of 2,200 lb to 12,125 lb. The same 1 nmi detonation unsafe zone was instituted for all explosions. Detonations occurred repeatedly over a period of months. Humpback whales did not display overt behavioral responses, but did, over a period of time, experience an increased entrapment rate in fishing gear. Damage to the eardrums was discovered in the entrapped whales. Ketten *et al.* (1993) concluded that the increased entrapment could have been due to cumulative effects of repeated exposure to explosions, the effects of which were increased in intensity due to the shape and constitution of the blast area.

Other non-lethal, auditory effects might be sustained by cetaceans. Both sensorineural loss (insult, loss of ear hairs) and permanent damage to middle ear mechanics (rupture of ossicles, eardrums) might be sustained. Marine mammals have morphological adaptations to the marine environment whereby energy is conducted through head tissues to the inner ear rather than through the drum and ossicles. Damage to the auditory complex at any pathway may result in either a permanent (non-recoverable) threshold shift or a temporary threshold shift. Threshold shifts affect an animal's ability to hear and, in odontocetes, echolocate. Effects to the auditory systems of marine mammals such as permanent threshold shift or permanent loss of all hearing, may also eventually lead to mortality if sufficiently severe. The loss of ability to hear environmental cues, communicate with conspecifics, or forage could result in compromised body condition, increased susceptibility to entanglement or entrapment, collision with ships, or reduced reproductive success.

Possible short-term reactions of mysticetes disturbed by human-made noise include interruption of feeding, resting, or social activities, and abrupt diving or swimming away (Finley, 1982; Calkins 1983, Richardson et al. 1995). Various studies and reported observations for a number of different mysticete species indicate variability in the responses to sounds of relatively high intensity (Bowles, et al., 1994; Malme et al., 1984; Maybaum, 1989; Mobley et al., 1988; Richardson et al., 1985; Richardson et al., 1991). In most instances, responses are affected by species, age and sex class, social context, habitat, habituation, and sound-source characteristics. Observed effects are generally fewer and less pronounced with respect to constant and predictable acoustic characteristics.

UNSPECIFIED SEA TURTLES. On the Virginia Capes Range Complex, the U.S. Navy concluded that 336 hardshell sea turtles (327 during bombing exercises and 9 during firing exercises) might be exposed to underwater detonations at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would elicit behavioral responses that we would classify as harassment (that is, a significant disruption in normal behavior patterns, such as breeding or feeding).

On the Cherry Point Range Complex, the U.S. Navy concluded that no hardshell sea turtles might be exposed to underwater detonations and experience behavioral harassment, physiological stress responses, or noise-induced hearing loss as a result of that exposure. No sea turtles are likely to be exposed to the training activities the U.S. Navy proposes to conduct in the Northeast Operating Areas.

On the Jacksonville Range Complex, the U.S. Navy concluded that 4 green, hawksbill, or loggerhead sea turtles might be exposed to underwater detonations (during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. Another four of these turtles would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 psi as result of their exposure to missile exercises, which would correspond to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion.

KEMP'S RIDLEY SEA TURTLES. The U.S. Navy estimated that 627 Kemp's ridley sea turtles might be exposed to underwater detonations on the Virginia Capes Range Complex (613 during bombing exercises and 14 during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile exercises, 15 Kemp's ridley sea turtles would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 pounds per square inch-msec (psi), whichever encompasses the largest geographic range, which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. Six Kemp's ridley sea turtles might be exposed to underwater detonations at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi, which

corresponds to an exposure in which 50 percent of the animals would be expected to experience rupture of their tympanic membrane, an injury that correlates with measures of permanent hearing impairment (specifically, a 30 percent incidence of permanent loss of hearing sensitivity or PTS; Ketten 1998).

On the Cherry Point Range Complex, the U.S. Navy concluded that no Kemp's ridley sea turtles might be exposed to underwater detonations and experience behavioral harassment, physiological stress responses, or noise-induced hearing loss as a result of that exposure.

The U.S. Navy estimated that 1 Kemp's ridley sea turtle might be exposed to underwater detonations on the Jacksonville Range Complex (during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile exercises, another Kemp's ridley sea turtle would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 psi, which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. No leatherback sea turtles were expected to be exposed at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi as a result of exercises on the Jacksonville Range Complex.

LEATHERBACK SEA TURTLES. On the Virginia Capes Range Complex, the U.S. Navy estimated that 10 leatherback sea turtles might be exposed to underwater detonations (during bombing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. No leatherback sea turtles were expected to be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$, 23 psi, 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi as a result of exercises on the Virginia Capes Range Complex.

On the Cherry Point Range Complex, the U.S. Navy concluded that no leatherback sea turtles might be exposed to underwater detonations and experience behavioral harassment, physiological stress responses, or noise-induced hearing loss as a result of that exposure. No sea turtles are likely to be exposed to the training activities the U.S. Navy proposes to conduct in the Northeast Operating Areas.

On the Jacksonville Range Complex, the U.S. Navy estimated that 8 leatherback sea turtles might be exposed to underwater detonations (during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile exercises, three leatherback sea turtle would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 psi, which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. No leatherback sea turtles were expected to be exposed at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi as a result of exercises on the Jacksonville Range Complex.

LOGGERHEAD SEA TURTLES. On the Virginia Capes Range Complex, the U.S. Navy estimated that 496 loggerhead sea turtles might be exposed to underwater detonations on the Virginia Capes Range Complex (482 during bombing exercises and 14 during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile and mining exercises, 16 and 3 (respectively) loggerhead sea turtles would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 pounds per square inch-msec (psi), which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. Five loggerhead sea turtles might be exposed to underwater detonations and experience noise-induced hearing loss as a result of their exposure. at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi, which corresponds to an exposure in which 50 percent of the animals would be expected to experience rupture of their tympanic membrane, an injury that correlates with

measures of permanent hearing impairment (specifically, a 30 percent incidence of permanent loss of hearing sensitivity or PTS; Ketten 1998).

On the Cherry Point Range Complex, the U.S. Navy concluded that no loggerhead sea turtles might be exposed to underwater detonations and experience behavioral harassment, physiological stress responses, or noise-induced hearing loss as a result of that exposure. No sea turtles are likely to be exposed to the training activities the U.S. Navy proposes to conduct in the Northeast Operating Areas.

On the Jacksonville Range Complex, the U.S. Navy estimated that 8 loggerhead sea turtles might be exposed to underwater detonations (during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile and mining exercises, 6 and 1 (respectively) loggerhead sea turtles would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 pounds per square inch-msec (psi), which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. No loggerhead sea turtles were expected to be exposed at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi as a result of exercises on the Jacksonville Range Complex.

RESPONSES OF SEA TURTLES TO UNDERWATER DETONATIONS. Klima *et. al.* (1988) conducted an experiment in which Kemp's ridley and loggerhead turtles were placed in cages at four distances from a oil platform to be removed with explosives. The cages were submerged to a depth of 15 ft over the 30 ft sea bottom just prior to the simultaneous explosion of four 50.75 lb charges of nitromethane placed inside the platform pilings at a depth of 16 ft below the mudline. Loggerhead and Kemp's ridley turtles at 750 ft and 1,200 ft, as well as one loggerhead at 3,000 ft were rendered unconscious. The Kemp's ridley turtle closest to the explosion (range of 750 ft) was slightly injured, with an everted cloacal lining; ridleys at ranges of 1,200 ft, 1,800 ft and 3,000 ft were apparently unharmed. All loggerheads displayed abnormal pink coloration caused by dilated blood vessels at the base of the throat and flippers, a condition that persisted for about 3 weeks.

O'Keeffe and Young (1984) analyzed data from three underwater shock tests carried out off Panama City, Florida in 1981. During each test, a charge equivalent of 1,200 lb of TNT was detonated at mid-depth in water about 120 ft deep. At least three turtles were noted in the area following the detonations. One turtle at a range of 500 to 700 ft was killed. A second turtle at a range of 1,200 ft received minor injuries. A third turtle at 2,000 ft was apparently unaffected. At a depth of 60 ft, calculated shock wave pressures are 239, 161, 85, and 47 psi at ranges of 500, 700, 1,200, and 2,000 ft, respectively.

Based on a parametric evaluation of the effects of charge weight and depth using the Goertner (1982) model, Young (1991) concluded that a conservative safe range for non-injury to a small mammal (representative of a dolphin calf) was approximated by $R=578w^{0.28}$ (R is in feet and w is in pounds of explosive). O'Keeffe and Young (1984) proposed that a safe range for turtles from an underwater explosion could be expressed by $R = 200 w^{1/3}$, where R is the safe range in feet and w is the charge weight in pounds. This equation was subsequently modified by Young (1991) based on safe ranges established by the NMFS for platform removal operations using explosives. The revised equation is $R = 560 w^{1/3}$. Applied to the Klima *et. al.* (1988) observations, this equation predicts a safe range of 3,291 ft, which exceeds the greatest distance at which an effect was observed (turtle unconscious at 3,000 ft).

Applied to the O’Keeffe and Young (1984) report, this equation predicts a safe range of 5,951 ft, nearly triple the range from the charge of the uninjured turtle.

The safe ranges calculated previously addressed physical injury to sea turtles but did not identify problems associated with detecting damage to sea turtle auditory systems. These effects include physical changes to the auditory system that permanently or temporarily destroy or alter a turtle’s hearing. Sea turtles do not have an auditory meatus or pinna that channels sound to the middle ear, nor do they have a specialized eardrum. Instead, they have a cutaneous layer and underlying subcutaneous fatty layer, that function as a tympanic membrane. The subcutaneous fatty layer receives and transmits sound to the extra-columella, a cartilaginous disk, located at the entrance to the columella, a long, thin bone that extends from the middle ear cavity to the entrance of the inner ear or otic cavity (Ridgway *et al.* 1969). Sound arriving at the inner ear via the columella is transduced by the bones of the middle ear. Sound also arrives by bone conduction through the skull. Low frequency sounds at high source levels can also be detected by vibration-sensitive touch receptors in various other parts of the turtle’s body (mechanoreception). Any disruption (permanent or temporary) of a turtle’s hearing may kill or injure the turtle. On the other hand, some effects may be temporary or slight and will not have lethal results.

Sea turtle auditory sensitivity has not been well studied. A few preliminary investigations suggest that it is limited to low frequency band-widths, such as the sounds of waves breaking on a beach. The role of underwater low frequency hearing in sea turtles is unclear. It has been suggested that sea turtles may use acoustic signals from their environment as guideposts during migration and as a cue to identify their natal beaches (Moein *et al.* 1983).

Although it is possible that green turtles in the vicinity of an in-water detonation might experience a temporary or permanent threshold shift, it is not known what energy levels and received levels are necessary to induce threshold shifts. The few studies completed on the auditory capabilities of sea turtles (adult green, loggerhead, and Kemp’s ridley (*Lepidochelys kempii*) suggest that they could be capable of hearing low frequency sounds (Ridgway *et al.* 1969; Moein *et al.* 1983; Lenhardt, 1994). Ridgway *et al.* (1969) reported maximal sensitivity for green turtles occurred at 300 to 400 Hz, with a rapid decline in sensitivity for lower and higher tones. Similarly, Moein *et al.* (1994) reported a hearing range of about 250 to 1,000 Hz for loggerhead sea turtles, and Lenhardt (1994) stated that maximal sensitivity in sea turtles generally occurs in the range from 100 to 800 Hz. Calculated in-water hearing thresholds within the useful range appear to be high (e.g., about 160 to 200 dB re 1 μ Pa; Lenhardt, 1994). In the absence of more specific information that could be used to determine the acoustic harassment range for sea turtles, the U.S. Navy assumed that frequencies \geq 100 Hz (which are the acoustical harassment ranges predicted for odontocetes) would be conservative for sea turtles.

Moein *et al.* (1983) and O’Hara and Wilcox (1990) indicate that low frequency acoustic sound transmissions at source levels of 141-150 dB could potentially cause increased surfacing behavior and deterrence from the area near a sound source. In this instance, if they surface more frequently, green turtles will not be at a greater risk of collision with vessels transiting the action area because vessel traffic will be halted during detonation operations.

5.3.3 Potential Responses of Listed Species to Active Sonar

As discussed in the *Approach to the Assessment* section of this Opinion, we conduct response analyses to determine whether and how listed species and designated critical habitat are likely to respond after being exposed to an Action's effects. For the purposes of consultations on activities that involve active sonar, our assessments try to detect the probability of lethal responses, sensory impairment (permanent and temporary threshold shifts and acoustic masking), physiological responses (particular stress responses), behavioral responses, and social responses that are likely to directly or indirectly reduce the fitness of listed individuals.

Our response analyses consider and weigh all of the evidence available on the response of marine animals upon being exposed to active sonar and probable fitness consequences for the animals that exhibit particular responses or sequence of responses. It is important to acknowledge, however, that there is limited empirical evidence of how endangered or threatened marine animals respond upon being exposed to active sonar in natural settings. Therefore, the narratives that follow this introduction summarize the best scientific and commercial data available on the responses of other species to active sonar or other acoustic stimuli. Based on those data, we identify the probable responses of endangered and threatened marine animals to mid-frequency active sonar transmissions.

Figure 1 illustrates the conceptual model we use to assess the potential responses of marine animals when they are exposed to active sonar. The narratives that follow are generally organized around the items listed in the column titled "Proximate Responses by Category" in that Figure. These analyses examine the evidence available to determine if exposing endangered and threatened species to mid-frequency active sonar is likely to cause responses that might reduce the fitness of individuals that might be exposed.

The information that follows is presented as if endangered or threatened marine animals along the Atlantic coast of the U.S. and in the Gulf of Mexico would only be exposed to mid- or low-frequency active sonar when, in fact, any individuals that occur in the area of a training event would be exposed to multiple potential stressors and would be responding to a wide array of cues from their environment including natural cues from other members of their social group, from predators, and other living organisms. However, the information that is available generally focuses on the physical, physiological, and behavioral responses of marine mammals to one or two stressors or environmental cues rather than the suite of anthropogenic and natural stressors that most free-ranging animals must contend with in their daily existence. We present the information from studies that investigated the responses of animals to one or two stressors, but we remain aware that we might observe very different results if we presented those same animals with the suite of stressors and cues they would encounter in the wild.

5.3.3.1 Injury

For the purposes of this assessment, "injuries" represents physical trauma or damage that is a direct result of an acoustic exposure, regardless of the potential consequences of those injuries to an animal (we distinguish between injuries that result from an acoustic exposure and injuries that result from an animal's behavioral reaction to an acoustic exposure, which is discussed later in this section of the Opinion). Based on the literature available, mid-frequency active sonar might injure marine animals through two mechanisms (see "Box P" in Figure 1): acoustic resonance and noise-induced loss of hearing sensitivity (more commonly-called "threshold shift").

ACOUSTIC RESONANCE. Acoustic resonance results from hydraulic damage in tissues that are filled with gas or air that resonates when exposed to acoustic signals (Box P1 of Figure 5 illustrates the potential consequences of acoustic resonance; see Rommel *et al.* 2007). Based on studies of lesions in beaked whales that stranded in the Canary Islands and Bahamas associated with exposure to naval exercises that involved sonar, investigators have identified two physiological mechanisms that might explain some of those stranding events: tissue damage resulting from resonance effects (Ketten 2004, Cudahy and Ellison 2001) and tissue damage resulting from “gas and fat embolic syndrome” (Fernandez *et al.* 2005, Jepson *et al.* 2003, 2005). Fat and gas embolisms are believed to occur when tissues are supersaturated with dissolved nitrogen gas and diffusion facilitated by bubble-growth is stimulated within those tissues (the bubble growth results in embolisms analogous to the “bends” in human divers).

Cudahy and Ellison (2001) analyzed the potential for resonance from low frequency sonar signals to cause injury and concluded that the expected threshold for *in vivo* (in the living body) tissue damage for underwater sound is on the order of 180 to 190 dB. There is limited direct empirical evidence (beyond the evidence available in Schlundt *et al.* 2000) to support a conclusion that 180 dB is “safe” for marine mammals; however, evidence from marine mammal vocalizations suggests that 180 dB is not likely to physically injure marine mammals. For example, Frankel (1994) estimated the source level for singing humpback whales to be between 170 and 175 dB; McDonald *et al.* (2001) calculated the average source level for blue whale calls as 186 dB, Watkins *et al.* (1987) found source levels for fin whales up to 186 dB, and Møhl *et al.* (2000) recorded source levels for sperm whale clicks up to 223 dB_{rms}. Because whales are not likely to communicate at source levels that would damage the tissues of other members of their species, this evidence suggests that these source levels are not likely to damage the tissues of the endangered and threatened species being considered in this consultation.

Crum and Mao (1996) hypothesized that received levels would have to exceed 190 dB in order for there to be the possibility of significant bubble growth due to super-saturation of gases in the blood. Jepson *et al.* (2003, 2005) and Fernández *et al.* (2004, 2005) concluded that *in vivo* bubble formation, which may be exacerbated by deep, long-duration, repetitive dives may explain why beaked whales appear to be particularly vulnerable to sonar exposures.

Based on the information available, the endangered or threatened marine mammals and sea turtles that we are considering in this Opinion are not likely to experience acoustic resonance. All of the evidence available suggests that this phenomenon poses potential risks to smaller cetaceans like beaked whales rather than the larger cetaceans that have been listed as endangered. Thus far, this phenomenon has not been reported for or associated with sea turtles, perhaps because they do not engage in dive patterns that are similar to those of beaked whales.

NOISE-INDUCED LOSS OF HEARING SENSITIVITY. Noise-induced loss of hearing sensitivity¹³ or “threshold shift” refers to an ear’s reduced sensitivity to sound following exposure to loud noises: when an ear’s sensitivity to sound has been reduced, sounds must be louder for the individual affected to detect and recognize it. Noise-induced loss of

¹³ Animals can experience losses in hearing sensitivity through other mechanisms. The processes of aging and several diseases cause some humans to experience permanent losses in their hearing sensitivity. Body burdens of toxic chemicals can also cause animals, including humans, to experience permanent and temporary losses in their hearing sensitivity (for example, see Mills and Going 1982 and Fechter and Pouyanos 2005).

hearing sensitivity is usually represented by the increase in intensity (in decibels) sounds must have to be detected. Although noise-induced losses in hearing sensitivity rarely affect the entire frequency range an ear might be capable of detecting, only a few investigators have reported the frequency range affected by a hearing loss.

An animal can experience either temporary threshold shift (TTS) or permanent threshold shift (PTS). TTS can last from minutes or hours to days. When PTS occurs, there is physical damage to the sound receptors in the ear. This can result in total or partial deafness, or an animal's hearing can be impaired in specific frequency ranges (Box P2 of Figure 5 illustrates the potential consequences of noise-induced loss in hearing sensitivity).

Although the published body of science literature contains numerous theoretical studies and discussion papers on hearing impairments that can occur with exposure to a strong sound, only a few studies provide empirical information on noise-induced loss in hearing sensitivity in non-human animals. Richardson *et al* (1995) concluded that there was no empirical evidence that exposure to active sonar transmissions with the kind of intensity can cause PTS in any marine mammals; instead the probability of PTS has been inferred from studies of TTS. Richardson *et al.* (1995) hypothesized that marine mammals within less than 100 meters of a sonar dome might be exposed to mid-frequency active sonar transmissions at received levels greater than 205 dB re 1 μ Pa which might cause TTS. Erbe (2002). argued that killer whales would have to stay within 50 meters of a single boat for 8 hours a day, 5 days a week, for up to 50 years to experience a permanent threshold shift of 2 – 5 dB as a result of exposure to engine noise, although exposing killer whales to multiple vessels could cumulatively produce temporary or permanent threshold shifts.

Schlundt *et al.* (2000; see also Finneran *et al.* 2001, 2003) provided a detailed summary of the behavioral responses of trained marine mammals during TTS tests conducted at the Navy's SPAWAR Systems Center with 1-second tones. Schlundt *et al.* (2000) reported on eight individual TTS experiments that were conducted in San Diego Bay. Fatiguing stimuli durations were 1 second. Because of the variable ambient noise in the bay, low-level broadband masking noise was used to keep hearing thresholds consistent despite fluctuations in the ambient noise.

Finneran *et al.* (2001, 2003) conducted TTS experiments using 1-second duration tones at 3 kHz. The test method was similar to that of Schlundt *et al.* except the tests were conducted in a pool with a very low ambient noise level (below 50 dB re 1 μ Pa²/Hz), and no masking noise was used. The signal was a sinusoidal amplitude modulated tone with a carrier frequency of 12 kHz, modulating frequency of 7 Hz, and SPL of approximately 100 dB re 1 μ Pa. Two separate experiments were conducted. In the first, fatiguing sound levels were increased from 160 to 201 dB SPL. In the second experiment, fatiguing sound levels between 180 and 200 dB re 1 μ Pa were randomly presented.

Based on the information available, and given the speeds at which Navy vessels operate during the activities they proposed to conduct along the Atlantic coast of the U.S. and in the Gulf of Mexico, the protective measures the Navy proposes to employ during an exercise, and the probable avoidance responses of those animals upon exposure, we think it is highly unlikely that large whales would routinely accumulate acoustic energy sufficient to cause noise-induced loss of hearing sensitivity. At the ship speeds involved, collisions would present a greater risk than noise-induced hearing loss; as we have discussed previously, the Navy's protective measures, which are designed to detect large whales (and other objects) in their path to protect the ships from being damaged during a collision, are also likely to prevent large whales from being exposed to received levels sufficient to cause hearing losses.

5.3.3.2 Acoustic Masking

Marine mammals use acoustic signals for a variety of purposes that differ among species, but include communication between individuals, navigation, foraging, reproduction, and learning about their environment (Erbe and Farmer 2000, Tyack 2000). Masking, or auditory interference, generally occurs when sounds in the environment are louder than and of a similar frequency to, auditory signals an animal is trying to receive. Masking, therefore, is a phenomenon that affects animals that are trying to receive acoustic information about their environment, including sounds from other members of their species, predators, prey, and sounds that allow them to orient in their environment (the responses of animals sending acoustic signals are addressed in the next subsection). Masking these acoustic signals can disturb the behavior of individual animals, groups of animals, or entire populations (Box M of Figure 5 illustrates the potential consequences of acoustic masking).

Richardson *et al.* (1995b) argued that the maximum radius of influence of an industrial noise (including broadband low frequency sound transmission) on a marine mammal is the distance from the source to the point at which the noise can barely be heard. This range is determined by either the hearing sensitivity of the animal or the background noise level present. Industrial masking is most likely to affect some species' ability to detect communication calls and natural sounds (i.e., vocalizations from other members of its species, surf noise, prey noise, etc.; Richardson *et al.* 1995).

Sperm whales have been observed to frequently stop echolocating in the presence of underwater pulses produced by echosounders and submarine sonar (Watkins and Schevill 1975; Watkins *et al.* 1985). They also stop vocalizing for brief periods when codas are being produced by other individuals, perhaps because they can hear better when not vocalizing themselves (Goold and Jones 1995). Sperm whales have moved out of areas after the start of air gun seismic testing (Davis *et al.* 1995). Seismic air guns produce loud, broadband, impulsive noise (source levels are on the order of 250 dB) with "shots" every 15 seconds, 240 shots per hour, 24 hours per day during active tests. Because they spend large amounts of time at depth and use low frequency sound sperm whales are likely to be susceptible to low frequency sound in the ocean (Croll *et al.* 1999). Furthermore, because of their apparent role as important predators of mesopelagic squid and fish, changes in their abundance could affect the distribution and abundance of other marine species.

The echolocation calls of toothed whales are subject to masking by high frequency sound. Human data indicate low frequency sound can mask high frequency sounds (i.e., upward masking). Studies on captive odontocetes by Au *et al.* (1974, 1985, 1993) indicate that some species may use various processes to reduce masking effects (e.g., adjustments in echolocation call intensity or frequency as a function of background noise conditions). There is also evidence that the directional hearing abilities of odontocetes are useful in reducing masking at the high frequencies these cetaceans use to echolocate, but not at the low-to-moderate frequencies they use to communicate (Zaitseva *et al.* 1980).

Based on the evidence available, the endangered baleen whales that are considered in this Opinion — fin, North Atlantic right, and sei whales — are not likely to experience acoustic masking because they are low-frequency hearing specialists who attend to environmental cues at frequencies that are much lower than mid-frequency active sonar. Similarly, the endangered and threatened sea turtles that are considered in this Opinion are low frequency hearing specialists and, as a result, are not likely to experience acoustic masking by mid-frequency active sonar.

Field investigations of humpback whale songs suggest that humpback whales have an upper frequency limit reaching as high as 24 kHz (Au *et al.* 2006). Based on this information, it is reasonable to assume that the active mid-frequency sonar the U.S. Navy would employ during the proposed active sonar training activities is within the hearing and vocalization range of humpback whales. As a result, we assume that some of the humpback whales that are exposed to mid-frequency active sonar during one or more of the proposed training exercises might experience acoustic masking as a result of their exposure.

Based on their hearing sensitivities, which overlap the frequency range of mid-frequency active sonar, the evidence available leads us to conclude that sonar transmissions might mask environmental cues at the lower range of sperm whale hearing. Although there is no published audiogram for sperm whales, these whales would be expected to have good, high frequency hearing because their inner ear resembles that of most dolphins, and appears tailored for ultrasonic (>20 kHz) reception (Ketten 1994). The only data on the hearing range of sperm whales are evoked potentials from a stranded neonate, which suggest that neonatal sperm whales respond to sounds from 2.5 to 60 kHz.

5.3.3.3 Impaired Communication

Communication is an important component of the daily activity of animals and ultimately contributes to their survival and reproductive success. Animals communicate to find food (Elowson *et al.* 1991, Marler *et al.* 1986, Stokes 1971), acquiring mates (Patricelli *et al.* 2006, Ryan 1985, Stokes 1971), assessing other members of their species (Owings *et al.* 2002, Parker 1974, Sullivan 1984), evading predators (Greig-Smith 1980, Marler 1955, Vieth *et al.* 1980), and defending resources (Alatalo *et al.* 1990, Falls 1963, Zuberbuehler *et al.* 1997). Human activities that impair an animal's ability to communicate effectively might have significant effects on the animals experiencing the impairment.

Communication usually involves individual animals that are producing a vocalization or visual or chemical display for other individuals. Masking, which we have already discussed, affects animals that are trying to receive acoustic cues in their environment, including cues vocalizations from other members of the animals' species or social group. However, anthropogenic noise presents separate challenges for animals that are vocalizing. This subsection addresses the probable responses of individual animals whose attempts to vocalize or communicate are affected by active sonar.

When they vocalize, animals are aware of environmental conditions that affect the "active space" of their vocalizations, which is the maximum area within which their vocalizations can be detected before it drops to the level of ambient noise (Brenowitz 2004, Brumm *et al.* 2004, Lohr *et al.* 2003). Animals are also aware of environmental conditions that affect whether listeners can discriminate and recognize their vocalizations from other sounds, which are more important than detecting a vocalization (Brenowitz 1982, Brumm *et al.* 2004, Dooling 2004, Marten and Marler 1977, Patricelli *et al.* 2006).

Most animals that vocalize have evolved with an ability to make vocal adjustments to their vocalizations to increase the signal-to-noise ratio, active space, and salience of their vocalizations in the face of temporary changes in background noise (Brumm *et al.* 2004, Cody and Brown 1969, Egnor *et al.* 2006, Patricelli *et al.* 2006). In some instances, the vocal adjustment may depend on when a competing signal occurs in a vocal sequence; for example,

Egnor *et al.* (2006) reported that tamarin made different vocal adjustments depending on whether they were disturbed at the beginning of their calls, during the middle of their calls, or at the end of their call. Nevertheless, vocalizing animals have been reported to make one or more of the following adjustments to preserve the active space and salience of their vocalizations:

1. Adjust the frequency structure of vocalizations (Box C1.2 of Figure 5). Animals responding in this way adjust the frequency structure of their calls and songs by increasing the minimum frequency of their vocalizations while maximum frequencies remain the same. This reduces the frequency range of their vocalizations and reduces the amount of overlap between their vocalizations and background noise.

Slabbekorn and Ripmeister (2008), Slabbekorn and den Boer-Visser (2006), and Slabbekorn and Peet (2003) studied patterns of song variation among individual great tits (*Parus major*) in an urban population in Leiden, The Netherlands, and among 20 different urban and forest populations across Europe and the United Kingdom. Adult males of this species that occupied territories with more background noise (primarily traffic noise) sang with higher minimum frequencies than males occupying non-urban or quieter sites. Peak or maximum frequencies of these songs did not shift in the face of high background noise or competing signals.

2. Adjust the amplitude of vocalizations (Box C1.1 of Figure 5). Animals responding in this way increase the amplitude or pitch of their calls and songs by placing more energy into the entire vocalization or, more commonly, shifting the energy into specific portions of the call or song.

This response is called the “Lombard reflex” or “Lombard effect” and represents a short-term adaptation to vocalizations in which a signaler increases the amplitude of its vocalizations in response to an increase in the amplitude of background noise (Lombard 1911). This phenomenon has been studied extensively in humans, who raise the amplitude of the voices while talking or singing in the face of high, background levels of sound (Lombard 1911, Tonkinson 1990).

Other species experience the same phenomenon when they vocalize in the presence of high levels of background sound. Brumm (2004) studied the songs of territorial male nightingales (*Luscinia megarhynchos*) in the city of Berlin, Germany, to determine whether and to what degree background noise (from automobile traffic) produced a Lombard effect in these birds. Based on his studies, the birds increased the volume of their songs in response to traffic noise by 14 dB (their songs were more than 5 times louder than birds vocalizing in quiet sites). Cynx *et al.* (1998) reported similar results based on their study of zebra finches (*Taeniopygia guttata*) exposed to white noise.

Although this type of response also has not been studied extensively in marine animals, Scheifele *et al.* (2005) reported that beluga whales in the St. Lawrence River increased the decibel levels of their vocalizations from 80.46-86.76 dB in conditions without noise to 91.74-99.10 dB when confronted with vessel noise.

Holt *et al.* (2007) reported that endangered southern resident killer whales (*Orcinus orca*) in Haro Strait off the San Juan Islands in Puget Sound, Washington, increased the amplitude of their social calls in the face of increased sounds levels of background noise.

3. Adjust temporal structure of vocalizations (Box C1.2 of Figure 5). Animals responding this way adjust the temporal structure of their vocalizations by changing the timing of modulations, notes, and syllables within vocalizations or increasing the duration of their calls or songs.

Cody and Brown (1969) studied the songs of adult male Bewick wrens and wrentits that occupied overlapping territories and whose songs had similar physical characteristics (similar song lengths, frequency structure, and amplitude). They reported that wrentits adjusted the timing of their songs so they occurred when the songs of the Bewick wrens subsided.

Ficken *et al.* (1974) studied vocalizations of ten red-eyed vireos (*Vireo olivaceus*) and least flycatchers (*Empidonax minimus*) at Lake Itasca, Minnesota (a total of 2283 songs). They reported that flycatchers avoided acoustic interference from red-eyed vireos by inserting their shorter songs between the longer songs of the vireos. Although there is some mutual avoidance of acoustic interference, the flycatcher tends more strongly to insert its short songs in between the longer songs of the vireo rather than vice versa. Indeed, most of the overlap occurred when the flycatcher began singing just after the vireo had begun, suggesting that the flycatcher had not heard the vireo begin singing.

A few studies have demonstrated that marine mammals make the same kind of vocal adjustments in the face of high levels of background noise. Rendell and Gordon (1999) reported that long-finned pilot whales (*Globicephala melas*) in the Ligurian Sea made several vocal adjustments in call whistles when putatively exposed to active sonar transmissions at frequencies of 4-5 kHz (reference and received levels were not reported).

Miller *et al.* (2000) recorded the vocal behavior of singing humpback whales continuously for several hours using a towed, calibrated hydrophone array. They recorded at least two songs in which the whales were exposed to low-frequency active sonar transmissions (42 second signals at 6 minute intervals; sonar was broadcast so that none of the singing whales were exposed at received levels greater than 150 dB re 1 μ Pa). They followed sixteen singing humpback whales during 18 playbacks. In nine follows, whales sang continuously throughout the playback; in four follows, the whale stopped singing when he joined other whales (a normal social interaction); and in five follows, the singer stopped singing, presumably in response to the playback. Of the six whales whose songs they analyzed in detail, songs were 29% longer, on average, during the playbacks. Song duration returned to normal after exposure, suggesting that the whale's response to the playback was temporary.

Fristrup *et al.* (2003) studied the length of 378 humpback whale songs recorded before, during, and after broadcasts from SURTASS LFA sonar in the 150-320 Hz frequency band at sound pressure levels between 140 and 205 dB re 1 μ Pa. Mean song lengths were 13.8 min (s.d. = 3.1, minimum = 5.4, median = 13.5, max = 33.3 minutes). Songs that overlapped with pings were longer than songs that did not overlap and whale songs were significantly longer when a ping occurred close to end of a song. The largest increases in song length were observed in songs that were sung between 1 and 2 hours after the last ping.

Foote *et al.* (2004) compared recordings of endangered southern resident killer whales that were made in the presence or absence of boat noise in Puget Sound during three time periods between 1977 and 2003. They concluded that the duration of primary calls in the presence of boats increased by about 15% during the last of the three time

periods (2001 to 2003). They suggested that the amount of boat noise may have reached a threshold above which the killer whales needs to increase the duration of their vocalization to avoid masking by the boat noise.

4. Adjust the temporal delivery of vocalizations (Boxes C1.3 – C1.5 of Figure 5). Animals responding in this way change when they vocalize or changing the rate at which they repeat calls or songs.

For example, tawny owls (*Strix aluco*) reduce the rate at which they call during rainy conditions (Lengagne and Slater 2002). Brenowitz (1982) concluded that red-winged blackbirds (*Agelaius phoeniceus*) had the largest active space, or broadcast area, for their calls at dawn because of relatively low turbulence and background noise when compared with other times of the day. Brown and Handford (2003) concluded that swamp and white-throated sparrows (*Melospiza georgiana* and *Zonotrichia albicollis*, respectively) tended to sing at dawn, as opposed to other times of the day, because they encountered the fewest impediments to acoustic transmissions during that time of the day. For example, Miksis-Olds (2006) surmised that Florida manatees (*Trichechus manatus latirostris*) in Sarasota Bay, Florida, appear to wait until the morning, when background noise levels associated with vessel traffic decline, before vocalizing when they are resting.

Many animals will combine several of these strategies to compensate for high levels of background noise. For example, Brumm *et al.* (2004) reported that common marmosets (*Callithrix jacchus*) increased the median amplitude of the twitter calls as well as the duration of the calls in response to increased background noise. King penguins (*Aptenodytes patagonicus*) increase the number of syllables in a call series and the rate at which they repeat their calls to compensate for high background noise from other penguins in a colony or high winds (Lengagne *et al.* 1999). California ground squirrels (*Spermophilus beecheyi*) shifted the frequencies of their alarm calls in the face of high ambient noise from highway traffic (Rabin *et al.* 2003). However, they only shifted the frequency of the second and third harmonic of these alarm calls, without changing the amount of energy in the first harmonic. By emphasizing the higher harmonics, the ground squirrels placed the peak energy of their alarm calls above the frequency range of the masking noise from the highway. Wood and Yezerinac (2006) reported that song sparrows (*Melospiza melodus*) increased the frequency of the lowest notes in their songs and reduced the amplitude of the low frequency range of their songs. Fernandez-Juricic *et al.* (2005) reported that house finches (*Carpodacus mexicanus*) adopted the same strategy to compensate for background noise.

Although this form of vocal adjustment has not been studied extensively in marine animals, Dahlheim (1987) studied the effects of man-made noise, including ship, outboard engine and oil-drilling sounds, on gray whale calling and surface behaviours in the San Ignacio Lagoon, Baja, California. She reported statistically significant increases in the calling rates of gray whales and changes in calling structure (as well as swimming direction and surface behaviours) after exposure to increased noise levels during playback experiments. Although whale responses varied with the type and presentation of the noise source, she reported that gray whales generally increased their calling rates, the level of calls received, the number of frequency-modulated calls, number of pulses produced per pulsed-call series and call repetition rate as noise levels increased.

Parks *et al.* (2007) reported that surface active groups of North Atlantic right whales would adopt this strategy as the level of ambient noise increased. As ambient noise levels increased from low to high, the minimum frequency of right whale “scream calls” increased from 381.4 Hz (± 16.50), at low levels of ambient noise, to 390.3 Hz (± 15.14)

at medium noise levels, to 422.4 Hz (± 15.55) at high noise levels. Surface active groups of North Atlantic right whales would also increase the duration and the inter-call interval of their vocalizations as the level of ambient noise increased. As noise levels increased from low to high, the duration of right whale “scream calls” would increase from 1.18 seconds (± 0.08) at low levels of ambient noise to 1.22 seconds (± 0.08) at high noise levels (durations decreased to 1.11 seconds ± 0.07 at medium noise levels). The inter-call intervals of these vocalizations would increase from 17.9 seconds (± 5.06) at low levels of ambient noise, to 18.5 seconds (± 4.55) at medium noise levels, to 28.1 seconds (± 4.63) at high noise levels.

Biassoni *et al.* (2001) studied the effects of exposing singing humpback whales to low-frequency active sonar in Hawai'i. They concluded that the average number of phrases did not differ with exposure; longer songs during exposure had more phrase repetitions and were, as a result, more redundant. Singers also switched from a frequency modulated to a rarer amplitude modulated phrase type overlapping sonar transmissions. Finding rapid and dynamic changes in humpback whale displays in response to LFA sonar suggests that singers have an ability to compensate for interference to anthropogenic sounds.

POTENTIAL FITNESS CONSEQUENCES OF VOCAL ADJUSTMENTS. Although the fitness consequences of these vocal adjustments remain unknown, like most other trade-offs animals must make, some of these strategies probably come at a cost (Patricelli *et al.* 2006). For example, vocalizing more loudly in noisy environments may have energetic costs that decrease the net benefits of vocal adjustment and alter the bird's energy budget (Brumm 2004, Wood and Yezerinac 2006). Lambrechts (1996) argued that shifting songs and calls to higher frequencies was also likely to incur energetic costs.

In addition, Patricelli *et al.* (2006) argued that females of many species use the songs and calls of males to determine whether a male is an appropriate potential mate (that is, they must recognize the singer as a member of their species); if males must adjust the frequency or temporal features of their vocalizations to avoid masking by noise, they may no longer be recognized by females of the same species (Brumm 2004, Slabbekoorn and Peet 2003, Wood and Yezerinac 2006). Although this line of reasoning was developed for bird species, the same line of reasoning should apply to marine mammals, particularly for species like fin and sei whales whose song structures appear to be very similar.

However, if an animal fails to make vocal adjustments in presence of masking noise, that failure might cause the animal to experience reduced reproductive success or longevity because it fails to communicate effectively with other members of its species or social group, including potential mates.

Based on the evidence available, three of the endangered baleen whales that are considered in this Opinion — blue, fin, North Atlantic right, and sei whales — are not likely to experience impaired communication because they vocalize at frequencies that are much lower than mid-frequency active sonar. Because the endangered and threatened sea turtles that are considered in this Opinion do not appear to vocalize, they are not likely to experience impaired communication by mid-frequency active sonar.

Field investigations of humpback whale songs suggest that humpback whales have an upper frequency limit reaching as high as 24 kHz (Au *et al.* 2006). Based on this information, it is reasonable to assume that the active mid-

frequency sonar the U.S. Navy would employ during training activities in the East Coast Range Complexes is within the vocalization range of humpback whales. As a result, we assume that some of the humpback whales that are exposed to mid-frequency active sonar during one or more of the proposed exercises might experience impaired communication as a result of that exposure. Because the dominant energy in humpback whale songs and calls are in frequency ranges that are substantially lower than that of mid-frequency active sonar, however, we believe humpback whales are likely to protect the saliency of their songs and calls without making the vocal adjustments that have been reported for North Atlantic right whales confronted with increases in continuous, low-frequency sound sources.

Based on their hearing sensitivities, which overlap the frequency range of mid-frequency active sonar, the evidence available leads us to conclude that sonar transmissions might mask environmental cues at the lower range of sperm whale hearing. Most of the energy of sperm whale clicks is concentrated at 2 to 4 kHz and 10 to 16 kHz, which overlaps with the mid-frequency sonar. Other studies indicate sperm whales' wide-band clicks contain energy between 0.1 and 20 kHz (Weilgart and Whitehead 1993, Goold and Jones 1995). Ridgway and Carder (2001) measured low-frequency, high amplitude clicks with peak frequencies at 500 Hz to 3 kHz from a neonate sperm whale. As a result, we assume that some of the sperm whales that are exposed to mid-frequency active sonar during one or more of the proposed exercises might experience impaired communication as a result of that exposure. Because the dominant energy in sperm whale songs and calls overlaps with the frequency range of mid-frequency active sonar, sperm whales may have to make one or more of the vocal adjustments discussed in this subsection to preserve the saliency of their vocalizations. Because any reductions in the active space of sperm whales caused by active sonar transmissions associated with the proposed exercises would be temporary and episodic, any these vocal adjustments sperm whales would have to make would also be temporary.

5.3.3.4 Allostasis

Classic stress responses begin when an animal's central nervous system perceives a potential threat to its homeostasis. That perception triggers stress responses regardless of whether a stimulus actually threatens the animal; the mere perception of a threat is sufficient to trigger a stress response (Moberg 2000, Sapolsky *et al.* 2005, Seyle 1950). Once an animal's central nervous system perceives a threat, it mounts a biological response or defense that consists of a combination of the four general biological defense responses: behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune response.

In the case of many stressors, an animal's first and most economical (in terms of biotic costs) response is behavioral avoidance of the potential stressor or avoidance of continued exposure to a stressor (Box B1 of Figure 5). An animal's second line of defense to stressors involves the autonomic nervous system and the classical "fight or flight" response which includes the cardiovascular system, the gastrointestinal system, the exocrine glands, and the adrenal medulla to produce changes in heart rate, blood pressure, and gastrointestinal activity that humans commonly associate with "stress." These responses have a relatively short duration and may or may not have significant long-term effect on an animal's welfare.

An animal's third line of defense to stressors involves its neuroendocrine or sympathetic nervous systems; the system that has received the most study has been the hypothalamus-pituitary-adrenal system (also known as the HPA

axis in mammals or the hypothalamus-pituitary-interrenal axis in fish and some reptiles). Unlike stress responses associated with the autonomic nervous system, virtually all neuroendocrine functions that are affected by stress – including immune competence, reproduction, metabolism, and behavior – are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction (Moberg 1987, Rivier 1995, Box S1.1 of Figure 5) and altered metabolism (Elasser *et al.* 2000), reduced immune competence (Blecha 2000) and behavioral disturbance. Increases in the circulation of glucocorticosteroids (cortisol, corticosterone, and aldosterone in marine mammals; see Romano *et al.* 2004) have been equated with stress for many years.

The primary distinction between *stress* (which is adaptive and does not normally place an animal at risk) and *distress* is the biotic cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose a risk to the animal's welfare (the sequence of boxes beginning with Box S2 in Figure 1). However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other biotic functions which impair those functions that experience the diversion. For example, when mounting a stress response diverts energy away from growth in young animals, those animals may experience stunted growth. When mounting a stress response diverts energy from a fetus, an animal's reproductive success and its fitness will suffer. In these cases, the animals will have entered a pre-pathological or pathological state which is called "distress" (*sensu* Seyle 1950) or "allostatic loading" (*sensu* McEwen and Wingfield 2003). This pathological state will last until the animal replenishes its biotic reserves sufficient to restore normal function (the sequence of boxes beginning with Box S2 in Figure 1 illustrate the potential consequences of these stress responses for the fitness of individual animals).

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses have also been documented fairly well through controlled experiment; because this physiology exists in every vertebrate that has been studied, it is not surprising that stress responses and their costs have been documented in both laboratory and free-living animals (for examples see, Holberton *et al.* 1996, Hood *et al.* 1998, Jessop *et al.* 2003, Krausman *et al.* 2004, Lankford *et al.* 2005, Reneerkens *et al.* 2002, Thompson and Hamer 2000). Although no information has been collected on the physiological responses of marine mammals upon exposure to anthropogenic sounds, studies of other marine animals and terrestrial animals would lead us to expect some marine mammals to experience physiological stress responses and, perhaps, physiological responses that would be classified as "distress" upon exposure to mid-frequency and low-frequency sounds.

For example, Jansen (1998) reported on the relationship between acoustic exposures and physiological responses that are indicative of stress responses in humans (for example, elevated respiration and increased heart rates). Jones (1998) reported on reductions in human performance when faced with acute, repetitive exposures to acoustic disturbance. Trimper *et al.* (1998) reported on the physiological stress responses of osprey to low-level aircraft noise while Krausman *et al.* (2004) reported on the auditory and physiology stress responses of endangered Sonoran pronghorn to military overflights. Smith *et al.* (2004a, 2004b) identified noise-induced physiological stress responses in hearing-specialist fish that accompanied short- (TTS) and long-term (PTS) hearing losses. Welch and Welch (1970), reported physiological and behavioral stress responses that accompanied damage to the inner ears of fish and several mammals.

Hearing is one of the primary senses cetaceans use to gather information about their environment and to communicate with other members of their species. Although empirical information on the relationship between sensory impairment (TTS, PTS, and acoustic masking) on cetaceans remains limited, it seems reasonable to assume that reducing an animal's ability to gather information about its environment and to communicate with other members of its species would be stressful for animals that use hearing as their primary sensory mechanism. Therefore, we assume that acoustic exposures sufficient to trigger onset PTS or TTS would be accompanied by physiological stress responses because terrestrial animals exhibit those responses under similar conditions (NRC 2003). More importantly, marine mammals might experience stress responses at received levels lower than those necessary to trigger onset TTS. Based on empirical studies of the time required to recover from stress responses (Moberg 2000), we also assume that stress responses are likely to persist beyond the time interval required for animals to recover from TTS and might result in pathological and pre-pathological states that would be as significant as behavioral responses to TTS.

5.3.3.5 Behavioral Responses

When an animal encounters humans or human activities, ranging from low-flying helicopter to the quiet wildlife photographer, an animal's response appears to follow the same economic principles used by prey when they encounter predators (Beale and Monaghan 2004, Berger *et al.* 1983, Frid 2003, Frid and Dill 2002, Gill *et al.* 2000, 2001; Gill and Sutherland 2000, 2001; Harrington and Veitch 1992, Lima 1998, Madsen 1994, Romero 2004). The level of perceived risk may result from a combination of factors that characterize disturbance stimuli, along with factors related to natural predation risk (e.g., Frid 2001, Papouchis *et al.* 2001). In response to that perceived threat, animals can experience physiological changes that prepare them for flight or fight responses or they can experience physiological changes with chronic exposure to stressors that have more serious consequences such as interruptions of essential behavioral or physiological events, alteration of an animal's time budget, or some combinations of these responses (Frid and Dill 2002, Romero 2004, Sapolsky *et al.* 2000, Walker *et al.* 2005).

The behavioral response of animals to human disturbance have been documented to cause animals to abandon nesting and foraging sites (Sutherland and Crockford 1993), cause animals to increase their activity levels and suffer premature deaths or reduced reproductive success when their energy expenditures exceed their energy budgets (Daan *et al.* 1996, Feare 1976, Giese 1996, Mullner *et al.* 2004, Waunters *et al.* 1997), or cause animals to experience higher predation rates when they adopt risk-prone foraging or migratory strategies (Frid and Dill 2002).

Based on the evidence available from empirical studies of animal responses to human disturbance, marine animals are likely to exhibit one of several behavioral responses upon being exposed to sonar transmissions:

1. they may exhibit behaviors associated with "allostasis" or physiological stress responses (see the preceding discussion under Allostasis and Boxes B1 or B2 and S of Figure 5, which illustrates the potential consequences of behavioral responses to stress);
2. they may engage in horizontal or vertical avoidance behavior to avoid exposure or continued exposure to a sound that is painful, noxious, or that they perceive as threatening (Box B1 of Figure 5) or may abandon an area;

- 3 they may respond to an acoustic exposure using evasive or escape behaviors, which a more extreme form of avoidance that is probably accompanied by physiological stress responses (see Box B2 of Figure 5);
- 4 they may continue their pre-exposure behavior and cope with the behavioral consequences of continued exposure (Box B2 of Figure 5), and
- 5 they may habituate to a sound or series of sounds or they might not perceive a potential sound as threatening (Box N of Figure 5).

In every instance, we are generally concerned about changes in an animals' pre-disturbance behavior — for example, a change from resting or foraging to horizontal or vertical avoidance — because we would generally conclude that animals that do not change their behavioral state or change the rate of particular behavioral acts are either not responding to a stimulus or any responses are physiological (for example, allostasis) rather than behavioral.

After being exposed to Navy vessels, sound fields associated with active sonar, or both, marine animals might experience one or more of these behavioral responses or they might exhibit a sequence of several of the behaviors presented in the preceding list (for example, an animal might continue its pre-disturbance behavior for a period of time, then abandon an area after it experiences the consequences of physiological stress) or one of these behaviors might accompany responses such as permanent or temporary loss in hearing sensitivity. The narratives that follow summarize the information available on these behavioral responses.

BEHAVIORAL AVOIDANCE OF INITIAL OR CONTINUED EXPOSURE. As used in this Opinion, *behavioral avoidance* refers to animals that abandon an area in which active sonar is being used to avoid being exposed to the sonar (regardless of how long it takes them to return), animals that avoid being exposed to the entire sound field produced by active sonar; and animals that avoid being exposed to particular received levels within a sound field produced by active sonar.

Richardson *et al.* (1995) noted that avoidance reactions are the most obvious manifestations of disturbance in marine mammals. There are few empirical studies of avoidance responses of free-living cetaceans to mid-frequency sonar. However, Maybaum (1993) conducted sound playback experiments to assess the effects of mid-frequency active sonar on humpback whales in Hawai'ian waters. Specifically, he exposed focal pods to sounds of a 3.3-kHz sonar pulse, a sonar frequency sweep from 3.1 to 3.6 kHz, and a control (blank) tape while monitoring the behavior, movement, and underwater vocalizations. The two types of sonar signals differed in their effects on the humpback whales, the whales exhibited avoidance behavior when exposed to both sounds. The whales responded to the pulse by increasing their distance from the sound source and responded to the frequency sweep by increasing their swimming speeds and track linearity. Bowles *et al.* (1994) reported that sperm whales appeared to have altered their distribution to avoid being exposed to the low-frequency transmissions associated with the Heard Island Feasibility Test and the whales returned when the transmissions stopped.

More recently, Kvadsheim *et al.* (2007) conducted a controlled exposure experiment in which killer whales (*Orcinus orca*) that had been fitted with D-tags were exposed to mid-frequency active sonar (Source A: a 1.0 s upsweep 209 dB @ 1 - 2 kHz every 10 seconds for 10 minutes; Source B: with a 1.0 s upsweep 197 dB @ 6 - 7 kHz every 10 s for

10 min). When exposed to Source A, a tagged whale and the group it was traveling with did not appear to avoid the source. When exposed to Source B, the tagged whales along with other whales that had been carousel feeding, ceased feeding during the approach of the sonar and moved rapidly away from the source. When exposed to Source B, Kvadsheim and his co-workers reported that a tagged killer whale seemed to try to avoid further exposure to the sound field by immediately swimming away (horizontally) from the source of the sound; by engaging in a series of erratic and frequently deep dives that seem to take it below the sound field; or by swimming away while engaged in a series of erratic and frequently deep dives. Although the sample sizes in this study are too small to support statistical analysis, the behavioral responses of the orcas were consistent with the results of other studies.

In the Caribbean, sperm whales avoided exposure to mid-frequency submarine sonar pulses, in the range 1000 Hz to 10,000 Hz (IWC 2005). Blue and fin whales have occasionally been reported in areas ensounded by airgun pulses; however, there have been no systematic analyses of their behavioral reactions to airguns. Sightings by observers on seismic vessels off the United Kingdom suggest that, at times of good sightability, the number of blue, fin, sei, and humpback whales seen when airguns are shooting are similar to the numbers seen when the airguns are not shooting (Stone 1997, 1998, 2000, 2001). However, fin and sei whale sighting rates were higher when airguns were shooting, which may result from their tendency to remain at or near the surface at times of airgun operation (Stone 2003). The analysis of the combined data from all years indicated that baleen whales stayed farther from airguns during periods of shooting (Stone 2003). Baleen whales also altered course more often during periods of shooting and more were headed away from the vessel at these times, indicating some level of localized avoidance of seismic activity (Stone 2003).

Sperm whales responded to military sonar, apparently from a submarine, by dispersing from social aggregations, moving away from the sound source, remaining relatively silent and becoming difficult to approach (Watkins *et al.* 1985). Brownell (2004) reported the behavioral responses of western gray whales off the northeast coast of Sakhalin Island to sounds produced by seismic activities in that region. In 1997, the gray whales responded to seismic activities by changing their swimming speed and orientation, respiration rates, and distribution in waters around the seismic surveys. In 2001, seismic activities were conducted in a known feeding area of these whales and the whales left the feeding area and moved to areas farther south in the Sea of Okhotsk. They only returned to the feeding area several days after the seismic activities stopped. The potential fitness consequences of displacing these whales, especially mother-calf pairs and “skinny whales,” outside of their normal feeding area is not known; however, because gray whales, like other large whales, must gain enough energy during the summer foraging season to last them the entire year. Sounds or other stimuli that cause them to abandon a foraging area for several days seem almost certain to disrupt their energetics and force them to make trade-offs like delaying their migration south, delaying reproduction, reducing growth, or migrating with reduced energy reserves.

Captive bottlenose dolphins and a white whale exhibited changes in behavior when exposed to 1 second pulsed sounds at frequencies similar to those emitted by the multi-beam sonar that is used by geophysical surveys (Ridgway *et al.* 1997, Schlundt *et al.* 2000), and to shorter broadband pulsed signals (Finneran *et al.* 2000, 2002). Behavioral changes typically involved what appeared to be deliberate attempts to avoid a sound exposure or to avoid the location of the exposure site during subsequent tests (Schlundt *et al.* 2000, Finneran *et al.* 2002). Dolphins exposed to 1-sec intense tones exhibited short-term changes in behavior above received sound levels of 178 to 193 dB re 1

μPa rms and belugas did so at received levels of 180 to 196 dB and above. Received levels necessary to elicit such responses to shorter pulses were higher (Finneran *et al.* 2000, 2002). Test animals sometimes vocalized after exposure to pulsed, mid-frequency sound from a watergun (Finneran *et al.* 2002). In some instances, animals exhibited aggressive behavior toward the test apparatus (Ridgway *et al.* 1997, Schlundt *et al.* 2000). It is not clear whether or to what degree the responses of captive animals might be representative of the responses of marine animals in the wild. For example, wild cetaceans sometimes avoid sound sources well before they are exposed to received levels such as those used in these experiments. Further, the responses of marine animals in the wild may be more subtle than those described by Ridgway *et al.* (1997) and Schlundt *et al.* (2000).

Richardson *et al.* (1995a) and Richardson (1997, 1998) used controlled playback experiments to study the response of bowhead whales in Arctic Alaska. In their studies, bowhead whales tended to avoid drill ship noise at estimated received levels of 110 to 115 dB and seismic sources at estimated received levels of 110 to 132 dB. Richardson *et al.* (1995) concluded that some marine mammals would tolerate continuous sound at received levels above 120 dB re 1 μPa for a few hours. These authors concluded that most marine mammals would avoid exposures to received levels of continuous underwater noise greater than 140 dB when source frequencies were in the animal's most sensitive hearing range.

Several authors noted that migrating whales are likely to avoid stationary sound sources by deflecting their course slightly as they approached a source (LGL and Greenridge 1987 in Richardson *et al.* 1995). Malme *et al.* (1983, 1984) studied the behavioral responses of gray whales (*Eschrichtius robustus*) that were migrating along the California coast to various sound sources located in their migration corridor. The whales they studied showed statistically significant responses to four different underwater playbacks of continuous sound at received levels of approximately 120 dB. The sources of the playbacks were typical of a drillship, semisubmersible, drilling platform, and production platform.

Morton *et al.* (2004) exposed killer whales (*Orcinus orca*) to sounds produced by acoustic harassment devices (devices that were designed to harass harbor seals, source levels were 194 dB at 10 kHz re 1 μPa at 1 meter). They concluded that observations of killer whales declined dramatically in the experimental area (Broughton Archipelago) during the time interval the harassment devices had been used (but not before or after the use). Other investigators concluded that gray whales and humpback whales abandoned some of their coastal habitat in California and Hawai'i, respectively, because of underwater noise associated with extensive vessel traffic (Gard 1974, Reeves 1977, Salden 1988).

Nowacek *et al.* (2004) conducted controlled exposure experiments on North Atlantic right whales using ship noise, social sounds of con-specifics, and an alerting stimulus (frequency modulated tonal signals between 500 Hz and 4.5 kHz). Animals were tagged with acoustic sensors (D-tags) that simultaneously measured movement in three dimensions. Whales reacted strongly to alert signals at received levels of 133-148 dB SPL, mildly to conspecific signals, and not at all to ship sounds or actual vessels. The alert stimulus caused whales to immediately cease foraging behavior and swim rapidly to the surface.

Several studies have demonstrated that cetaceans will avoid human activities such as vessel traffic, introduced sounds in the marine environment, or both. Lusseau (2003) reported that bottlenose dolphins in Doubtful Sound,

New Zealand, avoided approaching tour boats by increasing their mean diving interval. Male dolphins began to avoid tour boats before the boats were in visible range, while female dolphins only began to avoid the boats when the boats became intrusive (he attributed the differential responses to differences in energetics: the larger body size of male dolphins would allow them to compensate for the energy costs of the avoidance behavior more than female dolphins). Bejder *et al.* (2006) studied the effects of vessel traffic on bottlenose dolphins in Shark Bay, Australia, over three consecutive 4.5-year periods. They reported that the dolphins avoided the bay when two tour operators began to operate in the bay.

Marine mammals may avoid or abandon an area temporarily during periods of high traffic or noise, returning when the source of the disturbance declines below some threshold (Lusseau 2004, Allen and Read 2000). Alternatively, they might abandon an area for as long as the disturbance persists. For example, Bryant *et al.* (1984 in Polefka 2004) reported that gray whales abandoned a calving lagoon in Baja California, Mexico following the initiation of dredging and increase in small vessel traffic. After the noise-producing activities stopped, the cow-calf pairs returned to the lagoon; the investigators did not report the consequences of that avoidance on the gray whales. Gard (1974) and Reeves (1977) reported that underwater noise associated with vessel traffic had caused gray whales to abandon some of their habitat in California for several years. Salden (1988) suggested that humpback whales avoid some nearshore waters in Hawai'i for the same reason.

As Bejder *et al.* (2006) argued, animals that are faced with human disturbance must evaluate the costs and benefits of relocating to alternative locations; those decisions would be influenced by the availability of alternative locations, the distance to the alternative locations, the quality of the resources at the alternative locations, the conditions of the animals faced with the decision, and their ability to cope with or “escape” the disturbance (citing Beale and Monaghan 2004a, 2004b; Gill *et al.* 2001, Frid and Dill 2002, Lima and Dill 1990). When animals shift from one site to an alternative site, we should assume that the costs of tolerating a disturbance have exceeded any benefits of remaining in the location they are leaving.

The evidence available suggests that most marine mammals will try to avoid continued exposure to mid-frequency active sonar (or, at least, some components of the sound source), the ships associated with the active sonar, or both. However, the process of avoiding exposures can be costly to marine animals if (a) they are forced to abandon a site that is important to their life history (for example, if they are forced to abandon a feeding or calving area), (b) their flight response disrupts an important life history event (for example, reproduction), or (c) their diving pattern becomes sufficiently erratic, or if they strand or experience higher predation risk during the process of abandoning a site.

The evidence available also suggests that marine mammals might experience more severe consequences if they are compelled to avoid continued exposure to active sonar, but circumstances do not allow them to avoid or “escape” further exposure. At least six circumstances might prevent an animal's from escaping further exposure to mid-frequency active sonar and could produce any of one the following outcomes:

1. when swimming away (an attempted “escape”) brings marine mammals into a shallow coastal feature that causes them to strand;

2. they cannot swim away because the exposure occurred in a coastal feature that leaves marine mammals no “escape” route (for example, a coastal embayment or fjord that surrounds them with land on three sides, with the sound field preventing an “escape”);
3. they cannot swim away because the marine mammals are exposed to multiple sound fields in a coastal or oceanographic feature that act in concert to prevent their escape;
4. they cannot dive “below” the sound field while swimming away because of shallow depths;
5. to remain “below” the sound field, they must engage in a series of very deep dives with interrupted attempts to swim to the surface (which might lead to pathologies similar to those of decompression sickness);
6. any combination of these phenomena.

Although causal relationships between beaked whale stranding events and active sonar remain unknown, several authors have hypothesized that stranding events involving these species in the Bahamas and Canary Islands may have been triggered when the whales changed their dive behavior to avoid exposure to active sonar (Cox *et al.* 2006, Rommel *et al.* 2006). These authors proposed two mechanisms by which the behavioral responses of beaked whales upon being exposed to active sonar might result in a stranding event. First, beaked whales that occur in deep waters that are in close proximity to shallow waters (for example, the “canyon areas” that are cited in the Bahamas stranding event; see D’Spain and D’Amico 2006), may respond to active sonar by swimming into shallow waters to avoid further exposures and strand if they were not able to swim back to deeper waters.

Second, beaked whales exposed to active sonar might alter their dive behavior (see Box B1.2.1 of Figure 5). Changes in their dive behavior might cause them to remain at the surface or at depth for extended periods of time which could lead to hypoxia directly by increasing their oxygen demands or indirectly by increasing their energy expenditures (to remain at depth) and increase their oxygen demands as a result. If beaked whales are at depth when they detect a ping from an active sonar transmission and change their dive profile leading to formation of significant gas bubbles, which damage multiple organs or interfere with normal physiological function (Cox *et al.* 2006, Rommel *et al.* 2006, Zimmer and Tyack 2007).

Because many species of marine mammals make repetitive and prolonged dives to great depths, it has long been assumed that marine mammals have evolved physiological mechanisms to protect against the effects of rapid and repeated decompressions. Although several investigators have identified physiological adaptations that may protect marine mammals against nitrogen gas supersaturation (alveolar collapse and elective circulation; Kooyman *et al.* 1972; Ridgway and Howard 1979), Ridgway and Howard (1979) reported that bottlenose dolphins (*Tursiops truncatus*) that were trained to dive repeatedly had muscle tissues that were substantially supersaturated with nitrogen gas. Houser *et al.* (2001) used these data to model the accumulation of nitrogen gas within the muscle tissue of other marine mammal species and concluded that cetaceans that dive deep and have slow ascent or descent speeds would have tissues that are more supersaturated with nitrogen gas than other marine mammals.

Based on these data, Cox *et al.* (2006) hypothesized that a critical dive sequence might make beaked whales more prone to stranding in response to acoustic exposures. The sequence began with (1) very deep (to depths as deep as 2 kilometers) and long (as long as 90 minutes) foraging dives with (2) relatively slow, controlled ascents, followed by

(3) a series of “bounce” dives between 100 and 400 meters in depth (also see Zimmer and Tyack 2007). They concluded that acoustic exposures that disrupted any part of this dive sequence (for example, causing beaked whales to spend more time at surface without the bounce dives that are necessary to recover from the deep dive) could produce excessive levels of nitrogen super-saturation in their tissues, leading to gas bubble and emboli formation that produces pathologies similar to decompression sickness.

POTENTIAL FITNESS CONSEQUENCES OF BEHAVIORAL AVOIDANCE. As discussed in the introduction to this subsection of our response analyses, several authors have reported that disturbance stimuli cause animals to abandon nesting and foraging sites (Sutherland and Crookford 1993), cause animals to increase their activity levels and suffer premature deaths or reduced reproductive success when their energy expenditures exceed their energy budgets (Daan *et al.* 1996, Feare 1976, Giese 1996, Mullner *et al.* 2004, Waunters *et al.* 1997), or cause animals to experience higher predation rates when they adopt risk-prone foraging or migratory strategies (Frid and Dill 2002). Each of these studies addressed the consequences that occur when animals shift from one behavioral state (for example, resting or foraging) to another behavioral state (avoidance or escape behavior) because of human disturbance or disturbance stimuli.

If marine mammals respond to Navy vessels that are transmitting active sonar in the same way that they might respond to a predator, their probability of flight responses should increase when they perceive that Navy vessels are approaching them directly, because a direct approach may convey detection and intent to capture (Burger and Gochfeld 1981, 1990, Cooper 1997, 1998). The probability of avoidance responses should also increase as received levels of active sonar increase (and the ship is, therefore, closer) and as ship speeds increase (that is, as approach speeds increase). For example, the probability of flight responses in Dall’s sheep *Ovis dalli dalli* (Frid 2001a, 2001b), ringed seals *Phoca hispida* (Born *et al.* 1999), Pacific brant (*Branta bernicli nigricans*) and Canada geese (*B. Canadensis*) increased as a helicopter or fixed-wing aircraft approached groups of these animals more directly (Ward *et al.* 1999). Bald eagles (*Haliaeetus leucocephalus*) perched on trees alongside a river were also more likely to flee from a paddle raft when their perches were closer to the river or were closer to the ground (Steidl and Anthony 1996).

One consequence of behavioral avoidance results from changing the energetics of marine mammals because of the energy required to avoid surface vessels or the sound field associated with active sonar (Frid and Dill 2002). Most animals can avoid that energetic cost by swimming away at slow speeds or those speeds that are at or near the minimum cost of transport (Miksis-Olds 2006), as has been demonstrated in Florida manatees (Hartman 1979, Miksis-Olds 2006).

Those costs increase; however, when animals shift from a resting state, which is designed to conserve an animal’s energy, to an active state that consumes energy the animal would have conserved if they had not been disturbed. In the case of humpback whales, lactating females with calves should spend more time in a resting state because of high energetic costs of lactating and their inability to compensate for those costs by feeding (humpback whales generally do not feed in their calving areas). Marine mammals that have been disturbed by anthropogenic noise and vessel approaches are commonly reported to shift from resting behavioral states to active behavioral states, which would imply that they incur an energy cost. Morete *et al.* (2007) reported that undisturbed humpback whale cows that were accompanied by their calves were frequently observed resting while their calves circled them (milling) and

rolling interspersed with dives. When vessel approached, the amount of time cows and calves spent resting and milling, respectively declined significantly. These results are similar to those reported by Scheidat *et al.* (2004) for the humpback whales they observed off the coast of Ecuador.

Constantine and Brunton (2001) reported that bottlenose dolphins in the Bay of Islands, New Zealand only engaged in resting behavior 5 percent of the time when vessels were within 300 meters compared with 83 percent of the time when vessels were not present. Miksis-Olds (2006) and Miksis-Olds *et al.* (2005) reported that Florida manatees in Sarasota Bay, Florida, reduced the amount of time they spent milling and increased the amount of time they spent feeding when background noise levels increased. Although the acute costs of these changes in behavior are not likely to exceed an animals' ability to compensate, the chronic costs of these behavioral shifts are uncertain

Based on the evidence available, we believe the endangered whales that are being considered in this Opinion are likely to avoid being exposed to the exercises or, if they are exposed, are likely to avoid continued exposure to the exercises. Fin, humpback, sei, and sperm whales would probably be alerted to the start of an exercise by the low-frequency sounds produced by Navy surface vessels entering an area to begin an exercise. With the exception of right whales in calving area off the southeast coast, the endangered whales seem likely to try to avoid an area in which surface vessels are moving at speed are accompanied by active sonar transmissions and low-frequency sounds produced by aircraft and helicopters, sonobuoys, and submarines.

Waters of the southeast coast of the United States are an important breeding and calving area for North Atlantic right whales, however. If individual right whales try to avoid exposure to mid-frequency active sonar rather than breeding, that avoidance response would disrupt an important event in the life history and ecology of those individuals. Adult right whales with calves do not seem likely to try to avoid further exposure because they are accompanied by calves. Their inability to avoid further exposure, however, seems likely to produce stress responses (see Box S of Figure 5).

ATTENTIONAL CAPTURE. Attention is the cognitive process of selectively concentrating on one aspect of an animal's environment while ignoring other things (Posner 1994). Because animals (including humans) have limited cognitive resources, there is a limit to how much sensory information they can process at any time. The phenomenon called "attentional capture" occurs when a stimulus (usually a stimulus that an animal is not concentrating on or attending to) "captures" an animal's attention. This shift in attention can occur consciously or unconsciously (for example, when an animal hears sounds that it associates with the approach of a predator) and the shift in attention can be sudden (Dukas 2002, van Rij 2007). Once a stimulus has captured an animal's attention, the animal can respond by ignoring the stimulus, assuming a "watch and wait" posture, or treat the stimulus as a disturbance and respond accordingly, which includes scanning for the source of the stimulus or "vigilance" (Cowlshaw *et al.* 2004).

Vigilance is normally an adaptive behavior that helps animals determine the presence or absence of predators, assess their distance from conspecifics, or to attend cues from prey (Bednekoff and Lima 1998, Treves 2000). Despite those benefits, however, vigilance has a cost of time: when animals focus their attention on specific environmental cues, it is not attending to other activities such as foraging. These costs have been documented best in foraging animals, where vigilance has been shown to substantially reduce feeding rates (Saino 1994, Beauchamp and Livoreil 1997, Fritz *et al.* 2002).

Animals will spend more time being vigilant, which translates to less time foraging or resting, when disturbance stimuli approach them more directly, remain at closer distances, have a greater group size (for example, multiple surface vessels), or when they co-occur with times that an animal perceives increased risk (for example, when they are giving birth or accompanied by a calf). Most of the published literature, however, suggests that direct approaches will increase the amount of time animals will dedicate to being vigilant. For example, bighorn sheep and Dall's sheep dedicated more time being vigilant, and less time resting or foraging, when aircraft made direct approaches over them (Frid 2001, Stockwell *et al.* 1991).

Several authors have established that long-term and intense disturbance stimuli can cause population declines by reducing the body condition of individuals that have been disturbed, followed by reduced reproductive success, reduced survival, or both (Daan *et al.* 1996, Madsen 1994, White 1983). For example, Madsen (1994) reported that pink-footed geese (*Anser brachyrhynchus*) in undisturbed habitat gained body mass and had about a 46% reproductive success compared with geese in disturbed habitat (being consistently scared off the fields on which they were foraging) which did not gain mass and has a 17% reproductive success. Similar reductions in reproductive success have been reported for mule deer (*Odocoileus hemionus*) disturbed by all-terrain vehicles (Yarmoloy *et al.* 1988), caribou disturbed by seismic exploration blasts (Bradshaw *et al.* 1998), caribou disturbed by low-elevation military jet-fights (Luick *et al.* 1996), and caribou disturbed by low-elevation jet flights (Harrington and Veitch 1992). Similarly, a study of elk (*Cervus elaphus*) that were disturbed experimentally by pedestrians concluded that the ratio of young to mothers was inversely related to disturbance rate (Phillips and Alldredge 2000).

The primary mechanism by which increased vigilance and disturbance appear to affect the fitness of individual animals is by disrupting an animal's time budget and, as a result, reducing the time they might spend foraging and resting (which increases an animal's activity rate and energy demand). For example, a study of grizzly bears (*Ursus horribilis*) reported that bears disturbed by hikers reduced their energy intake by an average of 12 kcal/min (50.2×10^3 kJ/min), and spent energy fleeing or acting aggressively toward hikers (White *et al.* 1999).

Nevertheless, other investigators concluded that when food handling does not require visual attention, a foraging animal can avoid the energetic costs and costs in time associated with vigilance (Bednekoff and Lima 1998, Cowlshaw *et al.* 2004, Lima 1988). In these cases, however, the foraging animals relied on one sensory modality (vision) to detect food and another sensory modality (hearing) to remain aware of the approximate location and proximity of potential predators. We assume that endangered or threatened marine animals that might be foraging along the Atlantic Coast of the U.S. and in the Gulf of Mexico would be able to remain aware of the number of surface vessels, proximity, speed, and approach vector through acoustic cues while foraging when they are not proximate to the ships (at distances that would normally cause them to avoid rather than evade the ships). At distances that might elicit evasive or escape behavior, however, we assume that endangered or threatened marine mammals would dedicate most or all of their attention on the vessels. Although we cannot discount interrupted foraging caused by vigilance behavior, marine mammals along the Atlantic Coast of the U.S. and in the Gulf of Mexico seem more likely to experience disrupted foraging during attempts to evade approaching surface vessels or received levels of active sonar than because of vigilance behavior.

CONTINUED PRE-DISTURBANCE BEHAVIOR, HABITUATION, OR NO RESPONSE (Box B2 of Figure 5). Under some circumstances, some of individuals that are exposed to active sonar transmissions will continue their normal

behavioral activities; in other circumstances, individual animals will become aware of the sonar transmissions at lower received levels and move to avoid additional exposure or exposures at higher received levels (Richardson *et al.* 1995).

It is difficult to distinguish between animals that continue their pre-disturbance behavior without stress responses, animals that continue their behavior but experience stress responses (that is, animals that cope with disturbance), animals that habituate to disturbance (that is, they may have experienced low-level stress responses initially, but those responses abated over time), and animals that do not respond to the potential disturbance.

Watkins (1986) reviewed data on the behavioral reactions of fin, humpback, right and minke whales that were exposed to continuous, broadband low-frequency shipping and industrial noise in Cape Cod Bay. He concluded that underwater sound was the primary cause of behavioral reactions in these species of whales and that the whales responded behaviorally to acoustic stimuli within their respective hearing ranges. Watkins also noted that whales showed the strongest behavioral reactions to sounds in the 15 Hz to 28 kHz range, although negative reactions (avoidance, interruptions in vocalizations, etc.) were generally associated with sounds that were either unexpected, too loud, suddenly louder or different, or perceived as being associated with a potential threat (such as an approaching ship on a collision course). In particular, whales seemed to react negatively when they were within 100 m of the source or when received levels increased suddenly in excess of 12 dB relative to ambient sounds. At other times, the whales ignored the source of the signal and all four species habituated to these sounds.

Nevertheless, Watkins concluded that whales ignored most sounds in the background of ambient noise, including the sounds from distant human activities even though these sounds may have had considerable energies at frequencies well within the whale's range of hearing. Further, he noted that fin whales were initially the most sensitive of the four species of whales, followed by humpback whales; right whales were the least likely to be disturbed and generally did not react to low-amplitude engine noise. By the end of his period of study, Watkins (1986) concluded that fin and humpback whales have generally habituated to the continuous, broad-band, noise of Cape Cod Bay while right whales did not appear to change their response.

Aicken *et al.* (2005) monitored the behavioral responses of marine mammals to a new low-frequency active sonar system that was being developed for use by the British Navy. During those trials, fin whales, sperm whales, Sowerby's beaked whales, long-finned pilot whales (*Globicephala melas*), Atlantic white-sided dolphins, and common bottlenose dolphins were observed and their vocalizations were recorded. These monitoring studies detected no evidence of behavioral responses that the investigators could attribute to exposure to the low-frequency active sonar during these trials (some of the responses the investigators observed may have been to the vessels used for the monitoring).

5.3.3.6 Stranding Events

In what follows, we address the evidence bearing on assertions from several NGOs and scientific investigator that low-frequency active sonar causes marine mammals to "strand." Some authors seemed to have contradicted themselves by first publishing articles that initially identified low frequency active sonar as the "cause" of marine mammal stranding events in the Canary Islands and the Mediterranean Sea, then later publishing articles that identify

mid-frequency active sonar as the “cause” of those stranding events after the Bahamas stranding report became available. These causal claims are incoherent: the beaked whale stranding events had a causal association with either low frequency active sonar, mid-frequency active sonar, a combination of the two, or neither of the two. The earlier claims (for example, Frantis 1998) asserting low-frequency active sonar as causal are not compatible with the revised claims of a causal relationship between the stranding events and mid-frequency active sonar. As of the date of this Opinion, none of these authors have published retractions, corrections, or clarifications of their published arguments on whether they believe exposure to low-frequency active sonar, mid-frequency active sonar, or both, caused the stranding events or was a contributing cause of those events.

Despite the small number of instances in which marine mammal stranding events have been associated with mid-frequency active sonar usage and despite the fact that none of these stranding events involved endangered or threatened species, the amount of controversy that surrounds this issue requires us to address it. For these analyses, we defined a “stranded marine mammal” as “any dead marine mammal on a beach or floating nearshore; any live cetacean on a beach or in water so shallow that it is unable to free itself and resume normal activity; any live pinniped which is unable or unwilling to leave the shore because of injury or poor health” (Gulland *et al.* 2001, Wilkinson 1991).

Marine mammals are known to strand for a variety of reasons, although the cause or causes of most stranding are unknown (Geraci *et al.* 1976, Eaton 1979, Odell *et al.* 1980, Best 1982). Klinowska (1985, 1986) correlated marine mammal stranding events and geomagnetism and geomagnetic disturbance. Numerous other studies suggest that the physiology, behavior, habitat relationships, age, or condition of cetaceans may cause them to strand or might predispose them to strand when exposed to another phenomenon. For example, several studies of stranded marine mammals suggest a linkage between unusual mortality events and body burdens of toxic chemicals in the stranded animals (Kajiwara *et al.* 2002, Kuehl and Haebler 1995, Mignucci-Giannoni *et al.* 2000). These suggestions are consistent with the conclusions of numerous other studies that have demonstrated that combinations of dissimilar stressors commonly combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other does not produce the same result (Chroussos 2000, Creel 2005, DeVries *et al.* 2003, Fair and Becker 2000, Foley *et al.* 2001, Moberg 2000, Relyea 2005a, 2005b, Romero 2004, Sih *et al.* 2004).

Those studies suggest that, in many animal species, disease, reproductive state, age, experience, stress loading, energy reserves, and genetics combine with other stressors like body burdens of toxic chemicals to create fitness consequences in individual animals that would not occur without these risk factors. The contribution of these potential risk factors to stranding events (or causal relationships between these risk factors and stranding events) is still unknown, but the extensive number of published reports in the literature suggests that an experimental investigation into a causal relationship is warranted.

Over the past three decades, several “mass stranding” events — stranding events that involve two or more individuals of the same species (excluding a single cow-calf pair) — that have occurred over the past two decades have been associated with naval operations, seismic surveys, and other anthropogenic activities that introduce sound into the marine environment.

Although only one of these events involved threatened or endangered species, we analyzed the information available on stranding events to determine if listed cetaceans are likely to strand following an exposure to mid-frequency active sonar. To conduct these analyses, we searched for and collected any reports of mass stranding events of marine mammals and identified any causal agents that were associated with those stranding events.

Global Stranding Patterns

Several sources have published lists of mass stranding events of cetaceans during attempts to identify relationships between those stranding events and military sonar (Hildebrand 2004, IWC 2005, Taylor *et al.* 2004). For example, based on a review of stranding records between 1960 and 1995, the International Whaling Commission (2005) identified ten mass stranding events of Cuvier's beaked whales had been reported and one mass stranding of four Baird's beaked whale (*Berardius bairdii*). The IWC concluded that, out of eight stranding events reported from the mid-1980s to the summer of 2003, seven had been associated with the use of mid-frequency sonar, one of those seven had been associated with the use of low-frequency sonar, and the remaining stranding event had been associated with the use of seismic airguns.

Taxonomic Patterns

Most of the stranding events reviewed by the International Whaling Commission involved beaked whales. A mass stranding of Cuvier's beaked whales (*Ziphius cavirostris*) in the eastern Mediterranean Sea occurred in 1996 (Franzis 1998) and mass stranding events involving Gervais' beaked whales (*Mesoplodon europaeus*), de Blainville's dense-beaked whales (*M. densirostris*), and Cuvier's beaked whales occurred off the coast of the Canary Islands in the late 1980s (Simmonds and Lopez-Jurado 1991). Other stranding events of beaked whales have also occurred in the Bahamas and Canary Islands (which included Gervais' beaked whales, *Mesoplodon europaeus*, de Blainville's dense-beaked whales, *M. densirostris*, and Cuvier's beaked whales; Simmonds and Lopez-Jurado 1991). The stranding events that occurred in the Canary Islands and Kyparissiakos Gulf in the late 1990s and the Bahamas in 2000 have been the most intensively-studied mass stranding events and have been associated with naval maneuvers that were using sonar. These investigations did not evaluate information associated with the stranding of Cuvier's beaked whales, *Ziphius cavirostris*, around Japan (IWC Scientific Committee 2005).

Between 1960 and 2006, 48 (68%) involved beaked whales, 3 (4%) involved dolphins, and 14 (20%) involved whale species. Cuvier's beaked whales were involved in the greatest number of these events (48 or 68%), followed by sperm whales (7 or 10%), and Blainville and Gervais' beaked whales (4 each or 6%). Naval activities that might have involved active sonar are reported to have coincided with 9 (13%) or 10 (14%) of those stranding events. Between the mid-1980s and 2003 (the period reported by the International Whaling Commission), we identified reports of 44 mass cetacean stranding events of which at least 7 have been correlated with naval exercises that were using mid-frequency sonar.

Stranding events involving baleen whales (blue, bowhead, Bryde's, fin, gray, humpback, minke, right, and sei whales) and stranding events involving sperm whales have very different patterns than those of beaked whales and other smaller cetaceans. First, mass stranding events of baleen whales are very rare. Fourteen humpback whales stranded on the beaches of Cape Cod, Massachusetts between November 1987 and January 1988 (Geraci *et al.* 1989); however, that stranding event has been accepted as being caused by neurotoxins in the food of the whales. In

1993, three humpback whales stranded on the east coast of Sao Vicente Island in the Cape Verde Archipelago, but they were in an advanced state of decay when they stranded so their cause of death remains unknown (Reiner *et al.* 1996). Finally, two minke whales (*Balaenoptera acutirostra*) stranded during the mass stranding event in the Bahamas in 2000 (see further discussion of this stranding event below) and is noteworthy because it the only mass stranding of baleen whales that has coincided with the Navy's use of mid-frequency active sonar and because there are so few mass stranding events involving baleen whales.

Sperm whales, however, commonly strand and commonly strand in groups. Our earliest record of a mass stranding of sperm whales is for six sperm whales that stranded in Belgium in 1403 or 1404 (De Smet 1997). Since then, we have identified 85 mass stranding events involving sperm whales have been reported. Of those 85 mass stranding events, 29 represent stranding events that occurred before 1958; 25 of those 29 (about 34%) stranding events occurred before 1945 (which would pre-date the use of this mid-frequency active sonar). Ten of these stranding events involved sperm whales and long-finned pilot whales (*Globicephala melas*). These mass stranding events have been reported in Australia, Europe, North America, Oceania, and South America.

Major Mass Stranding Events

In 1998, the North Atlantic Treaty Organization (NATO) Supreme Allied Commander, Atlantic Center Undersea Research Centre that conducted the sonar tests convened panels to review the data associated with the maneuvers in 1996 and beaked whale stranding events in the Mediterranean Sea. The report of these panels presented more detailed acoustic data than were available for beaked whales stranded in the Canary Islands (SACLANTCEN 1998). The NATO sonar transmitted two simultaneous signals lasting four seconds and repeating once every minute.

The simultaneous signals were broadcast at source levels of just under 230 dB re 1 μ Pa at 1 m. One of the signals covered a frequency range from 450-700 Hz and the other one covered 2.8-3.3 kHz. The *Ziphius* stranding events in the Kyparissiakos Gulf occurred during the first two sonar runs on each day of 12 and 13 May 1996. The close timing between the onset of sonar transmissions and the first stranding events suggests closer synchrony between the onset of the transmissions and the stranding events than was presented in Frantzis (1998). However, the Bioacoustics Panel convened by NATO concluded that the evidence available did not allow them to accept or reject sonar exposures as a causal agent in these stranding events. Their official finding was "An acoustic link can neither be clearly established nor eliminated as a direct or indirect cause for the May 1996 strandings."

KYPARISSIAKOS GULF, GREECE (1996). Frantzis (1998) reported an 'atypical' mass stranding of 12 Cuvier's beaked whales on the coast of Greece that was associated with acoustic trials by vessels from the North Atlantic Treaty Organisation (NATO). He was the first to hypothesize that these stranding events were related to exposure to low-frequency military sonar. However, the sonar in question produced both low- and mid-frequency signals (600Hz, 228 dB SPL re: 1 μ Pa at 1m rms and 3kHz, 226 dB SPL, D'Amico and Verboom, 1998). Frantzis' hypothesis prompted an in-depth analysis of the acoustic activity during the naval exercises, the nature of the stranding events and the possibility that the acoustic source was related to the stranding events (D'Amico and Verboom, 1998). Since full necropsies had not been conducted and no gross or histological abnormalities were noted, the cause of the stranding events could not be determined unequivocally (D'Amico and Verboom, 1998). The analyses thus provided

some support but no clear evidence for the hypothesized cause-and-effect relationship of sonar operations and stranding events.

BAHAMAS (2000). Concern about potential causal relationships between low-frequency sonar and marine mammal stranding resurfaced after a beaked whale stranding in the Bahamas in 2000. Fox *et al.* (2001) ruled out natural sound sources as a possible cause of the stranding, which pointed to an anthropogenic source. In 2001, the *Joint Interim Report, Bahamas Marine Mammal Stranding Event of 14-16 March 2000* (U.S. Department of Commerce and Secretary of the Navy 2001) exonerated the low-frequency sonar but concluded that “tactical mid-range frequency sonar onboard U.S. Navy ships that were in use during the sonar exercise in question were the most plausible source of this acoustic or impulse trauma.” The report also went on to conclude, “the cause of this stranding event was the confluence of Navy tactical mid-range frequency sonar and the contributory factors acting together.” The contributory factors identified included “a complex acoustic environment that included the presence of a strong surface duct, unusual underwater bathymetry, intensive use of multiple sonar over an extended period of time, a constricted channel with limited access, and the presence of beaked whales that appear to be sensitive to the frequencies produced by these sonars.”

MADEIRA, SPAIN (2000). The stranding in the Bahamas was soon followed by another atypical mass stranding of Cuvier’s beaked whales in the Madeira Islands. Between 10 and 14 May 2000, three Cuvier’s beaked whales stranded on two islands in the Madeira archipelago. NATO naval exercises involving multiple ships occurred concurrently with these stranding events, although NATO has thus far been unwilling to provide information on the sonar activity during their exercises. Only one of the stranded animals was marginally fresh enough for a full necropsy (24 hours post-stranding). The necropsy revealed evidence of haemorrhage and congestion in the right lung and both kidneys (Freitas, 2004), as well as evidence of intracochlear and intracranial haemorrhage similar to that observed in the Bahamas beaked whales (D. Ketten, unpublished data).

CANARY ISLANDS (2002). In September 2002, a beaked whale stranding event occurred in the Canary Islands. On 24 September, 14 beaked whales (7 Cuvier’s beaked whales, 3 Blainville’s beaked whales, 1 Gervais’ beaked whale, *M. europaeus*, and 3 unidentified beaked whales) stranded on the beaches of Fuerteventura and Lanzarote Islands, close to the site of an international naval exercise (called Neo-Tapon 2002) held that same day. The first animals are reported to have stranded about four hours after the onset of the use of mid-frequency sonar activity (3- 10kHz, D’Spain *et al.* 2006; Jepson *et al.* 2003). Seven whales (1 female Blainville’s beaked whale, 1 female Gervais’ beaked whale and 5 male Cuvier’s beaked whales) are known to have died that day (Fernández *et al.* 2005). The remaining seven live whales were returned to deeper waters. Over the next three days, three male and one female Cuvier’s beaked whales were found dead and a carcass of an unidentified beaked whale was seen floating offshore.

A total of nine Cuvier’s beaked whales, one Blainville’s beaked whale and one Gervais’ beaked whale were examined post mortem and studied histopathologically (one Cuvier’s beaked whale carcass was lost to the tide). No inflammatory or neoplastic processes were noted grossly or histologically and no pathogens (e.g. protozoa, bacteria and viruses, including morbillivirus) were identified. Stomach contents were examined in seven animals and six of them had recently eaten, possibly indicating that the event(s) leading to their deaths had had a relatively sudden onset (Fernández *et al.* 2005). Macroscopic examination revealed that the whales had severe, diffuse congestion and haemorrhages, especially in the fat in the jaw, around the ears, in the brain (e.g. multifocal subarachnoid

haemorrhages) and in the kidneys (Fernandez, 2004; Fernandez *et al.* 2004). Gas bubble-associated lesions were observed in the vessels and parenchyma (white matter) of the brain, lungs, subcapsular kidney veins and liver; fat emboli were observed in epidural veins, liver sinusoids, lymph nodes and lungs (Jepson *et al.* 2003; Fernandez, 2004; Fernandez *et al.* 2004; 2005). After the event, researchers from the Canary Islands examined past stranding records and found reports of eight other stranding events of beaked whales in the Canaries since 1985, at least five of which coincided with naval activities offshore (Martín *et al.* 2004).

GULF OF CALIFORNIA (2002). In September 2002, marine mammal researchers vacationing in the Gulf of California, Mexico discovered two recently deceased Cuvier's beaked whales on an uninhabited island. They were not equipped to conduct necropsies and in an attempt to contact local researchers, found that a research vessel had been conducting seismic surveys approximately 22km offshore at the time that the stranding events occurred (Taylor *et al.* 2004). The survey vessel was using three acoustic sources: (1) seismic air guns (5-500Hz, 259dB re: 1mPa Peak to Peak (p-p); Federal Register, 2003); (2) sub-bottom profiler (3.5kHz, 200dB SPL; Federal Register, 2004); and (3) multi-beam sonar (15.5kHz, 237dB SPL; Federal Register, 2003). Whether or not this survey caused the beaked whales to strand has been a matter of debate because of the small number of animals involved and a lack of knowledge regarding the temporal and spatial correlation between the animals and the sound source. This stranding underlines the uncertainty regarding which sound sources or combinations of sound sources may cause beaked whales to strand. Although some of these stranding events have been reviewed in government reports or conference proceedings (e.g. Anonymous 2001, Evans and Miller 2004), many questions remain. Specifically, the mechanisms by which beaked whales are affected by sound remain unknown. A better understanding of these mechanisms will facilitate management and mitigation of sound effects on beaked whales.

As a result, in April 2004, the United States' Marine Mammal Commission convened a workshop of thirty-one scientists from a diverse range of relevant disciplines (e.g. human diving physiology and medicine, marine mammal ecology, marine mammal anatomy and physiology, veterinary medicine and acoustics) to explore issues related to the vulnerability of beaked whales to anthropogenic sound. The purpose of the workshop was to (1) assess the current knowledge of beaked whale biology and ecology and recent beaked whale mass stranding events; (2) identify and characterize factors that may have caused the stranding events; (3) identify ways to more adequately investigate possible cause and effect relationships; and (4) review the efficacy of existing monitoring and mitigation methods. This paper arose out of the discussions at that workshop.

HANAIEI BAY, KAUA'I, HAWAI'I (2004). On 3 – 4 July 2004, between 150 and 200 melon-headed whales (*Peponocephala electra*) occupied the shallow waters of Hanalei Bay, Kaua'i, Hawai'i for over 28 hours. These whales, which are usually pelagic, milled in the shallow confined bay and were returned to deeper water with human assistance. The whales are reported to have entered the Bay in a single wave formation on July 3, 2004, and were observed moving back into shore from the mouth of the Bay shortly thereafter. On the next morning, the whales were herded out of the Bay with the help of members of the community, the Hanalei Canoe Club, local and Federal employees, and staff and volunteers with the Hawai'ian Islands Stranding Response Group and were out of visual sight later that morning.

One whale, a calf, had been observed alive and alone in Hanalei Bay on the afternoon of 4 July 2004 and was found dead in the Bay the morning of 5 July 2004. A full necropsy performed on the calf could not determine the cause of

its death, although the investigators concluded that maternal separation, poor nutritional condition, and dehydration was probably a contributing factor in the animal's death.

Environmental factors, abiotic and biotic, were analyzed for any anomalous occurrences that would have contributed to the animals entering and remaining in Hanalei Bay. The bathymetry in the bay is similar to many other sites in the Hawai'ian Island chain and dissimilar to that which has been associated with mass stranding events in other parts of the U.S. The weather conditions appeared to be normal for the time of year with no fronts or other significant features noted. There was no evidence for unusual distribution or occurrence of predator or prey species or unusual harmful algal blooms. Weather patterns and bathymetry that have been associated with mass stranding events elsewhere were not found to occur in this instance.

This stranding event was spatially and temporally correlated with 2004 Rim of the Pacific exercises. Official sonar training and tracking exercises in the Pacific Missile Range Facility warning area did not commence until about 0800 hrs (local time) on 3 July and were ruled out as a possible trigger for the initial movement into Hanalei Bay. However, the six naval surface vessels transiting to the operational area on 2 July had been intermittently transmitting active mid-frequency sonar [for ~9 hours total] as they approached from the south. After ruling out other phenomena that might have caused this stranding, NMFS concluded that the active sonar transmissions associated with the 2004 Rim of the Pacific exercise were a plausible contributing causal factor in what may have been a confluence of events. Other factors that may have contributed to the stranding event include the presence of nearby deep water, multiple vessels transiting in a directed manner while transmitting active sonar over a sustained period, the presence of surface sound ducting conditions, or intermittent and random human interactions while the animals were in the Bay.

OTHER MASS STRANDING EVENTS. Several unusual stranding events have also occurred in Chinese waters in 2004 during a period when large-scale naval exercises were taking place in nearby waters south of Taiwan (IWC 2005). Between 24 February and 10 March 2004, 9-10 short-finned pilot whales (*Globicephala macrorhynchus*), one ginkgo-toothed beaked whale (*Mesoplodon ginkgodens*), one striped dolphin (*Stenella coeruleoalba*), seven short-finned pilot whales, and one short-finned pilot whale were reported to have stranded. The stranding events were unusual (with respect to the species involved) compared to previous stranding records since 1994 for the region. Gross examination of the only available carcass, a ginkgo-toothed beaked whale, revealed many unusual injuries to structures that are associated with, or related to acoustics or diving. The injuries, the freshness of the carcass, its discovery location and the coincidence of the event with a military exercise suggest that this beaked whale died from acoustic or blast trauma that may have been caused by exposure to naval activities south of Taiwan. Taiwanese newspapers reported that live ammunition was used during these exercises. At the same time, natural phenomena that might cause whales to strand – such as earthquakes and underwater volcanoes – have not been ruled out in these cases.

Association Between Mass Stranding Events and Exposure to Active Sonar

Several authors have noted similarities between some of these stranding incidents: they occurred in islands or archipelagoes with deep water nearby, several appeared to have been associated with acoustic waveguides like surface ducting, and the sound fields created by ships transmitting mid-frequency sonar (Cox *et al.* 2006, D'Spain *et*

al. 2006). Although Cuvier's beaked whales have been the most common species involved in these stranding events (81% of the total number of stranded animals and see Figure 1), other beaked whales (including *Mesoplodon europaeus*, *M. densirostris*, and *Hyperoodon ampullatus*) comprise 14% of the total. Other species (*Stenella coeruleoalba*, *Kogia breviceps* and *Balaenoptera acutorostrata*) have stranded, but in much lower numbers and less consistently than beaked whales.

Based on the evidence available, however, we cannot determine whether (a) *Ziphius cavirostris* is more prone to injury from high-intensity sound than other species, (b) their behavioral responses to sound makes them more likely to strand, or (c) they are more likely to be exposed to mid-frequency active sonar than other cetaceans (for reasons that remain unknown). Because the association between active sonar exposures and marine mammals mass stranding events is not consistent — some marine mammals strand without being exposed to sonar and some sonar transmissions are not associated with marine mammal stranding events despite their co-occurrence — other risk factors or a groupings of risk factors probably contribute to these stranding events.

STRANDING PATTERNS ASSOCIATED WITH RIM OF THE PACIFIC EXERCISES IN HAWAI'I. Nitta (1991) reported that between 1936 and 1988, 8 humpback whales, 1 fin whale, and 5 sperm whales stranded in the Hawai'ian Archipelago. In a partial update of that earlier report, Maldini *et al.* (2005) identified 202 toothed cetaceans that had stranded between 1950 and 2002. Sperm whales represented 10 percent of that total. Until recently, however, there has been no correlation between the number of known stranding events and the Navy's anti-submarine training exercises in Hawai'i. The number of stranding events have increased over time, but the number of stranding events in the main Hawai'ian Islands recorded between 1937 and 2002 is low compared with other geographic areas (although this may be an result of having large areas of coastline where no people or few people can report a stranding). Known stranding events also occurred in all months with no significant temporal trend (Maldini *et al.* 2005).

The Navy has conducted Rim of the Pacific exercises every second year since 1968 and anti-submarine warfare activities have occurred in each of the 19 exercises that have occurred thus far. This observation supports several different inferences. One line of reasoning is: if the mid-frequency sonar employed during those exercises killed or injured whales whenever the whales encountered the sonar, mass stranding events are likely to have occurred at least once or twice over the 38-year period since 1968. With one exception, there is little evidence of a pattern in the record of stranding events reported for the main Hawai'ian Islands.

A second line of reasoning leads to a very different conclusion: the absence of reports of stranding events may result from the small number of people searching for stranded animals relative to the coastline of Hawai'i — although stranding events have been reported in the Hawai'ian Islands since 1937, no toothed whales were reported until 1950 — or it may be because only a fraction of the whales that are killed or injured in Hawai'ian waters strand (as opposed to sinking, being transported to the open ocean by the strong currents that flow across the northern shore of the islands, or being eaten by predators like sharks). Faerber and Baird (2007) presented evidence that supports this inference. They compared patterns of beaked whale stranding events in the Canary Islands and the main Hawai'ian Islands (they compared water depths immediately adjacent to shore, accessibility of shorelines, and population densities relative to land area and amount of shoreline) and concluded that beaked whales were less likely to strand in the main Hawai'ian Islands and were not likely to be detected if they did strand.

Finally, the apparent absence of stranding events coincident with the 38 years of antisubmarine warfare training exercises in waters off the main Hawai’ian islands could also suggest that mid-frequency sonar transmissions pose a hazard to cetaceans in some circumstances, but not others (for example, see the discussion under *Behavioral Avoidance*).

The Probable Responses of Listed Species to Mid-Frequency Active Sonar

As discussed previously, many of the training activities the U.S. Navy proposes to conduct in the Northeast Operating Areas, Virginia Capes Range Complex, Cherry Point Range Complex, and Jacksonville Range Complex are interrelated with active sonar training activities the U.S. Navy conducts along the Atlantic Coast of the United States. For example, mine countermeasures training, composite training unit exercises, and joint task force exercises involve combinations of ordnance discussed throughout this Opinion and the active sonar systems discussed in our 2009 Opinions on the Atlantic Fleet Active Sonar Training. As a result, the active sonar training activities we considered in our 2009 Opinions are interrelated with the proposed actions that are the primary focus of this Opinion. The discussion in this section of our Opinion reflects information contained in the Effects of the Action section of our 2009 Opinion on the U.S. Navy’s Atlantic Fleet Active Sonar Training.

Based on the evidence available, the mid-frequency sonars associated with the active sonar training activities the U.S. Navy intends to conduct along the Atlantic Coast of the U.S. and in the Gulf of Mexico over the next five years are not likely to kill or injure threatened or endangered marine mammals. However, little is known about the effect of short-term disruptions of a marine mammal’s normal behavior (Richardson *et al.* 1995). Most of the evidence available suggests that most sources of disturbance do not directly kill or injure marine mammals. The evidence available also does not lead us to expect threatened or endangered cetaceans to strand or suffer resonance effects from the mid-frequency sonars associated with the ASW exercises that the U.S. Navy plans to conduct along the Atlantic Coast of the U.S. and in the Gulf of Mexico.

BLUE WHALES. Based on the U.S. Navy’s exposure models, each year we expect about 800 instances in which blue whales might be exposed to active sonar associated with AFAST training activities and be “taken” as a result of that exposure (see Table 17). All of these exposure events are likely to occur in the Northeast Operating Area, which means they are likely to result from exposure to active sonar associated with submarines and maritime patrol aircraft (see Table 15).

Blue whales are not likely to respond to high-frequency sound sources associated with the proposed training activities. Although blue whales appear to be able to hear mid-frequency (1 kHz–10 kHz) sounds, sounds in this frequency range lie at the periphery of their hearing range and they are less likely to devote attentional resources to stimuli in this frequency range. Blue whales vocalizations include a variety of sounds described as low frequency moans or long pulses in the 10-100 Hz band (Cummings and Thompson 1971; Edds 1982; Thompson and Friedl 1982; McDonald *et al.* 1995; Clark and Fristrup 1997; Rivers 1997). The most typical signals are very long, patterned sequences of tonal infrasonic sounds in the 15-40 Hz range. Ketten (1997) reports the frequencies of maximum energy between 12 and 18 Hz. Short sequences of rapid calls in the 30-90 Hz band are associated with animals in social groups (Clark personal observation and McDonald personal communication cited in Ketten 1997). The context for the 30-90 Hz calls suggests that they are used to communicate but do not appear to be related to

reproduction. Blue whale moans within the frequency range of 12.5-200 Hz, with pulse duration up to 36 seconds, have been recorded off Chile (Cummings and Thompson 1971). The whale produced a short, 390 Hz pulse during the moan. Based on this information blue whales exposed to received levels of active mid-frequency sonar are not likely to respond physiologically or behaviorally to sounds in this frequency range.

PROBABLE RESPONSE OF FIN WHALES. Based on the U.S. Navy's exposure models, each year we expect about 880 instances in which fin whales might be exposed to active sonar associated with AFAST training activities and be "taken" as a result of that exposure (see Table 17). Like blue whales, all of these exposure events are likely to occur in the Northeast Operating Area, which means they are likely to result from exposure to active sonar associated with submarines and maritime patrol aircraft (see Table 15).

Fin whales are not likely to respond to high-frequency sound sources associated with the proposed training activities and the evidence available suggests they are not likely to respond to mid-frequency sound sources as well. As discussed in the *Status of the Species* section of this Opinion, fin whales produce a variety of low-frequency sounds in the 10-200 Hz band (Watkins 1981; Watkins *et al.* 1987a; Edds 1988; Thompson *et al.* 1992). The most typical signals are long, patterned sequences of short duration (0.5-2s) infrasonic pulses in the 18-35 Hz range (Patterson and Hamilton 1964). Estimated source levels are as high as 190 dB (Patterson and Hamilton 1964; Watkins *et al.* 1987a; Thompson *et al.* 1992; McDonald *et al.* 1995). In temperate waters intense bouts of long patterned sounds are very common from fall through spring, but also occur to a lesser extent during the summer in high latitude feeding areas (Clark and Charif 1998). Short sequences of rapid pulses in the 20-70 Hz band are associated with animals in social groups (McDonald *et al.* 1995). Each pulse lasts on the order of one second and contains twenty cycles (Tyack 1999). This information would lead us to conclude that fin whales exposed to these received levels of active mid-frequency sonar are not likely to respond if they are exposed to mid-frequency (1 kHz-10 kHz) sounds.

PROBABLE RESPONSE OF HUMPBACK WHALES. Based on the U.S. Navy's exposure models, each year we would expect about 4,172 instances in which humpback whales might be exposed to active sonar associated with AFAST training activities and be "taken" as a result of that exposure (see Table 17). Unlike blue and fin whales, some of these exposure events are likely to occur in all Operating Area along the Atlantic coast of the United States and in the Gulf of Mexico (see Table 15).

There is almost no empirical information available on how humpback whales respond to active sonar exposures. The 68 humpback whales that were observed during monitoring surveys associated with the March 2008 Undersea Warfare Exercises in the Hawaiian Islands reported that none of the marine animals observed from survey vessels or aircraft exhibited unusual behavior or changes in behavior during the surveys.

As discussed in the *Status of the Species* narrative for humpback whales, these whales produce a wide variety of sounds. During the breeding season males sing long, complex songs, with frequencies in the 25-5000 Hz range and intensities as high as 181 dB (Payne 1970, Thompson *et al.* 1986, Winn *et al.* 1970). Source levels average 155 dB and range from 144 to 174 dB (Thompson *et al.* 1979). The songs appear to have an effective range of approximately 10 to 20 km. Animals in mating groups produce a variety of sounds (Silber 1986, Tyack 1981; Tyack and Whitehead 1983).

Humpback whales produce sounds less frequently in their summer feeding areas. Feeding groups produce distinctive sounds ranging from 20 Hz to 2 kHz, with median durations of 0.2-0.8 seconds and source levels of 175-192 dB (Thompson *et al.* 1986). These sounds are attractive and appear to rally animals to the feeding activity (D'Vincent *et al.* 1985, Sharpe and Dill 1997). In summary, humpback whales produce at least three kinds of sounds:

1. Complex songs with components ranging from at least 20Hz – 4 kHz with estimated source levels from 144 – 174 dB; these are mostly sung by males on the breeding grounds (Payne 1970; Winn *et al.* 1970a; Richardson *et al.* 1995)
2. Social sounds in the breeding areas that extend from 50Hz – more than 10 kHz with most energy below 3kHz (Tyack and Whitehead 1983, Richardson *et al.* 1995); and
3. Feeding area vocalizations that are less frequent, but tend to be 20Hz – 2 kHz with estimated sources levels in excess of 175 dB re 1 uPa-m (Thompson *et al.* 1986, Richardson *et al.* 1995). Sounds often associated with possible aggressive behavior by males (Silber 1986, Tyack 1983) are quite different from songs, extending from 50 Hz to 10 kHz (or higher), with most energy in components below 3 kHz. These sounds appear to have an effective range of up to 9 km (Tyack and Whitehead 1983).

More recently, Au *et al.* (2006) conducted field investigations of humpback whale songs led these investigators to conclude that humpback whales have an upper frequency limit reaching as high as 24 kHz. Based on this information, it is reasonable to assume that the active mid-frequency sonar the U.S. Navy would employ during the active sonar training activities the U.S. Navy proposes to conduct in the Action Area are within the hearing and vocalization ranges of humpback whales. There is limited information on how humpback whales are likely to respond upon being exposed to mid-frequency active sonar (most of the information available addresses their probable responses to low-frequency active sonar or impulsive sound sources). Humpback whales responded to sonar in the 3.1–3.6 kHz by swimming away from the sound source or by increasing their velocity (Maybaum 1990, 1993). The frequency or duration of their dives or the rate of underwater vocalizations, however, did not change.

Humpback whales have been known to react to low frequency industrial noises at estimated received levels of 115-124 dB (Malme *et al.* 1985), and to calls of other humpback whales at received levels as low as 102 dB (Frankel *et al.* 1995). Malme *et al.* (1985) found no clear response to playbacks of drill ship and oil production platform noises at received levels up to 116 dB re 1 μ Pa. Studies of reactions to airgun noises were inconclusive (Malme *et al.* 1985). Humpback whales on the breeding grounds did not stop singing in response to underwater explosions (Payne and McVay 1971). Humpback whales on feeding grounds did not alter short-term behavior or distribution in response to explosions with received levels of about 150dB re 1 μ Pa/Hz at 350Hz (Lien *et al.* 1993, Todd *et al.* 1996). However, at least two individuals were probably killed by the high-intensity, impulsive blasts and had extensive mechanical injuries in their ears (Ketten *et al.* 1993, Todd *et al.* 1996). The explosions may also have increased the number of humpback whales entangled in fishing nets (Todd *et al.* 1996). Frankel and Clark (1998) showed that breeding humpbacks showed only a slight statistical reaction to playbacks of 60 - 90 Hz sounds with a received level of up to 190 dB. Although these studies have demonstrated that humpback whales will exhibit short-term behavioral reactions to boat traffic and playbacks of industrial noise, the long-term effects of these disturbances on the individuals exposed to them are not known.

Because the frequency range humpback whales to which are likely to focus attentional resources appears to overlap with the frequency range of mid-frequency active, we assume that in about 4,172 of the instances in which humpback whales are exposed to mid-frequency active sonar during one or more of the proposed exercises might cause these whales to experience acoustic masking, impairment of acoustic communication, behavioural disturbance, and physiological stress responses as a result of their exposure.

PROBABLE RESPONSES OF NORTH ATLANTIC RIGHT WHALES. Based on the U.S. Navy's exposure models, each year we expect about 660 instances in which North Atlantic right whales might be exposed to active sonar associated with AFAST training activities and be "taken" as a result of that exposure (see Table 17). All of these exposure events are likely to occur in Operating Areas located along the Atlantic Coast of the United States.

North Atlantic right whales are not likely to respond to high-frequency sound sources associated with the proposed training activities. However, the evidence is equivocal on whether North Atlantic right whales are likely to respond upon being exposed to mid-frequency active sonar or the nature of any responses they might exhibit if they respond at all. The information available on right whales vocalizations suggests that right whales produce moans less than 400 Hz in frequency (Watkins and Schevill 1972; Thompson *et al.* 1979; Spero 1981). However, Nowacek *et al.* (2004) conducted controlled exposure experiments on North Atlantic right whales using ship noise, social sounds of con-specifics, and an alerting stimulus (frequency modulated tonal signals between 500 Hz and 4.5 kHz). Animals were tagged with acoustic sensors (D-tags) that simultaneously measured movement in three dimensions. Whales reacted strongly to alert signals at received levels of 133-148 dB SPL, mildly to conspecific signals, and not at all to ship sounds or actual vessels. Although the alert stimulus caused whales to immediately cease foraging behavior and swim rapidly to the surface, Nowacek *et al.* offer no information on whether the whales were probably responding to the low- or mid-frequency components of the signals.

Although North Atlantic right whales appear to be able to hear mid-frequency (1 kHz–10 kHz) sounds, the limited evidence available suggests that sounds in this frequency range appear to lie at the periphery of their hearing range. The tonal vocalizations right whales produce can be divided into simple, low-frequency, stereo-typed calls and more complex, frequency-modulated, higher-frequency calls (Parks and Clark 2007). Most of these sounds range in frequency from 0.02 to 15 kHz, with dominant frequency ranges from 0.02 to less than 2 kHz with some sounds having multiple harmonics (Parks and Tyack 2005). Assuming that right whales will focus their attentional resources on the frequency ranges of their vocalizations, right whales seem less likely to devote attentional resources to stimuli in the frequency ranges of mid-frequency active sonar. As a result, they are not likely to respond physiologically or behaviorally to sounds in this frequency range.

PROBABLE RESPONSES OF SEI WHALES. Based on the U.S. Navy's exposure models, each year we would expect about 1,055 instances in which sei whales might be exposed to active sonar associated with AFAST training activities and be "taken" as a result of that exposure (see Table 17).

As discussed in the *Status of the Species* section of this opinion, we have no specific information on the sounds produced by sei whales or their sensitivity to sounds in their environment. Based on their anatomical and physiological similarities to both blue and fin whales, we assume that the hearing thresholds of sei whales will be similar as well and will be centered on low-frequencies in the 10-200 Hz. This information would lead us to conclude that, like

blue and fin whales, sei whales exposed to these received levels of active mid-frequency sonar are not likely to respond if they are exposed to mid-frequency (1 kHz–10 kHz) sounds.

PROBABLE RESPONSES OF SPERM WHALES. Based on the U.S. Navy's exposure models, each year we would expect about 9,690 instances in which sperm whales might be exposed to active sonar associated with AFAST training activities and be "taken" as a result of that exposure (see Table 17). Like humpback whales, some of these exposure events are likely to occur in all Operating Area along the Atlantic coast of the United States and in the Gulf of Mexico (see Table 15).

Based on their hearing sensitivities, which overlap the frequency range of mid-frequency active sonar, sonar transmissions might mask environmental cues at the lower range of sperm whale hearing. Although there is no published audiogram for sperm whales, sperm whales would be expected to have good, high frequency hearing because their inner ear resembles that of most dolphins, and appears tailored for ultrasonic (>20 kHz) reception (Ketten 1994). The only data on the hearing range of sperm whales are evoked potentials from a stranded neonate, which suggest that neonatal sperm whales respond to sounds from 2.5 to 60 kHz.

Based on the frequencies of their vocalizations, which overlap the frequency range of mid-frequency active sonar, sonar transmissions might temporarily reduce the active space of sperm whale vocalizations. Most of the energy of sperm whale clicks is concentrated at 2 to 4 kHz and 10 to 16 kHz, which overlaps with the mid-frequency sonar. Other studies indicate sperm whales' wide-band clicks contain energy between 0.1 and 20 kHz (Weilgart and Whitehead 1993, Goold and Jones 1995). Ridgway and Carder (2001) measured low-frequency, high amplitude clicks with peak frequencies at 500 Hz to 3 kHz from a neonate sperm whale.

There is some evidence of disruptions of clicking and behavior from sonars (Goold 1999, Watkins and Scheville 1975, Watkins *et al.* 1985), pingers (Watkins and Scheville 1975), the Heard Island Feasibility Test (Bowles *et al.* 1994), and the Acoustic Thermometry of Ocean Climate (Costa *et al.* 1998). Sperm whales have been observed to frequently stop echolocating in the presence of underwater pulses made by echosounders (Watkins and Scheville 1975). Goold (1999) reported six sperm whales that were driven through a narrow channel using ship noise, echosounder, and fishfinder emissions from a flotilla of 10 vessels. Watkins and Scheville (1975) showed that sperm whales interrupted click production in response to pinger (6 to 13 kHz) sounds. They also stopped vocalizing for brief periods when codas were being produced by other individuals, perhaps because they can hear better when not vocalizing themselves (Goold and Jones 1995).

As discussed previously, sperm whales have been reported to have reacted to military sonar, apparently produced by a submarine, by dispersing from social aggregations, moving away from the sound source, remaining relatively silent and becoming difficult to approach (Watkins *et al.* 1985). Captive bottlenose dolphins and a white whale exhibited changes in behavior when exposed to 1 sec pulsed sounds at frequencies similar to those emitted by multi-beam sonar that is used in geophysical surveys (Ridgway *et al.* 1997, Schlundt *et al.* 2000), and to shorter broadband pulsed signals (Finneran *et al.* 2000, 2002). Behavioral changes typically involved what appeared to be deliberate attempts to avoid the sound exposure or to avoid the location of the exposure site during subsequent tests (Schlundt *et al.* 2000, Finneran *et al.* 2002). Dolphins exposed to 1-sec intense tones exhibited short-term changes in behavior above received sound levels of 178 to 193 dB re 1 μ Pa rms and belugas did so at received levels of 180 to 196 dB

and above. Received levels necessary to elicit such reactions to shorter pulses were higher (Finneran *et al.* 2000, 2002). Test animals sometimes vocalized after exposure to pulsed, mid-frequency sound from a watergun (Finneran *et al.* 2002). In some instances, animals exhibited aggressive behavior toward the test apparatus (Ridgway *et al.* 1997, Schlundt *et al.* 2000). The relevance of these data to free-ranging odontocetes is uncertain. In the wild, cetaceans some-times avoid sound sources well before they are exposed to the levels listed above, and reactions in the wild may be more subtle than those described by Ridgway *et al.* (1997) and Schlundt *et al.* (2000).

Other studies identify instances in which sperm whales did not respond to anthropogenic sounds. Sperm whales did not alter their vocal activity when exposed to levels of 173 dB re 1 μ Pa from impulsive sounds produced by 1 g TNT detonators (Madsen and Mohl 2000). Richardson *et al.* (1995) citing a personal communication with J. Gordon suggested that sperm whales in the Mediterranean Sea continued calling when exposed to frequent and strong military sonar signals. When Andre *et al.* (1997) exposed sperm whales to a variety of sounds to determine what sounds may be used to scare whales out of the path of vessels, sperm whales were observed to have startle reactions to 10 kHz pulses (180 db re 1 μ Pa at the source), but not to the other sources played to them.

Published reports identify instances in which sperm whales may have responded to an acoustic source and other instances in which they did not appear to respond behaviorally when exposed to seismic surveys. Mate *et al.* (1994) reported an opportunistic observation of the number of sperm whales to have decreased in an area after the start of airgun seismic testing. However, Davis *et al.* (2000) noted that sighting frequency did not differ significantly among the different acoustic levels examined in the northern Gulf of Mexico, contrary to what Mate *et al.* (1994) reported. In one DTAG deployment in the northern Gulf of Mexico on July 28, 2001, researchers documented that the tagged whale moved away from an operating seismic vessel once the seismic pulses were received at the tag at roughly 137 dB re 1 μ Pa (Johnson and Miller 2002). Sperm whales may also have responded to seismic airgun sounds by ceasing to call during some (but not all) times when seismic pulses were received from an airgun array >300 km away (Bowles *et al.* 1994).

A recent study offshore of northern Norway indicated that sperm whales continued to call when exposed to pulses from a distant seismic vessel. Received levels of the seismic pulses were up to 146 dB re 1 μ Pa peak-to-peak (Madsen *et al.* 2002). Similarly, a study conducted off Nova Scotia that analyzed recordings of sperm whale sounds at various distances from an active seismic program did not detect any obvious changes in the distribution or behavior of sperm whales (McCall Howard 1999). Recent data from vessel-based monitoring programs in United Kingdom waters suggest that sperm whales in that area may have exhibited some changes in behavior in the presence of operating seismic vessels (Stone 1997, 1998, 2000, 2001, 2003). However, the compilation and analysis of the data led the author to conclude that seismic surveys did not result in observable effects to sperm whales (Stone 2003). The results from these waters seem to show that some sperm whales tolerate seismic surveys.

Preliminary data from an experimental study of sperm whale reactions to seismic surveys in the Gulf of Mexico and a study of the movements of sperm whales with satellite-linked tags in relation to seismic surveys show that during two controlled exposure experiments in which sperm whales were exposed to seismic pulses at received levels up to 148 dB re 1 μ Pa over octave band with most energy, the whales did not avoid the vessel or change their feeding efficiency (National Science Foundation 2003). Although the sample size is small (4 whales in 2 experiments), the results are consistent with those off northern Norway.

These studies suggest that the behavioral responses of sperm whales to anthropogenic sounds are highly variable, but do not appear to result in the death or injury of individual whales or result in reductions in the fitness of individuals involved. Responses of sperm whales to anthropogenic sounds probably depend on the age and sex of animals being exposed, as well as other factors. There is evidence that many individuals respond to certain sound sources, provided the received level is high enough to evoke a response, while other individuals do not.

PROBABLE RESPONSE OF SEA TURTLES. *Sea Turtles*. The information on the hearing capabilities of sea turtles is also limited, but the information available suggests that the auditory capabilities of sea turtles are centered in the low-frequency range (<1 kHz) (Ridgway *et al.* 1969; Lenhardt *et al.* 1983; Bartol *et al.* 1999, Lenhardt 1994, O'Hara and Wilcox 1990). Ridgway *et al.* (1969) studied the auditory evoked potentials of three green sea turtles (in air and through mechanical stimulation of the ear) and concluded that their maximum sensitivity occurred from 300 to 400 Hz with rapid declines for tones at lower and higher frequencies. They reported an upper limit for cochlear potentials without injury of 2000 Hz and a practical limit of about 1000 Hz. This is similar to estimates for loggerhead sea turtles, which had most sensitive hearing between 250 and 1000 Hz, with rapid decline above 1000 Hz (Bartol *et al.* 1999). These hearing sensitivities are similar to the hearing sensitivities reported for two terrestrial species: pond turtles (*Pseudemys scripta*) and wood turtles (*Chrysemys insculpta*). Pond turtles are reported to have best hearing responsiveness between 200 and 700 Hz, with slow declines below 100 Hz and rapid declines above 700 Hz and almost no sensitivity above 3000 Hz (Wever and Vernon 1956) the latter has sensitivities up to about 500 Hz, followed by a rapid decline above 1000 Hz and almost no responses beyond 3000 or 4000 Hz (Peterson 1966). We assume that these sensitivities to sound apply to all four of the hardshell turtles (i.e., the green, hawksbill, and loggerhead sea turtles). No audiometric data are available for leatherback sea turtles, but we assume that they have hearing ranges similar to those of other sea turtles (or at least, their hearing is more likely to be similar to other sea turtles than marine mammals). Based on this information sea turtles exposed to received levels of active mid-frequency sonar are not likely to hear mid-frequency sounds (sounds between 1 kHz and 10 kHz); therefore, they are not likely to respond physiologically or behaviorally to those received levels.

A recent study on the effects of airguns on sea turtle behavior also suggests that sea turtles are most likely to respond to low-frequency sounds. McCauley *et al.* (2000) reported that green and loggerhead sea turtles will avoid air-gun arrays at 2 km and at 1 km with received levels of 166 dB re 1 μ Pa and 175 dB re 1 μ Pa, respectively. The sea turtles responded consistently: above a level of approximately 166 dB re 1 μ Pa_{rms} the turtles noticeably increased their swimming activity compared to non-airgun operation periods. Above 175 dB re 1 μ Pa mean squared pressure their behavior became more erratic possibly indicating the turtles were in an agitated state. Because the sonar that would be used during the proposed exercises transmits at frequencies above hearing thresholds for sea turtles, sea turtles that are exposed to those transmissions are not likely to respond to that exposure. As a result, mid-frequency active sonar associated with the proposed exercises “may affect, but is not likely to adversely affect” green, hawksbill, leatherback, or loggerhead sea turtles.

Effects Resulting from Interactions of the Potential Stressors

Several organizations have argued that several of our previous biological opinions on the U.S. Navy's use of active sonar failed to consider the “cumulative impact” (in the NEPA sense of the term) of active sonar on the ocean environment and its organisms, particularly endangered and threatened species and critical habitat that has been

designated for them (for example, see NRDC 2007 and Ocean Mammal Institute 2007). In each instance, we have explained how biological opinions consider “cumulative impacts” (in the NEPA sense of the term; see Approach to the Assessment for a complete treatment of this issue). There is a nuance to the idea of “cumulative impacts,” however, that we have chosen to address separately and explicitly in this Opinion: potential interactions between stressors associated with the proposed 2008 Atlantic Fleet training exercises and other physical, chemical, and biotic stressors that pre-exist in the environment.

Exposing living organisms to individual stressors or a suite of stressors that are associated with a specific action may be insignificant or minor when considered in isolation, but may have significant adverse consequences when they are added to other stressors, operate synergistically in combination with other stressors, or magnify or multiply the effects of other stressors. Further, the effects of life events, natural phenomena, and anthropogenic phenomena on an individual’s performance will depend on the individual’s phenotypic state when the individual is exposed to these phenomena. Disease, dietary stress, body burden of toxic chemicals, energetic stress, percentage body fat, age, reproductive state, and social position, among many other phenomena can “accumulate” to have substantial influence on an organism’s response to subsequent exposure to a stressor. That is, exposing animals to individual stressors associated with a specific action can interact with the animal’s prior condition (can have “accumulate” and have additive, synergistic, magnifying, and multiplicative effect) and produce significant, adverse consequences that would not occur if the animal’s prior condition had been different.

An illustrative example of how a combination of stressors interact was provided by Relyea (2001, 2003, 2005) who demonstrated that exposing several different amphibians to a combination of pesticides and chemical cues of natural predators, which induced stress, increased the mortality rates of the amphibians (see also Sih *et al.* 2004). For some species, exposing the amphibians to the combination of stressors produced mortality rates that were twice as high as the mortality rates associated with each individual stressor. This section considers the evidence available to determine if interactions associated with mid-frequency active sonar are likely to produce responses we have not considered already or if interactions are likely to increase the severity — and, therefore, the potential consequences — of the responses we have already considered.

The training activities the U.S. Navy plans to conduct in the Northeast Operating Areas, the Virginia Capes Range Complex, Cherry Point Range Complex, and the Jacksonville Range Complex from June 2009 through June 2014 would add thousands of hours of mid-frequency active sonar to ambient oceanic noise levels, which, in turn, could have cumulative impacts on the ocean environment in the Action Area and any endangered or threatened species that occur in that area. The behavioral responses of any endangered whales that occur in those sound fields are likely to result from their response to mid-frequency active sonar, *per se*, as well as other salient cues in their environment, including their perception of their distance from a sonar source and their perception of whether the source of those sounds are approaching them, moving parallel to them, or moving away from them. The behavioral response of endangered whales that are likely to be exposed to active sonar during the training exercises considered in this Opinion would also be shaped by their reproductive condition, their state of health, and their prior experience.

With the possible exception of hatchling sea turtles or the new-born calves, the prior experience of any individual endangered whales or listed sea turtles that occur off the Atlantic coast of the United States and in the Gulf of Mexico would include regular exposure to a wide variety of natural and anthropogenic stressors produced by

commercial fisheries in Federal and State waters, vessel traffic, whale-watch vessels and researchers, and human occupation of coastal areas. Whales that occur in the Action Area are almost certain to have been exposed to ship traffic entering and leaving ports like Boston, New York, Baltimore, Virginia Beach, and Jacksonville or Port Everglades and Fort Lauderdale. As we discussed in the *Environmental Baseline* section of this Opinion, these whales will also have been exposed to the continuous, low-frequency sounds produced by commercial vessels, may have interacted with commercial fishing gear, and may have prior experience with mid-frequency active sonar from surface vessels, sonobuoys, or submarines in other geographic areas or during previous exercises within the Action Area.

Any individual humpback or sperm whales that have high body burdens of some antibiotics (for example, aminoglycoside antibiotics; see Mills and Going 1982) and other prescription drugs (which are introduced to marine environments in sewage discharges and freshwater run-off), organic solvents, metals, and chemical asphyxiants may be more susceptible to noise-induced loss of hearing sensitivity (Fechter *et al.* 2000). Nevertheless, none of the information available suggests that the responses of whales to these stressors or their prior experience with these stressors is likely to produce consequences other than those we have already considered in this Opinion, although it is important to note that this statement probably results from the limits in the information available more than the absence of interactive effects.

Similarly, sea turtles that occur in the Action Area are almost certain to have been exposed to ship traffic entering and leaving ports like Boston, New York, Baltimore, Virginia Beach, and Jacksonville (if they arrive from the north) or Port Everglades and Fort Lauderdale (if they arrive from the south). As we discussed in the *Environmental Baseline* section of this Opinion, these sea turtles will also have been exposed to the continuous, low-frequency sounds produced by commercial vessels, are likely to have been captured at least once in commercial fishing gear (given that almost twice the estimated population of loggerhead sea turtles has been estimated to be captured in shrimp trawls each year for the past five years, every loggerhead sea turtle in the western Atlantic has had some probability of being captured in these fisheries), and may have prior experience with mid-frequency active sonar from surface vessels, sonobuoys, or submarines in other geographic areas or during previous exercises within the Action Area. Nevertheless, none of the information available suggests that the responses of sea turtles to these stressors or their prior experience with these stressors is likely to produce consequences other than those we have already considered in this Opinion, although it is important to note that this statement probably results from the limits in the information available more than the absence of interactive effects.

Cumulative Effects

Cumulative effects include the effects of future State, tribal, local, or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the ESA.

During this consultation, NMFS searched for information on future State, tribal, local, or private actions that were reasonably certain to occur in the action area. Most of the action area includes federal military reserves or is outside of territorial waters of the United States of America, which would preclude the possibility of future state, tribal, or

local action that would not require some form of federal funding or authorization. NMFS conducted electronic searches of business journals, trade journals, and newspapers using *First Search*, Google, and other electronic search engines. Those searches produced no evidence of future private action in the action area that would not require federal authorization or funding and is reasonably certain to occur. As a result, NMFS is not aware of any actions of this kind that are likely to occur in the action area during the foreseeable future.

Integration and Synthesis of Effects

In the *Assessment Approach* section of this Opinion, we stated that we measure risks to individuals of endangered or threatened species using changes in the individuals' "fitness" or the individual's growth, survival, annual reproductive success, and lifetime reproductive success. When we do not expect listed plants or animals exposed to an action's effects to experience reductions in fitness, we would not expect the action to have adverse consequences on the viability of the populations those individuals represent or the species those populations comprise (Anderson 2000, Mills and Beatty 1979, Brandon 1978, Stearns 1977, 1992). As a result, if we conclude that listed species are *not* likely to experience reductions in their fitness, we would conclude our assessment. If, however, we conclude that listed species are likely to experience reductions in their fitness, we assess the potential effects of the action on the viability of the population or populations' those individuals represent. At the population level, we would generally assume that an action that increased a population's probability of becoming extinct would place an endangered or threatened species at greater risk of extinction because species become extinct as a result of the extinction of the populations that comprise them.

The following discussions separately summarize the probable risks future training exercises on the Northeast Operating Areas, Virginia Capes Range Complex, Cherry Point Range Complex, and Jacksonville Range Complex pose to threatened and endangered species that are likely to be exposed to those transmissions. These summaries integrate the exposure profiles presented previously with the results of our response analyses for each of the actions considered in this Opinion.

U.S. Navy Training in the Northeast Operating Areas

We would expect the training activities the U.S. Navy proposes to conduct in the Northeast Operating Areas over the next five years to result in the following effects

BLUE WHALES. Blue whales would not be exposed to underwater detonations associated with U.S. Navy training activities in the Northeast Operating Areas. Based on the U.S. Navy's exposure models, each year we would expect about 800 instances in which blue whales might be exposed to active sonar associated with AFAST training activities and be "taken" as a result of that exposure (see Table 17). All of these exposure events are likely to occur in the Northeast Operating Area, which means they are likely to result from exposure to active sonar associated with submarines and maritime patrol aircraft.

FIN WHALES. Fin whales would not be exposed to underwater detonations associated with U.S. Navy training activities in the Northeast Operating Areas. Based on the U.S. Navy's exposure models, each year we would expect about 880 instances in which fin whales might be exposed to active sonar associated with AFAST training activities

and be “taken” as a result of that exposure (see Table 17). Like blue whales, all of these exposure events are likely to occur in the Northeast Operating Area, which means they are likely to result from exposure to active sonar associated with submarines and maritime patrol aircraft.

HUMPBACK WHALES. Humpback whales would not be exposed to underwater detonations associated with U.S. Navy training activities in the Northeast Operating Areas. Based on the U.S. Navy’s exposure models, each year we would expect about 700 instances in which humpback whales might be exposed to active sonar associated with the interrelated AFAST training activities and experience behavioral harassment as a result of that exposure (see Table 17).

RIGHT WHALES. North Atlantic right whales would not be exposed to underwater detonations associated with U.S. Navy training activities in the Northeast Operating Areas. Based on the U.S. Navy’s exposure models, each year we would expect about 224 instances in which North Atlantic right whales might be exposed to active sonar associated with the interrelated AFAST training activities and experience behavioral harassment as a result of that exposure (see Table 17).

SEI WHALES. Sei whales would not be exposed to underwater detonations associated with U.S. Navy training activities in the Northeast Operating Areas. Based on the U.S. Navy’s exposure models, each year we would expect about 1,035 instances in which sei whales might be exposed to active sonar associated with the interrelated AFAST training activities and experience behavioral harassment as a result of that exposure (see Table 17).

SPERM WHALES. Sperm whales would not be exposed to underwater detonations associated with U.S. Navy training activities in the Northeast Operating Areas. Based on the U.S. Navy’s exposure models, each year we would expect 1 instance in which a sperm whale might temporarily experience noise-induced loss in hearing sensitivity (TTS) as a result of its exposure to mid-frequency active sonar and about 4,404 instances in which sperm whales might be exposed to active sonar associated with the interrelated AFAST training activities and experience behavioral harassment as a result of that exposure (see Table 17).

SEA TURTLES. No sea turtles are expected to be exposed to the training activities the U.S. Navy plans to conduct in the Northeast Operating Areas.

CRITICAL HABITAT FOR NORTH ATLANTIC RIGHT WHALES. The U.S. Navy does not propose to conduct training activities involving underwater detonations or high explosive charges within the boundaries of critical habitat that has been designated for North Atlantic right whales.

U.S. Navy Training in the Virginia Capes Range Complex

We would expect the training activities the U.S. Navy proposes to conduct in the Virginia Capes Range Complex over the next five years to result in the following effects:

BLUE WHALE. Because of their northern distribution, blue whales are not likely to be exposed to underwater detonations or high explosive on the Virginia Capes Range Complex. For the same reasons, no blue whales are

likely to be exposed to active sonar associated with the interrelated AFAST training activities in the Virginia Capes Range Complex.

FIN WHALE. The U.S. Navy estimated that about 2 fin whales might be exposed annually (10 over the course of the 5 year regulations) to underwater detonations on the Virginia Capes Range Complex and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure. These exposures would be in addition to the 1 instance each year in which fin whale might temporarily experience noise-induced loss in hearing sensitivity (TTS) as a result of its exposure to mid-frequency active sonar and the 88 instances in which fin whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Virginia Capes Range Complex and experience behavioral harassment as a result of that exposure (see Table 17).

HUMPBACK WHALE. The U.S. Navy estimated that about 2 humpback whales might be exposed annually (10 over the course of the 5 year regulations) to underwater detonations on the Virginia Capes Range Complex and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure. These exposures would be in addition to the 400 instances in which humpback whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Virginia Capes Range Complex and experience behavioral harassment as a result of that exposure (see Table 17).

RIGHT WHALE. The U.S. Navy concluded that no North Atlantic whales are likely to be exposed to underwater detonations on the Virginia Capes Range Complex and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure. These exposures would be in addition to the 45 instances in which North Atlantic right whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Virginia Capes Range Complex and experience behavioral harassment as a result of that exposure (see Table 17).

SEI WHALE. Because of their pelagic distribution and low densities in the range complex, the U.S. Navy concluded that no sei whales are likely to be exposed to underwater detonations on the Virginia Capes Range Complex and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure. These exposures would be in addition to the 1 instance each year in which a sei whale might temporarily experience noise-induced loss in hearing sensitivity (TTS) as a result of its exposure to mid-frequency active sonar and the 10 instances in which sei whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Virginia Capes Range Complex and experience behavioral harassment as a result of that exposure (see Table 17).

SPERM WHALE. The U.S. Navy concluded that 2 sperm whales might be exposed annually (10 over the course of the 5 year regulations) to underwater detonations on the Virginia Capes Range Complex (primarily during a firing exercise) and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure. These exposures would be in addition to the 36 instance each year in which sperm whales might temporarily experience noise-induced loss in hearing sensitivity (TTS) as a result of their exposure to mid-frequency active sonar and the 3,087 instances in which sperm whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Virginia Capes Range Complex and experience behavioral harassment as a result of that exposure (see Table 17).

UNSPECIFIED SEA TURTLES. On the Virginia Capes Range Complex, the U.S. Navy concluded that 336 hardshell sea turtles (327 during bombing exercises and 9 during firing exercises) might be exposed to underwater detonations at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would elicit behavioral responses that we would classify as harassment (that is, a significant disruption in normal behavior patterns, such as breeding or feeding).

KEMP'S RIDLEY SEA TURTLES. The U.S. Navy estimated that 627 Kemp's ridley sea turtles might be exposed to underwater detonations on the Virginia Capes Range Complex (613 during bombing exercises and 14 during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile exercises, 15 Kemp's ridley sea turtles would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 pounds per square inch-msec (psi), whichever encompasses the largest geographic range, which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. Six Kemp's ridley sea turtles might be exposed to underwater detonations at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi, which corresponds to an exposure in which 50 percent of the animals would be expected to experience rupture of their tympanic membrane, an injury that correlates with measures of permanent hearing impairment (specifically, a 30 percent incidence of permanent loss of hearing sensitivity or PTS; Ketten 1998).

LEATHERBACK SEA TURTLES. On the Virginia Capes Range Complex, the U.S. Navy estimated that 10 leatherback sea turtles might be exposed to underwater detonations (during bombing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. No leatherback sea turtles were expected to be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$, 23 psi, 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi as a result of exercises on the Virginia Capes Range Complex.

LOGGERHEAD SEA TURTLES. On the Virginia Capes Range Complex, the U.S. Navy estimated that 496 loggerhead sea turtles might be exposed to underwater detonations on the Virginia Capes Range Complex (482 during bombing exercises and 14 during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile and mining exercises, 16 and 3 (respectively) loggerhead sea turtles would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 pounds per square inch-msec (psi), which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. Five loggerhead sea turtles might be exposed to underwater detonations and experience noise-induced hearing loss as a result of their exposure. at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi, which corresponds to an exposure in which 50 percent of the animals would be expected to experience rupture of their tympanic membrane, an injury that correlates with measures of permanent hearing impairment (specifically, a 30 percent incidence of permanent loss of hearing sensitivity or PTS; Ketten 1998).

CRITICAL HABITAT FOR NORTH ATLANTIC RIGHT WHALES. No critical habitat has been designated for North Atlantic right whales in the Virginia Cape Range Complex.

U.S. Navy Training in the Cherry Point Range Complex

We would expect the training activities the U.S. Navy proposes to conduct in the Cherry Point Range Complex over the next five years to result in the following effects:

BLUE WHALE. Because of their northern distribution, blue whales are not likely to be exposed to underwater detonations or high explosive on the Cherry Point Range Complex. For the same reasons, no blue whales are likely to be exposed to active sonar associated with the interrelated AFAST training activities in the Cherry Point Range Complex.

FIN WHALE. No fin whales are likely to be exposed to underwater detonations on the Cherry Point Complex. However, we would expect 1 instance each year in which a fin whale might temporarily experience noise-induced loss in hearing sensitivity (TTS) as a result of its exposure to mid-frequency active sonar and 10 instances in which fin whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Cherry Point Range Complex and experience behavioral harassment as a result of that exposure (see Table 17).

HUMPBACK WHALE. No humpback whales are likely to be exposed to underwater detonations on the Cherry Point Range Complex. However, we would expect 6 instances each year in which humpback whales might temporarily experience noise-induced loss in hearing sensitivity (TTS) as a result of its exposure to mid-frequency active sonar and 686 instances in which humpback whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Cherry Point Range Complex and experience behavioral harassment as a result of that exposure (see Table 17).

RIGHT WHALE. No North Atlantic right whales are likely to be exposed to underwater detonations on the Cherry Point Range Complex. However, we would expect 30 instances in which North Atlantic right whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Cherry Point Range Complex and experience behavioral harassment as a result of that exposure (see Table 17).

SEI WHALE. No sei whales are likely to be exposed to underwater detonations on the Cherry Point Range Complex. However, we would expect 1 instance each year in which a sei whale might temporarily experience noise-induced loss in hearing sensitivity (TTS) as a result of its exposure to mid-frequency active sonar and 10 instances in which sei whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Cherry Point Range Complex and experience behavioral harassment as a result of that exposure (see Table 17).

SPERM WHALE. No sperm whales are likely to be exposed to underwater detonations on the Cherry Point Range Complex. However, we would expect 4 instances each year in which sperm whales might temporarily experience noise-induced loss in hearing sensitivity (TTS) as a result of its exposure to mid-frequency active sonar and 317 instances in which sperm whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Cherry Point Range Complex and experience behavioral harassment as a result of that exposure (see Table 17).

SEA TURTLES. The U.S. Navy concluded that no green, hawksbill, Kemp's ridley, leatherback or loggerhead sea turtles might be exposed to underwater detonations on the Cherry Point Range Complex and experience behavioral harassment, physiological stress responses, or noise-induced hearing loss as a result of that exposure.

CRITICAL HABITAT FOR NORTH ATLANTIC RIGHT WHALES. The U.S. Navy does not propose to conduct training activities involving underwater detonations or high explosive charges within the boundaries of critical habitat that has been designated for North Atlantic right whales.

U.S. Navy Training in the Jacksonville Range Complex

We would expect the training activities the U.S. Navy proposes to conduct in the Jacksonville Range Complex over the next five years to result in the following effects:

BLUE WHALE. Because of their northern distribution, blue whales are not likely to be exposed to underwater detonations or high explosive on the Jacksonville Range Complex. For the same reasons, no blue whales are likely to be exposed to active sonar associated with the interrelated AFAST training activities in the Jacksonville Range Complex.

FIN WHALE. No fin whales are likely to be exposed to underwater detonations on the Jacksonville Range Complex. Similarly, no fin whales are likely to be exposed to active sonar associated with the interrelated AFAST training activities in the Jacksonville Range Complex.

HUMPBACK WHALE. No humpback whales are likely to be exposed to underwater detonations on the Jacksonville Range Complex. However, we would expect 19 instances each year in which humpback whales might temporarily experience noise-induced loss in hearing sensitivity (TTS) as a result of its exposure to mid-frequency active sonar and 2,371 instances in which humpback whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Jacksonville Range Complex and experience behavioral harassment as a result of that exposure (see Table 17).

RIGHT WHALE. No North Atlantic right whales are likely to be exposed to underwater detonations on the Jacksonville Range Complex. However, we would expect 3 instances each year in which North Atlantic right whales might temporarily experience noise-induced loss in hearing sensitivity (TTS) as a result of its exposure to mid-frequency active sonar and 363 instances in which right whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Jacksonville Range Complex and experience behavioral harassment as a result of that exposure (see Table 17).

SEI WHALE. No sei whales are likely to be exposed to underwater detonations on the Jacksonville Range Complex. Similarly, no sei whales are likely to be exposed to active sonar associated with the interrelated AFAST training activities in the Jacksonville Range Complex.

SPERM WHALE. No sperm whales are likely to be exposed to underwater detonations on the Jacksonville Range Complex. However, we would expect 17 instances each year in which sperm whales might temporarily experience noise-induced loss in hearing sensitivity (TTS) as a result of its exposure to mid-frequency active sonar and 1,517 instances in which sperm whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Jacksonville Range Complex and experience behavioral harassment as a result of that exposure (see Table 17).

UNSPECIFIED SEA TURTLES. On the Jacksonville Range Complex, the U.S. Navy concluded that 4 green, hawksbill, or loggerhead sea turtles might be exposed to underwater detonations (during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. Another four of these turtles would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 psi as result of their exposure to missile exercises, which would correspond to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion.

KEMP'S RIDLEY SEA TURTLES. The U.S. Navy estimated that 1 Kemp's ridley sea turtle might be exposed to underwater detonations on the Jacksonville Range Complex (during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile exercises, another Kemp's ridley sea turtle would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 psi, which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. No Kemp's ridley sea turtles were expected to be exposed at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi as a result of exercises on the Jacksonville Range Complex.

LEATHERBACK SEA TURTLES. On the Jacksonville Range Complex, the U.S. Navy estimated that 8 leatherback sea turtles might be exposed to underwater detonations (during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile exercises, three leatherback sea turtle would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 psi, which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. No leatherback sea turtles were expected to be exposed at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi as a result of exercises on the Jacksonville Range Complex.

LOGGERHEAD SEA TURTLES. On the Jacksonville Range Complex, the U.S. Navy estimated that 8 loggerhead sea turtles might be exposed to underwater detonations (during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile and mining exercises, 6 and 1 (respectively) loggerhead sea turtles would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 pounds per square inch-msec (psi), which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. No loggerhead sea turtles were expected to be exposed at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi as a result of exercises on the Jacksonville Range Complex.

CRITICAL HABITAT FOR NORTH ATLANTIC RIGHT WHALES. The U.S. Navy does not propose to conduct training activities involving underwater detonations or high explosive charges within the boundaries of critical habitat that has been designated for North Atlantic right whales.

Enhanced Transit Protection System at Naval Submarine Base Kings Bay, Georgia

We would not expect vessel traffic associated with the Transit Protection System the U.S. Navy proposes to employ at Kings Bay, Georgia (up to 16 escort security boats that would engage in between 130 to 170 events per year or 10 to 15 times per month) to represent a risk of ship strikes because the escort vessels are small and are deployed to insure the safety of the submarines they escort. Because of that mission, those vessels seem likely to detect any

whales in the transit area and avoid or prevent those whales from colliding with the submarine and any escort vessels.

Probable Consequences of Exposing Listed Species to the Proposed Actions

Thus far, the narratives have identified the probable number of times endangered or threatened species might be exposed to stressors associated with the proposed action (primarily underwater detonations) and stressors associated with the Atlantic Fleet Active Sonar Training, which is interrelated to the proposed action. Those narratives have also identified the probable responses of those species to those exposures (for example, noise-induced loss of hearing sensitivity). The narratives that follow discuss the probable consequences; the consequences of exposures to active sonar re-summarizes the analyses we presented in our January 2009 Opinion on the U.S. Navy's Atlantic Fleet Active Sonar Training and the Permits Division's proposal to authorize the "take" of marine mammals associated with that training.

BLUE WHALES. Blue whales would not be exposed to underwater detonations associated with U.S. Navy training activities in the Northeast Operating Areas or the Virginia Capes, Cherry Point, or Jacksonville Range Complexes. Based on the U.S. Navy's exposure models, each year we would expect about 800 instances in which blue whales might be exposed to active sonar associated with AFAST training activities and be "taken" as a result of that exposure (see Table 17). All of these exposure events are likely to occur in the Northeast Operating Area, which means they are likely to result from exposure to active sonar associated with submarines and maritime patrol aircraft.

As discussed in the introduction to the *Approach to the Assessment* and *Exposure Analyses* sections of this Opinion, these estimates probably over-estimate the actual number of blue whales that are likely to be exposed to one or more of the active sonar training activities the U.S. Navy plans to conduct in the Northeast Operating Areas. Most marine mammals would only be exposed periodically or episodically, if at all, to those activities and many exercises would occur without any marine animals being exposed to U.S. Navy vessels, sound fields associated with active sonar pings, or shock waves associated with underwater detonations.

Blue whales are not likely to respond to high-frequency sound sources associated with the proposed training activities. Blue whales appear to be able to hear mid-frequency (1 kHz–10 kHz) sounds, sounds in this frequency range lie at the periphery of their hearing range and they are less likely to devote attentional resources to stimuli in this frequency range. Blue whales vocalizations include a variety of sounds described as low frequency moans or long pulses in the 10-100 Hz band (Cummings and Thompson 1971; Edds 1982; Thompson and Friedl 1982; McDonald *et al.* 1995; Clark and Fristrup 1997; Rivers 1997). The most typical signals are very long, patterned sequences of tonal infrasonic sounds in the 15-40 Hz range. Ketten (1997) reports the frequencies of maximum energy between 12 and 18 Hz. Short sequences of rapid calls in the 30-90 Hz band are associated with animals in social groups (Clark personal observation and McDonald personal communication cited in Ketten 1997). The context for the 30-90 Hz calls suggests that they are used to communicate but do not appear to be related to reproduction. Blue whale moans within the frequency range of 12.5-200 Hz, with pulse duration up to 36 seconds, have been recorded off Chile (Cummings and Thompson 1971). The whale produced a short, 390 Hz pulse during the moan. Based on this information blue whales exposed to received levels of active mid-frequency sonar are not likely to respond physiologically or behaviorally to sounds in this frequency range.

Blue whales in the action area seem likely to respond to the ship traffic associated with each of the active sonar training activities the U.S. Navy plans to conduct along the Atlantic Coast and in the Gulf of Mexico in ways that approximate their responses to whale watch vessels. As discussed in the *Environmental Baseline* section of this Opinion, those responses are likely to depend on the distance of a whale from a vessel, vessel speed, vessel direction, vessel noise, and the number of vessels involved in a particular maneuver. Blue whales seem most likely to try to avoid being exposed to the activities and their avoidance response is likely to increase as an exercise progresses. We do not have the information necessary to determine which of the many sounds associated with an exercise is likely to trigger avoidance behavior in blue whales (for example, engine noise, helicopter rotors, ordnance discharges, explosions, or some combination of these) or whether blue whales would avoid being exposed to specific received levels, the entire sound field associated with an exercise, or the general area in which an exercise would occur. However, blue whales are not likely to respond to mid-frequency active sonar because they are not likely to hear those sonar transmissions.

Individual blue whales' might not respond to the vessels, while in other circumstances, whales are likely to change their surface times, swimming speed, swimming angle or direction, respiration rates, dive times, feeding behavior, and social interactions (Amaral and Carlson 2005; Au and Green 2000, Cockeron 1995, Erbe 2002, Félix 2001, Magalhães *et al.* 2002, Richter *et al.* 2003, Scheidat *et al.* 2004, Simmonds 2005, Watkins 1986, Williams *et al.* 2002). Some of these whales might experience physiological stress (but not "distress") responses if they attempt to avoid one ship and encounter a second ship during that attempt. However, because of the relatively short duration of individual exercises, the small number of large exercises, and the short duration of the unit- or intermediate-level training exercises, we do not expect these responses of blue whales to reduce the fitness of the blue whales that occur along the Atlantic Coast.

Based on the evidence available, we conclude that the training activities the U.S. Navy plans to conduct on the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes from June 2009 through June 2014 and the active sonar training they plan to conduct along the Atlantic Coast are not likely to adversely affect the population dynamics, behavioral ecology, and social dynamics of individual blue whales in ways or to a degree that would reduce their fitness. As we discussed in the *Approach to the Assessment* section of this opinion, an action that is not likely to reduce the fitness of individual whales would not be likely to reduce the viability of the populations those individual whales represent (that is, we would not expect reductions in the reproduction, numbers, or distribution of those populations). As a result, we conclude that the mine warfare, surface warfare, small arms training, air warfare, amphibious warfare, electronic combat operations, and test and evaluations ordnance training activities the U.S. Navy plans to conduct along the Atlantic Coast from June 2009 through June 2014 and the active sonar training activities the Navy conducts along the Atlantic Coast each year would not appreciably reduce the blue whales' likelihood of surviving and recovering in the wild.

FIN WHALES. Fin whales would not be exposed to underwater detonations associated with U.S. Navy training activities in the Northeast Operating Areas, Cherry Point Range Complex, or Jacksonville Range Complex. However, the U.S. Navy estimated that about 2 fin whales might be exposed to underwater detonations on the Virginia Capes Range Complex and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure.

Based on the U.S. Navy's exposure models, each year we would expect about 880 instances in which fin whales might be exposed to active sonar associated with AFAST training activities and be "taken" as a result of that exposure. Like blue whales, all of these exposure events are likely to occur in the Northeast Operating Area, which means they are likely to result from exposure to active sonar associated with submarines and maritime patrol aircraft.

These exposures would be in addition to the 1 instance each year in which fin whale might temporarily experience noise-induced loss in hearing sensitivity (TTS) as a result of its exposure to mid-frequency active sonar and the 88 instances in which fin whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Virginia Capes Range Complex and experience behavioral harassment as a result of that exposure. We would also expect 1 instance each year in which a fin whale might temporarily experience noise-induced loss in hearing sensitivity as a result of its exposure to mid-frequency active sonar and 10 instances in which fin whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Cherry Point Range Complex and experience behavioral harassment as a result of that exposure.

As with blue whales, these estimates probably over-estimate the actual number of fin whales that might be exposed to active sonar training activities the U.S. Navy conducts along the Atlantic Coast. Most fin whales would only be exposed periodically or episodically, if at all, to the active sonar training activities the U.S. Navy conducts along the Atlantic coast and many exercises would occur without any marine animals being exposed to U.S. Navy vessels, sound fields associated with active sonar pings, or shock waves associated with underwater detonations.

As discussed in the *Status of the Species* section of this opinion, fin whales produce a variety of low-frequency sounds in the 10-200 Hz band (Watkins 1981; Watkins *et al.* 1987a; Edds 1988; Thompson *et al.* 1992). The most typical signals are long, patterned sequences of short duration (0.5-2s) infrasonic pulses in the 18-35 Hz range (Patterson and Hamilton 1964). Estimated source levels are as high as 190 dB (Patterson and Hamilton 1964; Watkins *et al.* 1987a; Thompson *et al.* 1992; McDonald *et al.* 1995). In temperate waters intense bouts of long patterned sounds are very common from fall through spring, but also occur to a lesser extent during the summer in high latitude feeding areas (Clark and Charif 1998). Short sequences of rapid pulses in the 20-70 Hz band are associated with animals in social groups (McDonald *et al.* 1995). Each pulse lasts on the order of one second and contains twenty cycles (Tyack 1999). This information would lead us to conclude that fin whales exposed to these received levels of active mid-frequency sonar are not likely to respond physiologically or behaviorally.

Fin whales in the action area seem likely to respond to the ship traffic associated with active sonar training activities the U.S. Navy conducts along the Atlantic Coast in ways that approximate their responses to whale watch vessels. As discussed in the *Environmental Baseline* section of this Opinion, those responses are likely to depend on the distance of a whale from a vessel, vessel speed, vessel direction, vessel noise, and the number of vessels involved in a particular maneuver. Fin whales seem most likely to try to avoid being exposed to the activities and their avoidance response is likely to increase as an exercise progresses. We do not have the information necessary to determine which of the many sounds associated with an exercise is likely to trigger avoidance behavior in fin whales (for example, engine noise, helicopter rotors, ordnance discharges, explosions, or some combination of these) or whether fin whales would avoid being exposed to specific received levels, the entire sound field associated with an exercise, or the general area in which an exercise would occur.

Particular whales' might not respond to the vessels, while in other circumstances, fin whales are likely to change their vocalizations, surface time, swimming speed, swimming angle or direction, respiration rates, dive times, feeding behavior, and social interactions (Amaral and Carlson 2005; Au and Green 2000, Cockeron 1995, Erbe 2002, Félix 2001, Magalhães *et al.* 2002, Richter *et al.* 2003, Scheidat *et al.* 2004, Simmonds 2005, Watkins 1986, Williams *et al.* 2002). Some of these whales might experience physiological stress (but not "distress") responses if they attempt to avoid one ship and encounter a second ship during that attempt. However, because of the relatively short duration of the different exercises and the small number of times the exercises are likely to be repeated, we do not expect these responses of fin whales to reduce the fitness of the fin whales that occur along the Atlantic Coast of the United States.

Based on the evidence available, we conclude that the training activities the U.S. Navy plans to conduct on the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes from June 2009 through June 2014 and the active sonar training they plan to conduct along the Atlantic Coast are not likely to adversely affect the population dynamics, behavioral ecology, and social dynamics of individual fin whales in ways or to a degree that would reduce their fitness. As we discussed in the *Approach to the Assessment* section of this opinion, an action that is not likely to reduce the fitness of individual whales would not be likely to reduce the viability of the populations those individual whales represent (that is, we would not expect reductions in the reproduction, numbers, or distribution of those populations). As a result, that the mine warfare, surface warfare, small arms training, air warfare, amphibious warfare, electronic combat operations, and test and evaluations ordnance training activities the U.S. Navy plans to conduct along the Atlantic Coast from June 2009 through June 2014 and the active sonar training activities the Navy conducts along the Atlantic Coast each year would not appreciably reduce the fin whales' likelihood of surviving and recovering in the wild.

HUMPBACK WHALES. Humpback whales would not be exposed to underwater detonations associated with U.S. Navy training activities in the Northeast Operating Areas. However, the U.S. Navy estimated that about 2 humpback whales might be exposed to underwater detonations on the Virginia Capes Range Complex and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure.

These exposures would be in addition to the 700, 400, 686, and 2,371 instances in which humpback whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes, respectively, and experience behavioral harassment as a result of that exposure. In addition, we would expect 19 instances each year in which humpback whales might temporarily experience noise-induced loss in hearing sensitivity as a result of its exposure to mid-frequency active sonar associated with the interrelated AFAST training activities in the Jacksonville Range Complex and experience behavioral harassment as a result of that exposure.

Humpback whales produce a wide variety of sounds. During the breeding season males sing long, complex songs, with frequencies in the 25-5000 Hz range and intensities as high as 181 dB (Payne 1970; Winn *et al.* 1970a; Thompson *et al.* 1986). Source levels average 155 dB and range from 144 to 174 dB (Thompson *et al.* 1979). The songs appear to have an effective range of approximately 10 to 20 km. Animals in mating groups produce a variety of sounds (Tyack 1981; Tyack and Whitehead 1983, Silber 1986).

Humpback whales produce sounds less frequently in their summer feeding areas. Feeding groups produce distinctive sounds ranging from 20 Hz to 2 kHz, with median durations of 0.2-0.8 sec and source levels of 175-192 dB (Thompson *et al.* 1986). These sounds are attractive and appear to rally animals to the feeding activity (D'Vincent *et al.* 1985; Sharpe and Dill 1997). In summary, humpback whales produce at least three kinds of sounds:

1. Complex songs with components ranging from at least 20Hz – 4 kHz with estimated source levels from 144 – 174 dB; these are mostly sung by males on the breeding grounds (Payne 1970; Winn *et al.* 1970a; Richardson *et al.* 1995)
2. Social sounds in the breeding areas that extend from 50Hz – more than 10 kHz with most energy below 3kHz (Tyack and Whitehead 1983, Richardson *et al.* 1995); and
3. Feeding area vocalizations that are less frequent, but tend to be 20Hz – 2 kHz with estimated sources levels in excess of 175 dB re 1 uPa-m (Thompson *et al.* 1986; Richardson *et al.* 1995). Sounds often associated with possible aggressive behavior by males (Tyack 1983; Silber 1986) are quite different from songs, extending from 50 Hz to 10 kHz (or higher), with most energy in components below 3 kHz. These sounds appear to have an effective range of up to 9 km (Tyack and Whitehead 1983).

More recently, Au *et al.* (2006) conducted field investigations of humpback whale songs led these investigators to conclude that humpback whales have an upper frequency limit reaching as high as 24 kHz. Based on this information, it is reasonable to assume that the active mid-frequency sonar the U.S. Navy would employ during the proposed active sonar training activities are within the hearing and vocalization ranges of humpback whales. There is limited information on how humpback whales are likely to respond upon being exposed to mid-frequency active sonar (most of the information available addresses their probable responses to low-frequency active sonar or impulsive sound sources). Humpback whales responded to sonar in the 3.1–3.6 kHz by swimming away from the sound source or by increasing their velocity (Maybaum 1990, 1993). The frequency or duration of their dives or the rate of underwater vocalizations, however, did not change.

Humpback whales have been known to react to low frequency industrial noises at estimated received levels of 115-124 dB (Malme *et al.* 1985), and to conspecific calls at received levels as low as 102 dB (Frankel *et al.* 1995). Malme *et al.* (1985) found no clear response to playbacks of drill ship and oil production platform noises at received levels up to 116 dB re 1 μ Pa. Studies of reactions to airgun noises were inconclusive (Malme *et al.* 1985). Humpback whales on the breeding grounds did not stop singing in response to underwater explosions (Payne and McVay 1971). Humpback whales on feeding grounds did not alter short-term behavior or distribution in response to explosions with received levels of about 150dB re 1 μ Pa/Hz at 350Hz (Lien *et al.* 1993; Todd *et al.* 1996). However, at least two individuals were probably killed by the high-intensity, impulsive blasts and had extensive mechanical injuries in their ears (Ketten *et al.* 1993; Todd *et al.* 1996). The explosions may also have increased the number of humpback whales entangled in fishing nets (Todd *et al.* 1996). Frankel and Clark (1998) showed that breeding humpbacks showed only a slight statistical reaction to playbacks of 60 - 90 Hz sounds with a received level of up to 190 dB. Although these studies have demonstrated that humpback whales will exhibit short-term behavioral reactions to boat traffic and playbacks of industrial noise, the long-term effects of these disturbances on the individuals exposed to them are not known.

Because their hearing range appears to overlap with the frequency range of mid-frequency active, we assume that some of the humpback whales that are exposed to mid-frequency active sonar during one or more of the proposed exercises might experience acoustic masking, impairment of acoustic communication, behavioural disturbance, and physiological stress responses as a result of their exposure.

The evidence available suggests that humpback whales are likely to detect mid-frequency sonar transmissions. In most circumstances, humpback whales are likely to try to avoid that exposure or are likely to avoid areas specific areas. Those humpback whales that do not avoid the sound field created by the mid-frequency sonar might experience interruptions in their vocalizations. In either case, humpback whales that avoid these sound fields or stop vocalizing are not likely to experience significant disruptions of their normal behavior patterns because the Action Area represents only a small portion of their feeding range. As a result, we do not expect these disruptions to reduce the fitness (reproductive success or longevity) of any individual animal or to result in physiological stress responses that rise to the level of distress.

The strongest evidence that of the probable impact of the *Environmental Baseline* on humpback whales consists of the estimated growth rate of the humpback whale population in the Atlantic Ocean. Despite small numbers that are entangled in fishing gear in the action area, this increase in the number of humpback whales suggests that the stress regime these whales are exposed to in the Atlantic Ocean have not prevented these whales from increasing their numbers in the action area. As discussed in the *Environmental Baseline* section of this Opinion, humpback whales have been exposed to active sonar training activities along the Atlantic Coast of the United States and in the Gulf of Mexico, including vessel traffic, aircraft traffic, active sonar, and underwater detonations, for more than a generation. Although we do not know if more humpback whales might have used the action area or the reproductive success of humpback whales in the North Atlantic Ocean would be higher absent their exposure to these activities, the rate at which humpback whales occur in the Gulf of Maine suggests that humpback whale numbers have increased substantially in these important calving areas despite exposure to earlier training regimes. Although the U.S. Navy proposes to increase the frequency of some of these activities, we do not believe those increases are likely to affect the rate at which humpback whale counts in the North Atlantic Ocean are increasing.

Based on the evidence available, we conclude that the training activities the U.S. Navy plans to conduct on the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes from June 2009 through June 2014 and the active sonar training they plan to conduct along the Atlantic Coast are not likely to adversely affect the population dynamics, behavioral ecology, and social dynamics of individual humpback whales in ways or to a degree that would reduce their fitness. As we discussed in the *Approach to the Assessment* section of this opinion, an action that is not likely to reduce the fitness of individual whales would not be likely to reduce the viability of the populations those individual whales represent (that is, we would not expect reductions in the reproduction, numbers, or distribution of those populations). As a result, that the mine warfare, surface warfare, small arms training, air warfare, amphibious warfare, electronic combat operations, and test and evaluations ordnance training activities the U.S. Navy plans to conduct along the Atlantic Coast from June 2009 through June 2014 and the active sonar training activities the Navy conducts along the Atlantic Coast each year would not appreciably reduce the humpback whales' likelihood of surviving and recovering in the wild.

NORTH ATLANTIC RIGHT WHALES. North Atlantic right whales would not be exposed to underwater detonations associated with U.S. Navy training activities in the Northeast Operating Areas or the Virginia Capes, Cherry Point, or Jacksonville Range Complexes. However, each year we would expect about 224 instances in which North Atlantic right whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Northeast Operating Areas and experience behavioral harassment as a result of that exposure. In addition, there are likely to be another 45, 30, and 363 instances in which North Atlantic right whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Virginia Capes, Cherry Point, and Jacksonville Range Complexes, respectively, and experience behavioral harassment as a result of that exposure. We would also expect 3 instances each year in which North Atlantic right whales might temporarily experience noise-induced loss in hearing sensitivity as a result of its exposure to mid-frequency active sonar in the Jacksonville Range Complex and experience behavioral harassment as a result of that exposure. We would not expect U.S. Navy vessels engaged in these training activities to strike a right whale.

North Atlantic right whales are not likely to respond to high-frequency sound sources associated with the proposed training activities, the evidence is equivocal on whether North Atlantic right whales are likely to respond upon being exposed to mid-frequency active sonar or the nature of any responses they might exhibit if they respond at all. The information available on right whales vocalizations suggests that right whales produce moans less than 400 Hz in frequency (Watkins and Schevill 1972; Thompson *et al.* 1979; Spero 1981), However, Nowacek *et al.* (2004) conducted controlled exposure experiments on North Atlantic right whales using ship noise, social sounds of conspecifics, and an alerting stimulus (frequency modulated tonal signals between 500 Hz and 4.5 kHz). Animals were tagged with acoustic sensors (D-tags) that simultaneously measured movement in three dimensions. Whales reacted strongly to alert signals at received levels of 133-148 dB SPL, mildly to conspecific signals, and not at all to ship sounds or actual vessels. Although the alert stimulus caused whales to immediately cease foraging behavior and swim rapidly to the surface, Nowacek *et al.* offer no information on whether the whales were probably responding to the low- or mid-frequency components of the signals.

Although North Atlantic right whales appear to be able to hear mid-frequency (1 kHz–10 kHz) sounds, the limited evidence available suggests that sounds in this frequency range appear to lie at the periphery of their hearing range. The tonal vocalizations right whales produce can be divided into simple, low-frequency, stereo-typed calls and more complex, frequency-modulated, higher-frequency calls (Parks and Clark 2007). Most of these sounds range in frequency from 0.02 to 15 kHz, with dominant frequency ranges from 0.02 to less than 2 kHz with some sounds having multiple harmonics (Parks and Tyack 2005). Assuming that right whales will focus their attentional resources on the frequency ranges of their vocalizations, right whales seem less likely to devote attentional resources to stimuli in the frequency ranges of mid-frequency active sonar. As a result, they are not likely to respond physiologically or behaviorally to sounds in this frequency range.

Based on the evidence available, we conclude that the training activities the U.S. Navy plans to conduct on the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes from June 2009 through June 2014 and the active sonar training they plan to conduct along the Atlantic Coast are not likely to adversely affect the population dynamics, behavioral ecology, and social dynamics of individual North Atlantic right whales in ways or to a degree that would reduce their fitness. As we discussed in the *Approach to the Assessment*

section of this opinion, an action that is not likely to reduce the fitness of individual whales would not be likely to reduce the viability of the populations those individual whales represent (that is, we would not expect reductions in the reproduction, numbers, or distribution of those populations). As a result, that the mine warfare, surface warfare, small arms training, air warfare, amphibious warfare, electronic combat operations, and test and evaluations ordnance training activities the U.S. Navy plans to conduct along the Atlantic Coast from June 2009 through June 2014 and the active sonar training activities the Navy conducts along the Atlantic Coast each year would not appreciably reduce the North Atlantic right whales' likelihood of surviving and recovering in the wild.

SEI WHALES. Because of their pelagic distribution and low densities in the range complex, the U.S. Navy concluded that no sei whales are likely to be exposed to underwater detonations on the in the Northeast Operating Areas or the Virginia Capes, Cherry Point, or Jacksonville Range Complexes and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure. However, each year we would expect about 1,035, 10, and 10 instances in which sei whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Northeast Operating Areas, Virginia Capes Range Complex, and Cherry Point Range Complex, respectively, and experience behavioral harassment as a result of that exposure. In addition, we would expect 1 instance each year in which a sei whale might temporarily experience noise-induced loss in hearing sensitivity (TTS) as a result of its exposure to mid-frequency active sonar in the Cherry Point Range Complex and another instance each year in which a sei whale might temporarily experience noise-induced loss in hearing sensitivity (TTS) as a result of its exposure to mid-frequency active sonar on the Virginia Capes Range Complex and experience behavioral harassment as a result of that exposure.

Like fin whales, sei whales in the action area seem likely to respond to the ship traffic associated with the activities the U.S. Navy plans to conduct in the Action Area in ways that approximate their responses to whale watch vessels. As discussed in the *Environmental Baseline* section of this Opinion, those responses are likely to depend on the distance of a whale from a vessel, vessel speed, vessel direction, vessel noise, and the number of vessels involved in a particular maneuver. Sei whales also seem most likely to try to avoid being exposed to the activities and their avoidance response is likely to increase as an exercise progresses. We do not have the information necessary to determine which of the many sounds associated with an exercise is likely to trigger avoidance behavior in sei whales (for example, engine noise, helicopter rotors, ordnance discharges, explosions, or some combination of these) or whether fin whales would avoid being exposed to specific received levels, the entire sound field associated with an exercise, or the general area in which an exercise would occur.

Particular whales' might not respond to the vessels, while in other circumstances, sei whales are likely to change their vocalizations, surface time, swimming speed, swimming angle or direction, respiration rates, dive times, feeding behavior, and social interactions (Amaral and Carlson 2005; Au and Green 2000, Cockeron 1995, Erbe 2002, Félix 2001, Magalhães *et al.* 2002, Richter *et al.* 2003, Scheidat *et al.* 2004, Simmonds 2005, Watkins 1986, Williams *et al.* 2002). Some of these whales might experience physiological stress (but not "distress") responses if they attempt to avoid one ship and encounter a second ship during that attempt. However, because of the relatively short duration of the different exercises and the small number of times the exercises are likely to be repeated from June 2009 to June 2014, we do not expect these responses of sei whales to reduce the fitness of the sei whales that occur along the Atlantic Coast and in the Gulf of Mexico.

Based on the evidence available, we conclude that the training activities the U.S. Navy plans to conduct on the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes from June 2009 through June 2014 and the active sonar training they plan to conduct along the Atlantic Coast are not likely to adversely affect the population dynamics, behavioral ecology, and social dynamics of individual sei whales in ways or to a degree that would reduce their fitness. As we discussed in the *Approach to the Assessment* section of this opinion, an action that is not likely to reduce the fitness of individual whales would not be likely to reduce the viability of the populations those individual whales represent (that is, we would not expect reductions in the reproduction, numbers, or distribution of those populations). As a result, that the mine warfare, surface warfare, small arms training, air warfare, amphibious warfare, electronic combat operations, and test and evaluations ordnance training activities the U.S. Navy plans to conduct along the Atlantic Coast from June 2009 through June 2014 and the active sonar training activities the Navy conducts along the Atlantic Coast each year would not appreciably reduce the sei whales' likelihood of surviving and recovering in the wild.

SPERM WHALES. Sperm whales would not be exposed to underwater detonations associated with U.S. Navy training activities in the Northeast Operating Areas or the Cherry Point or Jacksonville Range Complexes. However, the U.S. Navy concluded that 2 sperm whales might be exposed to underwater detonations on the Virginia Capes Range Complex (primarily during a firing exercise) and experience behavioral harassment or noise-induced loss of hearing sensitivity as a result of that exposure.

In addition, each year we would expect 1 instance in which a sperm whale might temporarily experience noise-induced loss in hearing sensitivity as a result of its exposure to mid-frequency active sonar in the Northeast Operating Areas and about 4,404 instances in which sperm whales might be exposed to active sonar associated with the interrelated AFAST training activities and experience behavioral harassment as a result of that exposure. In the Virginia Capes Range Complex, we would expect another 36 instance each year in which sperm whales might temporarily experience noise-induced loss in hearing sensitivity as a result of their exposure to mid-frequency active sonar and the 3,087 instances in which sperm whales might be exposed to active sonar associated with the interrelated AFAST training activities and experience behavioral harassment as a result of that exposure. In the Cherry Point Range Complex, we would expect 4 instances each year in which sperm whales might temporarily experience noise-induced loss in hearing sensitivity as a result of its exposure to mid-frequency active sonar and 317 instances in which sperm whales might be exposed to active sonar associated with the interrelated AFAST training activities and experience behavioral harassment as a result of that exposure. In the Jacksonville Range Complex, we would expect 17 instances each year in which sperm whales might temporarily experience noise-induced loss in hearing sensitivity as a result of its exposure to mid-frequency active sonar and 1,517 instances in which sperm whales might be exposed to active sonar associated with the interrelated AFAST training activities in the Jacksonville Range Complex and experience behavioral harassment as a result of that exposure.

If exposed to mid- and high-frequency active sonar transmissions, sperm whales are likely to hear and respond to those transmissions. The only data on the hearing range of sperm whales are evoked potentials from a stranded neonate (Carder and Ridgway 1990). These data suggest that neonatal sperm whales respond to sounds from 2.5-60 kHz. Sperm whales also produce loud broad-band clicks from about 0.1 to 20 kHz (Weilgart and Whitehead 1993, 1997; Goold and Jones 1995). These have source levels estimated at 171 dB re 1 μ Pa (Levenson 1974). Current

evidence suggests that the disproportionately large head of the sperm whale is an adaptation to produce these vocalizations (Norris and Harvey 1972; Cranford 1992; but see Clarke 1979). This suggests that the production of these loud low frequency clicks is extremely important to the survival of individual sperm whales. The function of these vocalizations is relatively well-studied (Weilgart and Whitehead 1993, 1997; Goold and Jones 1995). Long series of monotonous regularly spaced clicks are associated with feeding and are thought to be produced for echolocation. Distinctive, short, patterned series of clicks, called codas, are associated with social behavior and interactions within social groups (Weilgart and Whitehead 1993).

Based on the frequencies of their vocalizations, which overlap the frequency range of mid- and high-frequency active sonar, sonar transmissions might temporarily reduce the active space of sperm whale vocalizations. Most of the energy of sperm whales clicks is concentrated at 2 to 4 kHz and 10 to 16 kHz, which overlaps with the mid-frequency sonar. Other studies indicate sperm whales' wide-band clicks contain energy between 0.1 and 20 kHz (Weilgart and Whitehead 1993, Goold and Jones 1995). Ridgway and Carder (2001) measured low-frequency, high amplitude clicks with peak frequencies at 500 Hz to 3 kHz from a neonate sperm whale.

There is some evidence of disruptions of clicking and behavior from sonars (Goold 1999, Watkins and Scheville 1975, Watkins *et al.* 1985), pingers (Watkins and Scheville 1975), the Heard Island Feasibility Test (Bowles *et al.* 1994), and the Acoustic Thermometry of Ocean Climate (Costa *et al.* 1998). Sperm whales have been observed to frequently stop echolocating in the presence of underwater pulses made by echosounders (Watkins and Scheville 1975). Goold (1999) reported six sperm whales that were driven through a narrow channel using ship noise, echosounder, and fishfinder emissions from a flotilla of 10 vessels. Watkins and Scheville (1975) showed that sperm whales interrupted click production in response to pinger (6 to 13 kHz) sounds. They also stopped vocalizing for brief periods when codas were being produced by other individuals, perhaps because they can hear better when not vocalizing themselves (Goold and Jones 1995).

As discussed previously, sperm whales have been reported to have reacted to military sonar, apparently produced by a submarine, by dispersing from social aggregations, moving away from the sound source, remaining relatively silent and becoming difficult to approach (Watkins *et al.* 1985). Captive bottlenose dolphins and a white whale exhibited changes in behavior when exposed to 1 sec pulsed sounds at frequencies similar to those emitted by multi-beam sonar that is used in geophysical surveys (Ridgway *et al.* 1997, Schlundt *et al.* 2000), and to shorter broadband pulsed signals (Finneran *et al.* 2000, 2002). Behavioral changes typically involved what appeared to be deliberate attempts to avoid the sound exposure or to avoid the location of the exposure site during subsequent tests (Schlundt *et al.* 2000, Finneran *et al.* 2002). Dolphins exposed to 1-sec intense tones exhibited short-term changes in behavior above received sound levels of 178 to 193 dB re 1 μ Pa rms and belugas did so at received levels of 180 to 196 dB and above. Received levels necessary to elicit such reactions to shorter pulses were higher (Finneran *et al.* 2000, 2002). Test animals sometimes vocalized after exposure to pulsed, mid-frequency sound from a watergun (Finneran *et al.* 2002). In some instances, animals exhibited aggressive behavior toward the test apparatus (Ridgway *et al.* 1997, Schlundt *et al.* 2000). The relevance of these data to free-ranging odontocetes is uncertain. In the wild, cetaceans some-times avoid sound sources well before they are exposed to the levels listed above, and reactions in the wild may be more subtle than those described by Ridgway *et al.* (1997) and Schlundt *et al.* (2000).

Published reports identify instances in which sperm whales may have responded to an acoustic source and other instances in which they did not appear to respond behaviorally when exposed to seismic surveys. Mate *et al.* (1994) reported an opportunistic observation of the number of sperm whales to have decreased in an area after the start of airgun seismic testing. However, Davis *et al.* (2000) noted that sighting frequency did not differ significantly among the different acoustic levels examined in the northern Gulf of Mexico, contrary to what Mate *et al.* (1994) reported. In one DTAG deployment in the northern Gulf of Mexico on July 28, 2001, researchers documented that the tagged whale moved away from an operating seismic vessel once the seismic pulses were received at the tag at roughly 137 dB re 1 μ Pa (Johnson and Miller 2002). Sperm whales may also have responded to seismic airgun sounds by ceasing to call during some (but not all) times when seismic pulses were received from an airgun array >300 km away (Bowles *et al.* 1994).

A recent study offshore of northern Norway indicated that sperm whales continued to call when exposed to pulses from a distant seismic vessel. Received levels of the seismic pulses were up to 146 dB re 1 μ Pa peak-to-peak (Madsen *et al.* 2002). Similarly, a study conducted off Nova Scotia that analyzed recordings of sperm whale sounds at various distances from an active seismic program did not detect any obvious changes in the distribution or behavior of sperm whales (McCall Howard 1999). Recent data from vessel-based monitoring programs in United Kingdom waters suggest that sperm whales in that area may have exhibited some changes in behavior in the presence of operating seismic vessels (Stone 1997, 1998, 2000, 2001, 2003). However, the compilation and analysis of the data led the author to conclude that seismic surveys did not result in observable effects to sperm whales (Stone 2003). The results from these waters seem to show that some sperm whales tolerate seismic surveys.

Sperm whales have been observed to frequently stop echolocating in the presence of underwater pulses made by echosounders and submarine sonar (Watkins and Schevill 1975; Watkins *et al.* 1985). They also stop vocalizing for brief periods when codas are being produced by other individuals, perhaps because they can hear better when not vocalizing themselves (Goold and Jones 1995).

Preliminary data from an experimental study of sperm whale reactions to seismic surveys in the Gulf of Mexico and a study of the movements of sperm whales with satellite-linked tags in relation to seismic surveys show that during two controlled exposure experiments in which sperm whales were exposed to seismic pulses at received levels up to 148 dB re 1 μ Pa over octave band with most energy, the whales did not avoid the vessel or change their feeding efficiency (National Science Foundation 2003). Although the sample size is small (4 whales in 2 experiments), the results are consistent with those off northern Norway.

Other studies identify instances in which sperm whales did not respond to anthropogenic sounds. Sperm whales did not alter their vocal activity when exposed to levels of 173 dB re 1 μ Pa from impulsive sounds produced by 1 g TNT detonators (Madsen and Mohl 2000). Richardson *et al.* (1995) citing a personal communication with J. Gordon suggested that sperm whales in the Mediterranean Sea continued calling when exposed to frequent and strong military sonar signals. When Andre *et al.* (1997) exposed sperm whales to a variety of sounds to determine what sounds may be used to scare whales out of the path of vessels, sperm whales were observed to have startle reactions to 10 kHz pulses (180 dB re 1 μ Pa at the source), but not to the other sources played to them.

These studies suggest that the behavioral responses of sperm whales to anthropogenic sounds are highly variable, but do not appear to result in the death or injury of individual whales or result in reductions in the fitness of individuals involved. Responses of sperm whales to anthropogenic sounds probably depend on the age and sex of animals being exposed, as well as other factors. There is evidence that many individuals respond to certain sound sources, provided the received level is high enough to evoke a response, while other individuals do not.

The evidence available suggests that sperm whales are likely to detect mid-frequency sonar transmissions. In most circumstances, sperm whales are likely to try to avoid that exposure or are likely to avoid areas specific areas. For example, sperm whales have moved out of areas after the start of air gun seismic testing (Davis *et al.* 1995). Those sperm whales that do not avoid the sound field created by the mid-frequency sonar might interrupt communications, echolocation, or foraging behavior. In either case, sperm whales that avoid these sound fields, stop communicating, echolocating or foraging might experience significant disruptions of normal behavior patterns that are essential to their individual fitness. Because of the relatively short duration of the acoustic transmissions associated with the active sonar training the U.S. Navy plans to conduct along the Atlantic Coast and in the Gulf of Mexico, we do not, however, expect these disruptions to result in the death or injury of any individual animal or to result in physiological stress responses that rise to the level of distress.

Like fin and sei whales, individual sperm whales are also likely to respond to the ship traffic associated with the maneuvers might approximate their responses to whale watch vessels. As discussed in the *Environmental Baseline* section of this Opinion, those responses are likely to depend on the distance of a whale from a vessel, vessel speed, vessel direction, vessel noise, and the number of vessels involved in a particular maneuver. The closer sperm whales are to these maneuvers and the greater the number of times they are exposed (using the Navy's estimates of the cumulative exposures to sounds equivalentents > 173 dB as an index of potential exposures), the greater their likelihood of be exposed and responding to that exposure. Particular whales' might not respond to the vessels, while in other circumstances, sperm whales are likely to change their vocalizations, surface time, swimming speed, swimming angle or direction, respiration rates, dive times, feeding behavior, and social interactions (Amaral and Carlson 2005; Au and Green 2000, Cockeron 1995, Erbe 2002, Félix 2001, Magalhães *et al.* 2002, Richter *et al.* 2003, Scheidat *et al.* 2004, Simmonds 2005, Watkins 1986, Williams *et al.* 2002). Some of these whales might experience physiological stress (but not "distress") responses if they attempt to avoid one ship and encounter a second ship during that attempt. However, because of the relatively short duration of the exercise, we do not expect these responses to continue long-enough to have fitness consequences for individual sperm whales because these whales are likely to have energy reserves sufficient to meet the demands of their normal behavioral patterns and those of a stress physiology.

Based on the evidence available, we conclude that the training activities the U.S. Navy plans to conduct on the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes from June 2009 through June 2014 and the active sonar training they plan to conduct along the Atlantic Coast are not likely to adversely affect the population dynamics, behavioral ecology, and social dynamics of individual sperm whales in ways or to a degree that would reduce their fitness. As we discussed in the *Approach to the Assessment* section of this opinion, an action that is not likely to reduce the fitness of individual sperm whales would not be likely to reduce the viability of the populations those individual whales represent by reducing the population dynamics,

behavioral ecology, and social dynamics of those populations (that is, we would not expect reductions in the reproduction, numbers, or distribution of those populations). As a result, that the mine warfare, surface warfare, small arms training, air warfare, amphibious warfare, electronic combat operations, and test and evaluations ordnance training activities the U.S. Navy plans to conduct along the Atlantic Coast from June 2009 through June 2014 and the active sonar training activities the Navy conducts along the Atlantic Coast each year would not appreciably reduce the sperm whales' likelihood of surviving and recovering in the wild.

SEA TURTLES. UNSPECIFIED SEA TURTLES. On the Virginia Capes Range Complex, the U.S. Navy concluded that 336 hardshell sea turtles (327 during bombing exercises and 9 during firing exercises) might be exposed to underwater detonations at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would elicit behavioral responses that we would classify as harassment (that is, a significant disruption in normal behavior patterns, such as breeding or feeding).

On the Cherry Point Range Complex, the U.S. Navy concluded that no hardshell sea turtles might be exposed to underwater detonations and experience behavioral harassment, physiological stress responses, or noise-induced hearing loss as a result of that exposure. No sea turtles are likely to be exposed to the training activities the U.S. Navy proposes to conduct in the Northeast Operating Areas.

On the Jacksonville Range Complex, the U.S. Navy concluded that 4 green, hawksbill, or loggerhead sea turtles might be exposed to underwater detonations (during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. Another four of these turtles would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 psi as result of their exposure to missile exercises, which would correspond to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion.

KEMP'S RIDLEY SEA TURTLES. The U.S. Navy estimated that 627 Kemp's ridley sea turtles might be exposed to underwater detonations on the Virginia Capes Range Complex (613 during bombing exercises and 14 during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile exercises, 15 Kemp's ridley sea turtles would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 pounds per square inch-msec (psi), whichever encompasses the largest geographic range, which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. Six Kemp's ridley sea turtles might be exposed to underwater detonations at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi, which corresponds to an exposure in which 50 percent of the animals would be expected to experience rupture of their tympanic membrane, an injury that correlates with measures of permanent hearing impairment (specifically, a 30 percent incidence of permanent loss of hearing sensitivity or PTS; Ketten 1998).

On the Cherry Point Range Complex, the U.S. Navy concluded that no Kemp's ridley sea turtles might be exposed to underwater detonations and experience behavioral harassment, physiological stress responses, or noise-induced hearing loss as a result of that exposure.

The U.S. Navy estimated that 1 Kemp's ridley sea turtle might be exposed to underwater detonations on the Jacksonville Range Complex (during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile exercises, another Kemp's ridley sea turtle would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 psi, which corresponds to the threshold at which we would expect

a temporary loss of hearing sensitivity from a single explosion. No Kemp's ridley sea turtles were expected to be exposed at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi as a result of exercises on the Jacksonville Range Complex.

LEATHERBACK SEA TURTLES. On the Virginia Capes Range Complex, the U.S. Navy estimated that 10 leatherback sea turtles might be exposed to underwater detonations (during bombing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. No leatherback sea turtles were expected to be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$, 23 psi, 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi as a result of exercises on the Virginia Capes Range Complex.

On the Cherry Point Range Complex, the U.S. Navy concluded that no leatherback sea turtles might be exposed to underwater detonations and experience behavioral harassment, physiological stress responses, or noise-induced hearing loss as a result of that exposure. No sea turtles are likely to be exposed to the training activities the U.S. Navy proposes to conduct in the Northeast Operating Areas.

On the Jacksonville Range Complex, the U.S. Navy estimated that 8 leatherback sea turtles might be exposed to underwater detonations (during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile exercises, three leatherback sea turtle would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 psi, which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. No leatherback sea turtles were expected to be exposed at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi as a result of exercises on the Jacksonville Range Complex.

LOGGERHEAD SEA TURTLES. On the Virginia Capes Range Complex, the U.S. Navy estimated that 496 loggerhead sea turtles might be exposed to underwater detonations on the Virginia Capes Range Complex (482 during bombing exercises and 14 during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile and mining exercises, 16 and 3 (respectively) loggerhead sea turtles would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 pounds per square inch-msec (psi), which corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. Five loggerhead sea turtles might be exposed to underwater detonations and experience noise-induced hearing loss as a result of their exposure. at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi, which corresponds to an exposure in which 50 percent of the animals would be expected to experience rupture of their tympanic membrane, an injury that correlates with measures of permanent hearing impairment (specifically, a 30 percent incidence of permanent loss of hearing sensitivity or PTS; Ketten 1998).

On the Cherry Point Range Complex, the U.S. Navy concluded that no loggerhead sea turtles might be exposed to underwater detonations and experience behavioral harassment, physiological stress responses, or noise-induced hearing loss as a result of that exposure. No sea turtles are likely to be exposed to the training activities the U.S. Navy proposes to conduct in the Northeast Operating Areas.

On the Jacksonville Range Complex, the U.S. Navy estimated that 8 loggerhead sea turtles might be exposed to underwater detonations (during firing exercises) at 177 dB re $\mu\text{Pa}^2\text{-s}$, which would be expected to elicit behavioral responses that we would classify as harassment. During missile and mining exercises, 6 and 1 (respectively) loggerhead sea turtles would be exposed at 182 dB re $\mu\text{Pa}^2\text{-s}$ or 23 pounds per square inch-msec (psi), which

corresponds to the threshold at which we would expect a temporary loss of hearing sensitivity from a single explosion. No loggerhead sea turtles were expected to be exposed at 205 dB re $\mu\text{Pa}^2\text{-s}$ or 13 pounds psi as a result of exercises on the Jacksonville Range Complex.

The information available has not allowed us to estimate the probability of the different sea turtles being exposed to mid-frequency active sonar, vessel traffic, or underwater detonations associated with the training activities the U.S. Navy plans to conduct along the Atlantic Coast and in the Gulf of Mexico each year from June 2009 through June 2014.

Further, although the information on the hearing capabilities of sea turtles is limited, but the information available suggests that the auditory capabilities of sea turtles are centered in the low-frequency range (<1 kHz) (Ridgway *et al.* 1969; Lenhardt *et al.* 1983; Bartol *et al.* 1999, Lenhardt 1994, O'Hara and Wilcox 1990). Ridgway *et al.* (1969) studied the auditory evoked potentials of three green sea turtles (in air and through mechanical stimulation of the ear) and concluded that their maximum sensitivity occurred from 300 to 400 Hz with rapid declines for tones at lower and higher frequencies. They reported an upper limit for cochlear potentials without injury of 2000 Hz and a practical limit of about 1000 Hz. This is similar to estimates for loggerhead sea turtles, which had most sensitive hearing between 250 and 1000 Hz, with rapid decline above 1000 Hz (Bartol *et al.* 1999).

These hearing sensitivities are similar to the hearing sensitivities reported for two terrestrial species: pond turtles (*Pseudemys scripta*) and wood turtles (*Chrysemys insculpta*). Pond turtles are reported to have best hearing responsiveness between 200 and 700 Hz, with slow declines below 100 Hz and rapid declines above 700 Hz and almost no sensitivity above 3000 Hz (Wever and Vernon 1956) the latter has sensitivities up to about 500 Hz, followed by a rapid decline above 1000 Hz and almost no responses beyond 3000 or 4000 Hz (Peterson 1966). We assume that these sensitivities to sound apply to the three hardshell turtles (i.e., green, loggerhead, and Pacific ridley sea turtles). No audiometric data are available for leatherback sea turtles, but we assume that they have hearing ranges similar to those of other sea turtles (or at least, their hearing is more likely to be similar to other sea turtles than marine mammals). Based on this information sea turtles exposed to received levels of active mid-frequency sonar are not likely to hear mid-frequency sounds (sounds between 1 kHz and 10 kHz); therefore, they are not likely to respond physiologically or behaviorally to those received levels.

A recent study on the effects of airguns on sea turtle behavior also suggests that sea turtles are most likely to respond to low-frequency sounds. McCauley *et al.* (2000) reported that green and loggerhead sea turtles will avoid air-gun arrays at 2 km and at 1 km with received levels of 166 dB re 1 μPa and 175 dB re 1 μPa , respectively. The sea turtles responded consistently: above a level of approximately 166 dB re 1 $\mu\text{Pa}_{\text{rms}}$ the turtles noticeably increased their swimming activity compared to non-airgun operation periods. Above 175 dB re 1 μPa mean squared pressure their behavior became more erratic possibly indicating the turtles were in an agitated state. Because the sonar that would be used during the proposed exercises transmits at frequencies above hearing thresholds for sea turtles, sea turtles that are exposed to those transmissions are not likely to respond to that exposure. As a result, mid-frequency active sonar associated with the proposed exercises “may affect, but is not likely to adversely affect” green, hawksbill, leatherback, or loggerhead sea turtles.

Sea turtles along the Atlantic Coast or in the Gulf of Mexico might encounter one or more parachutes after they have been jettisoned from these sonobuoys and could become entangled as a result. We cannot, however, determine whether such interactions are probable, given the relatively small number of sonobuoys that would be employed in each of the exercises, the relatively large geographic area involved, and the relatively low densities of sea turtles that are likely to occur in the Action Area. Given the large size of the Action Area, the relatively small number of sonobuoys that would be employed in an exercise, and the relatively low densities of sea turtles, an interaction between sea turtles and parachutes seems to have a very small probability; however, despite a very small probability, an interaction could be fatal to the sea turtle if it was entangled and drowned or if it swallowed a parachute.

Nevertheless, we conclude that the training activities the U.S. Navy plans to conduct on the Northeast Operating Areas and the Virginia Capes, Cherry Point, and Jacksonville Range Complexes from June 2009 through June 2014 and the active sonar training they plan to conduct along the Atlantic Coast are not likely to interact with sufficient number of adult or sub-adult sea turtles, if they interact with any sea turtles at all, to reduce the viability of the nesting aggregations those sea turtles represent by reducing the population dynamics, behavioral ecology, and social dynamics of those populations (that is, we would not expect reductions in the reproduction, numbers, or distribution of those populations). As a result, those activities would not be expected to appreciably reduce the likelihood of green, hawksbill, leatherback, or loggerhead sea turtles surviving and recovering in the wild by reducing their reproduction, numbers, or distribution.

NORTH ATLANTIC RIGHT WHALE CRITICAL HABITAT. Because the U.S. Navy does not propose to conduct active sonar training in North Atlantic right whale critical habitat (with exceptions that have been noted elsewhere in this Opinion) and the U.S. Navy does not plan to conduct active sonar activities within the Stellwagen Bank, Monitor, Gray's Reef, Flower Garden Banks, and Florida Keys National Marine Sanctuaries and will avoid these sanctuaries by observing a 5 km (2.7 nautical mile or nm) buffer, we assume that these areas are not likely to be exposed to vessel traffic associated with active sonar training. Therefore, the conservation value of these areas should not be affected by vessel traffic.

The U.S. Navy also proposes to reduce the time spent conducting object detection exercises in the North Atlantic right whale critical habitat (Item 4.5.2 of the Navy's proposed mitigation measures). Specifically, the Navy proposes to require ships to contact FACSFAC JAX to obtain the latest right whale sighting information. FACSFAC JAX will advise ships of all reported whale sightings in the vicinity of the critical habitat and Associated Area of Concern prior to conducting surface ship object detection exercises in the southeast North Atlantic right whale critical habitat from 15 November to 15 April. To the extent operationally feasible, ships will avoid conducting training in the vicinity of recently sighted right whales. Ships will maneuver to maintain at least 457 m (500 yd) separation from any observed whale, consistent with the safety of the ship. Further, the U.S. Navy has established protocols that would make personnel aboard their ships aware of the distribution of North Atlantic right whales, to increase their probability of detecting right whales (for example, by requiring at least two watchstanders on ships transiting within 56 km of the mid-Atlantic coast), and operating at slow, safe speeds.

Because of the Navy's mitigation measures, the northern units of right whale critical habitat would not be exposed to mid-frequency active sonar at received levels greater than about 170 dB (based on estimates of propagation distances and assuming that a vessel near the boundary of this buffer zone would be transmitting active sonar). Because North

Atlantic right whales are not likely to respond to high-frequency sound sources associated with the proposed training activities, high-frequency sound sources associated with the Navy's active sonar training activities should not reduce the conservation value of the designated critical habitat. Although North Atlantic right whales appear to be able to hear mid-frequency (1 kHz–10 kHz) sounds, the limited evidence available suggests that sounds in this frequency range appear to lie at the periphery of their hearing range and they do not appear likely to respond physiologically or behaviorally to sounds in this frequency range. As a result, the mid-frequency sound sources associated with the Navy's active sonar training activities along the Atlantic Coast should not reduce the conservation value of the designated critical habitat for right whales.

CONCLUSION

After reviewing the current status of endangered blue whales, fin whales, humpback whales, North Atlantic right whales, sei whales, sperm whales, green sea turtles, hawksbill sea turtles, Kemp's ridley sea turtles, leatherback sea turtles, and loggerhead sea turtles, the environmental baseline for the action area, the effects of the proposed research program, and the cumulative effects, it is NMFS' biological opinion that the training activities the U.S. Navy plans to conduct in the Northeast Operating Areas, the Virginia Capes Range Complex, Cherry Point Range Complex, and the Jacksonville Range Complex from June 2009 through June 2014, the U.S. Navy's proposed Transit Protection System at King's Bay, Georgia, and the National Marine Fisheries Service's Permits, Conservation, and Education Division (hereafter, "Permits Division") proposal to promulgate regulations governing the take and importation of marine mammals, pursuant to the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), to allow NMFS to promulgate regulations that would allow it to issue annual letters of authorization to the U.S. Navy to take marine mammals for a five-year period beginning in June 2009 and ending in June 2014 incidental to the U.S. Navy's training activities are likely to adversely affect but are not likely to jeopardize the continued existence of these threatened and endangered species under NMFS jurisdiction.

The opinion also concluded that training activities the U.S. Navy plans to conduct in the Northeast Operating Areas, the Virginia Capes Range Complex, Cherry Point Range Complex, and the Jacksonville Range Complex from June 2009 through June 2014, the U.S. Navy's proposed Transit Protection System at King's Bay, Georgia, and the National Marine Fisheries Service's Permits, Conservation, and Education Division (hereafter, "Permits Division") proposal to promulgate regulations governing the take and importation of marine mammals, pursuant to the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), to allow NMFS to promulgate regulations that would allow it to issue annual letters of authorization to the U.S. Navy to take marine mammals for a five-year period beginning in June 2009 and ending in June 2014 incidental to the U.S. Navy's training activities are not likely to result in the destruction or adverse modification of critical habitat that has been designated for endangered or threatened species in the action area.

INCIDENTAL TAKE STATEMENT

Section 9 of the ESA and Federal regulation pursuant to section 4(d) of the ESA prohibits the take of endangered and threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harm is further defined by NMFS to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2) of the ESA, taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of this Incidental Take Statement.

The National Marine Fisheries Service is not including an incidental take authorization for marine mammals at this time because the incidental take of marine mammals has not been authorized under section 101(a)(5) of the Marine Mammal Protection Act of 1972, as amended. If and when such regulations or authorizations are issued, the National Marine Fisheries Service will prepare a new biological opinion to include an incidental take statement for the endangered and threatened species that have been considered in this Opinion, as appropriate.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information.

The following conservation recommendations would provide information for future consultations involving the issuance of marine mammal permits that may affect endangered whales as well as reduce harassment related to research activities:

1. *Cumulative Impact Analysis.* The U.S. Navy should work with NMFS Endangered Species Division and other relevant stakeholders (the Marine Mammal Commission, International Whaling Commission, and the marine mammal research community) to develop a method for assessing the cumulative impacts of anthropogenic noise on cetaceans, pinnipeds, sea turtles, and other marine animals. This includes the cumulative impacts on the distribution, abundance, and the physiological, behavioral and social ecology of these species.

In order to keep NMFS Endangered Species Division informed of actions minimizing or avoiding adverse effects or benefitting listed species or their habitats, the U.S. Navy should notify the Endangered Species Division of any conservation recommendations they implement in their final action.

REINITIATION NOTICE

This concludes formal consultation on the training activities the U.S. Navy plans to conduct in the Northeast Operating Area, the Virginia Capes Range Complex, Cherry Point Range Complex, and the Jacksonville Range Complex from June 2009 through June 2014 the U.S. Navy's proposed Transit Protection System at King's Bay, Georgia, and the National Marine Fisheries Service's Permits, Conservation, and Education Division's proposal to promulgate regulations that would allow them to authorize the U.S. Navy to "take" marine mammals incidental to these training activities. As provided in 50 CFR 402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, section 7 consultation must be reinitiated immediately.

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