

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

Letter of Authorization
TESTING

The Commander, Naval Sea Systems Command, 1333 Isaac Hull Ave., SE, Washington Navy Yard, DC, 20376, and persons operating under his authority (i.e., Navy), are authorized to take marine mammals incidental to Navy testing exercises conducted in the Atlantic Fleet Training and Testing Study Area in accordance with 50 CFR Part 218, Subpart I—Taking and Importing Marine Mammals; U.S. Navy's Atlantic Fleet Training and Testing (AFTT) subject to the provisions of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*; MMPA) and the following conditions:

1. This Authorization is valid for the period November 14, 2013, through November 13, 2018.

2. This Authorization is valid only for the unintentional taking of the species of marine mammals and methods of take identified in 50 CFR § 218.82(b) and Condition (5) of this Authorization incidental to the testing activities specified in 50 CFR § 218.80(c) and Condition (4)(a) of this Authorization and occurring within the AFTT Study Area, (as depicted in Figure 1.1-1 in the Navy's FEIS/OEIS). In addition, the Study Area includes U.S. Navy pierside locations where sonar maintenance and testing occurs.

3. This Authorization is valid only if the Holder of the Authorization or any person(s) operating under his authority implements the mitigation, monitoring, and reporting required pursuant to 50 CFR §§ 218.84 & 218.85 and implements the Terms and Conditions of this Authorization.

4. (a) This Authorization is valid for the sources used during testing activities identified below:

(1) The use of the following active acoustic sources during annual and non-annual testing (non-annual amounts in parentheses):

- (i) LF4 – an average of 254 hours per year
- (ii) LF5 – an average of 370 hours per year (an average of 240 hours)
- (iii) MF1 – an average of 220 hours per year
- (iv) MF1K – an average of 19 hours per year
- (v) MF2 – an average of 36 hours per year
- (vi) MF3 – an average of 434 hours per year
- (vii) MF4 – an average of 776 hours per year
- (viii) MF5 – an average of 4,184 sonobuoys per year
- (ix) MF6 – an average of 303 items per year
- (x) MF8 – an average of 90 hours per year

- (xi) MF9 – an average of 13,034 hours per year (an average of 480 hours)
- (xii) MF10 – an average of 1,067 hours per year
- (xiii) MF12 – an average of 144 hours per year
- (xiv) HF1 – an average of 1,243 hours per year
- (xv) HF3 – an average of 384 hours per year
- (xvi) HF4 – an average of 5,572 hours per year
- (xvii) HF5 – an average of 1,206 hours per year (an average of 240 hours)
- (xviii) HF6 – an average of 1,974 hours per year (an average of 720 hours)
- (xix) HF7 – an average of 366 hours per year (an average of 240 hours)
- (xx) ASW1 – an average of 96 hours per year
- (xxi) ASW2 – an average of 2,743 sonobuoys per year
- (xxii) ASW2 – an average of 274 hours per year
- (xxiii) ASW3 – an average of 948 hours per year
- (xxiv) ASW4 – an average of 483 devices per year
- (xxv) TORP1 – an average of 581 torpedoes per year
- (xxvi) TORP2 – an average of 521 torpedoes per year
- (xxvii) M3 – an average of 461 hours per year
- (xxviii) SD1 and SD2 – an average of 230 hours per year
- (xxix) FLS2 and FLS3 – an average of 365 hours per year (an average of 240 hours)
- (xxx) SAS1 – an average of 6 hours per year
- (xxxi) SAS2 – an average of 3,424 hours per year (an average of 720 hours)

(2) The use of the following explosive sources during annual and non-annual training (non-annual amounts in parentheses):

- (i) E1 – an average of 25,501 detonations per year (an average of 600)
- (ii) E2 – an average of 0 detonations per year
- (iii) E3 – an average of 2,912 detonations per year
- (iv) E4 – an average of 1,432 detonations per year
- (v) E5 – an average of 495 detonations per year
- (vi) E6 – an average of 54 detonations per year
- (vii) E7 – an average of 0 detonations per year
- (viii) E8 – an average of 11 detonations per year
- (ix) E9 – an average of 0 detonations per year
- (x) E10 – an average of 10 detonations per year
- (xi) E11 – an average of 27 detonations per year
- (xii) E12 – an average of 0 detonations per year
- (xiii) E13 – an average of 0 detonations per year
- (xiv) E14 – an average of 4 detonations per year
- (xv) E16 – (an average of 12)
- (xvi) E17 – (an average of 4)

(b) This authorization is also valid for the sources listed in 4(a) should the amounts (i.e., hours, devices, detonations) vary from those estimated in 4(a), provided that the variation does not result in exceeding the amount of take indicated in 5(a), below.

5. (a) The annual incidental take of marine mammals from the sources identified in 4, above, and § 218.80(c) is limited to the species listed in 5(b through d) below, by the indicated method of take and the indicated number of times (estimated based on the authorized amounts of sound source operation):

(b) Level B Harassment:

(1) Mysticetes:

- (i) Blue whale (*Balaenoptera musculus*) – 82 (up to 18 per year)
- (ii) Bryde's whale (*Balaenoptera edeni*) – 304 (an average of 64 per year)
- (iii) Fin whale (*Balaenoptera physalus*) – 2,784 (up to 599 per year)
- (iv) North Atlantic right whale (*Eubalaena glacialis*) – 395 (up to 87 per year)
- (v) Humpback whale (*Megaptera novaeangliae*) – 976 (up to 200 per year)
- (vi) Sei whale (*Balaenoptera borealis*) – 3,821 (up to 796 per year)

(2) Odontocetes:

- (i) Atlantic spotted dolphin (*Stenella frontalis*) – 104,647 (an average of 24,429 per year)
- (ii) Atlantic white-sided dolphin (*Lagenorhynchus acutus*) – 50,133 (an average of 10,330 per year)
- (iii) Blainville's beaked whale (*Mesoplodon densirostris*) – 23,561 (an average of 4,753 per year)
- (iv) Bottlenose dolphin (*Tursiops truncatus*) – 146,863 (an average of 33,708 per year)
- (v) Clymene dolphin (*Stenella clymene*) – 10,169 (an average of 2,173 per year)
- (vi) Common dolphin (*Delphinus spp.*) – 235,493 (an average of 52,546 per year)
- (vii) Cuvier's beaked whale (*Ziphius cavirostris*) – 30,472 (an average of 6,144 per year)
- (viii) False killer whale (*Pseudorca crassidens*) – 497 (an average of 109 per year)
- (ix) Fraser's dolphin (*Lagenodelphis hosei*) – 791 (an average of 171 per year)
- (x) Gervais' beaked whale (*Mesoplodon europaeus*) – 23,388 (an average of 4,764 per year)
- (xi) Harbor porpoise (*Phocoena phocoena*) – 10,358,300 (an average of 2,182,872 per year)
- (xii) Killer whale (*Orcinus orca*) – 7,173 (an average of 1,540 per year)
- (xiii) Kogia spp. – 5,536 (an average of 1,163 per year)
- (xiv) Melon-headed whale (*Peponocephala electra*) – 6,950 (an average of 1,512 per year)

- (xv) Northern bottlenose whale (*Hyperoodon ampullatus*) – 60,409 (an average of 12,096 per year)
- (xvi) Pantropical spotted dolphin (*Stenella attenuata*) – 38,385 (an average of 7,985 per year)
- (xvii) Pilot whale (*Globicephala* spp.) – 74,614 (an average of 15,701 per year)
- (xviii) Pygmy killer whale (*Feresa attenuata*) – 603 (an average of 135 per year)
- (xix) Risso's dolphin (*Grampus griseus*) – 113,682 (an average of 24,356 per year)
- (xx) Rough-toothed dolphin (*Steno bredanensis*) – 618 (an average of 138 per year)
- (xxi) Sowerby's beaked whale (*Mesoplodon bidens*) – 13,338 (an average of 2,698 per year)
- (xxii) Sperm whale (*Physeter macrocephalus*) – 8,533 (up to 1,786 per year)
- (xxiii) Spinner dolphin (*Stenella longirostris*) – 13,208 (an average of 2,862 per year)
- (xxiv) Striped dolphin (*Stenella coerulealba*) – 97,852 (an average of 21,738 per year)
- (xxv) True's beaked whale (*Mesoplodon mirus*) – 15,569 (an average of 3,133 per year)
- (xxvi) White-beaked dolphin (*Lagenorhynchus albirostris*) – 8,370 (an average of 1,818 per year)

(3) Pinnipeds:

- (i) Bearded seal (*Erignathus barbatus*) – 161 (an average of 33 per year)
- (ii) Gray seal (*Halichoerus grypus*) – 14,149 (an average of 3,293 per year)
- (iii) Harbor seal (*Phoca vitulina*) – 38,860 (an average of 8,668 per year)
- (iv) Harp seal (*Pagophilus groenlanica*) – 16,277 (an average of 3,997 per year)
- (v) Hooded seal (*Cystophora cristata*) – 1,447 (an average of 295 per year)
- (vi) Ringed seal (*Pusa hispida*) – 1,795 (up to 359 per year)

(c) Level A Harassment:

(1) Mysticetes:

- (i) Minke whale (*Balaenoptera acutorostrata*) – 28 (an average of 15 per year)

(2) Odontocetes:

- (i) Atlantic spotted dolphin (*Stenella frontalis*) – 1,964 (an average of 1,854 per year)
- (ii) Atlantic white-sided dolphin (*Lagenorhynchus acutus*) – 166 (an average of 147 per year)
- (iii) Bottlenose dolphin (*Tursiops truncatus*) – 190 (an average of 149 per year)
- (iv) Clymene dolphin (*Stenella clymene*) – 87 (an average of 80 per year)
- (v) Common dolphin (*Delphinus* spp.) – 2,369 (an average of 2,203 per year)
- (vi) Harbor porpoise (*Phocoena phocoena*) – 1,080 (an average of 216 per year)
- (vii) Kogia spp. – 36 (an average of 12 per year)

- (viii) Melon-headed whale (*Peponocephala electra*) – 30 (an average of 28 per year)
- (ix) Pantropical spotted dolphin (*Stenella attenuata*) – 92 (an average of 71 per year)
- (x) Pilot whale (*Globicephala* spp.) – 163 (an average of 153 per year)
- (xi) Pygmy killer whale (*Feresa attenuata*) – 3 (an average of 3 per year)
- (xii) Risso’s dolphin (*Grampus griseus*) – 89 (an average of 70 per year)
- (xiii) Spinner dolphin (*Stenella longirostris*) – 34 (an average of 28 per year)
- (xiv) Striped dolphin (*Stenella coerulealba*) – 2,751 (an average of 2,599 per year)
- (xv) White-beaked dolphin (*Lagenorhynchus albirostris*) – 3 (an average of 3 per year)
- (xvi) Sperm whale (*Physeter macrocephalus*) – 6 (up to 5 per year)
- (xvii) Blainville’s beaked whale (*Mesoplodon densirostris*) – 3 (an average of 3 per year)
- (xviii) Cuvier’s beaked whale (*Ziphius cavirostris*) – 1 (an average of 1 per year)
- (xix) Gervais’ beaked whale (*Mesoplodon europaeus*) – 4 (an average of 4 per year)
- (xx) Northern bottlenose whale (*Hyperoodon ampullatus*) – 6 (an average of 5 per year)
- (xxi) True’s beaked whale (*Mesoplodon mirus*) – 1 (an average of 1 per year)

(3) Pinnipeds:

- (i) Gray seal (*Halichoerus grypus*) – 46 (an average of 14 per year)
- (ii) Harbor seal (*Phoca vitulina*) – 330 (an average of 78 per year)
- (iii) Harp seal (*Pagophilus groenlanica*) – 30 (an average of 14 per year)

(d) Mortality (or lesser Level A injury):

- (1) No more than 55 mortalities (11 per year) applicable to any small odontocete species from an impulse source.
- (2) No more than 1 large whale mortality (no more than 1 in any given year) from vessel strike.
- (3) No more than 25 mortalities (no more than 20 in any given year) applicable to any small odontocete species from Ship Shock trials.

6. (a) Mitigation – The Holder of this Authorization, and any individuals operating under his authority, must implement the following mitigation measures when using sources identified in 50 CFR § 218.80(c) and Condition 4(a) of this Authorization:

(1) Lookouts – The following are protective measures concerning the use of lookouts.

(i) Lookouts positioned on ships will be dedicated solely to diligent observation of the air and surface of the water. Their observation objectives will include, but are not limited to, detecting the presence of biological resources and recreational or fishing boats, observing mitigation zones, and monitoring for vessel and personnel safety concerns.

(ii) Lookouts positioned in aircraft or on small boats will, to the maximum extent practicable and consistent with aircraft and boat safety and training and testing requirements, comply with the observation objectives described above in § 218.84 (a)(1)(i).

(iii) Lookout measures for non-impulsive sound:

(A) With the exception of ships less than 65 ft (20 m) in length and ships that are minimally manned, ships using low-frequency or hull-mounted mid-frequency active sonar sources associated with anti-submarine warfare and mine warfare activities at sea will have two Lookouts at the forward position of the ship. For the purposes of this rule, low-frequency active sonar does not include surveillance towed array sensor system low-frequency active sonar.

(B) While using low-frequency or hull-mounted mid-frequency active sonar sources associated with anti-submarine warfare and mine warfare activities at sea, vessels less than 65 ft (20 m) in length and ships that are minimally manned will have one Lookout at the forward position of the vessel due to space and manning restrictions.

(C) Ships conducting active sonar activities while moored or at anchor (including pier-side testing or maintenance) will maintain one Lookout.

(D) Surface ships or aircraft conducting high-frequency or non-hull-mounted mid-frequency active sonar activities associated with anti-submarine warfare and mine warfare activities at sea will have one Lookout.

(E) Surface ships or aircraft conducting high-frequency active sonar activities associated with anti-submarine warfare and mine warfare activities at sea will have one Lookout.

(iv) Lookout measures for explosives and impulsive sound:

(A) Aircraft conducting activities with IEER sonobuoys and explosive sonobuoys with 0.6 to 2.5 lbs net explosive weight will have one Lookout.

(B) Surface vessels conducting anti-swimmer grenade activities will have one Lookout.

(C) During general mine countermeasure and neutralization activities using up to a 500-lb net explosive weight detonation (bin E10 and below), vessels greater than 200 ft will have two Lookouts, while vessels less than 200 ft or aircraft will have one Lookout.

(D) General mine countermeasure and neutralization activities using a 501 to 650-lb net explosive weight detonation (bin E11), will have two Lookouts. One Lookout will be positioned in an aircraft and one in a support vessel.

(E) Mine neutralization activities involving diver-placed charges using up to 100-lb net explosive weight detonation (E8) conducted with a positive control device will have a total of two Lookouts. One Lookout will be positioned in each of the two support vessels, or one in a support vessel and one in a helicopter. All divers placing the charges on mines will support the Lookouts while performing their regular duties. The divers placing the charges on mines will report all marine mammal sightings to their dive support vessel or Range Safety Officer.

(F) When mine neutralization activities using diver-placed charges with up to a 20-lb net explosive weight detonation (bin E6) are conducted with a time-delay firing device, four Lookouts will be used. Two Lookouts will be positioned in each of two small rigid hull inflatable boats. In addition, when aircraft are used, the pilot or member of the aircrew will serve

as an additional Lookout. The divers placing the charges on mines will report all marine mammal sightings to their dive support vessel or Range Safety Officer.

(G) Surface vessels conducting line charge testing will have one Lookout

(H) Surface vessels or aircraft conducting small- and medium-caliber gunnery exercises against a surface target will have one Lookout.

(I) Surface vessels conducting large-caliber gunnery exercises against a surface target will have one Lookout.

(J) Aircraft conducting missile exercises (including rockets) against surface targets will have one Lookout.

(K) Aircraft conducting bombing exercises will have one Lookout.

(L) During explosive torpedo testing, one Lookout will be used and positioned in an aircraft.

(M) Prior to commencing, during, and after completion of ship shock trials using up to 10,000 lb. HBX charges, the Navy will have at least 10 Lookouts or trained marine species observers (or a combination thereof) positioned either in an aircraft or on multiple vessels (i.e., a Marine Animal Response Team boat and the test ship). If aircraft are used, there will be Lookouts or trained marine species observers positioned in an aircraft and positioned on multiple vessels. If vessels are the only platform, a sufficient number of additional Lookouts or trained marine species observers will be used to provide visual observation of the mitigation zone comparable to that achieved by aerial surveys.”

(N) Prior to commencing, during, and after completion of ship shock trials using up to 40,000 lb. HBX charges, the Navy will have at least 10 Lookouts or trained marine species observers (or a combination thereof) positioned in an aircraft and on multiple vessels (i.e., a Marine Animal Response Team boat and the test ship).

(O) Each surface vessel supporting at-sea explosive testing will have at least one lookout.

(P) Surface vessels conducting explosive and non-explosive large-caliber gunnery exercises will have one lookout. This may be the same lookout used during large-caliber gunnery exercises with a surface target as described above in § 218.84 (a)(1)(iv)(I) and below in § 218.84 (a)(1)(v)(C).

(v) Lookout measures for physical strike and disturbance:

(A) While underway, surface ships will have at least one lookout.

(B) During activities using towed in-water devices that are towed from a manned platform, one lookout will be used.

(C) Activities involving non-explosive practice munitions (e.g., small-, medium-, and large-caliber gunnery exercises) using a surface target will have one lookout.

(D) During activities involving non-explosive bombing exercises, one lookout will be used.

(E) During activities involving non-explosive missile exercises (including rockets) using a surface target, one lookout will be used.

(2) Mitigation Zones – The following are protective measures concerning the implementation of mitigation zones.

(i) Mitigation zones will be measured as the radius from a source and represent a distance to be monitored.

(ii) Visual detections of marine mammals within a mitigation zone will be communicated immediately to a watch station for information dissemination and appropriate action.

(iii) Mitigation zones for non-impulsive sound:

(A) When marine mammals are visually detected, the Navy shall ensure that low-frequency and hull-mounted mid-frequency active sonar transmission levels are limited to at least 6 dB below normal operating levels, for sources that can be powered down, if any detected marine mammals are within 1,000 yd (914 m) of the sonar dome (the bow).

(B) The Navy shall ensure that low-frequency and hull-mounted mid-frequency active sonar transmissions are limited to at least 10 dB below the equipment's normal operating levels, for sources that can be powered down, if any detected marine mammals are within 500 yd (457 m) of the sonar dome.

(C) The Navy shall ensure that low-frequency and hull-mounted mid-frequency active sonar transmissions are ceased, for sources that can be turned off during the activity, if any visually detected marine mammals are within 200 yd (183 m) of the sonar dome. Transmissions will not resume until one of the following conditions is met: the animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source, the mitigation zone has been clear from any additional sightings for a period of 30 min., the ship has transited more than 2,000 yd (1.8 km) beyond the location of the last sighting, or the ship concludes that dolphins are deliberately closing in on the ship to ride the ship's bow wave (and there are no other marine mammal sightings within the mitigation zone). Active transmission may resume when dolphins are bow riding because they are out of the main transmission axis of the active sonar while in the shallow-wave area of the bow.

(D) The Navy shall ensure that low-frequency and hull-mounted mid-frequency active sonar transmissions are ceased, for sources that cannot be powered down during the activity, if any visually detected marine mammals are within 200 yd (183 m) of the source. Transmissions will not resume until one of the following conditions is met: the animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source, the mitigation zone has been clear from any additional sightings for a period of 30 min., the ship has transited more than 400 yd (366 m) beyond the location of the last sighting.

(E) When marine mammals are visually detected, the Navy shall ensure that high-frequency and non-hull-mounted mid-frequency active sonar transmission levels are ceased if any visually detected marine mammals are within 200 yd (183 m) of the source. Transmissions will not resume until one of the following conditions is met: the animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source, the mitigation zone has been clear from any additional sightings for a period of 10 min. for an aircraft-deployed source, the mitigation zone has been clear from any additional sightings for a period of 30 min. for a vessel-deployed source, the vessel or aircraft has repositioned itself more than 400 yd. (366 m) away from the location of the last sighting, or the vessel concludes that

dolphins are deliberately closing in to ride the vessel's bow wave (and there are no other marine mammal sightings within the mitigation zone).

(iv) Mitigation zones for explosive and impulsive sound:

(A) A mitigation zone with a radius of 600 yd (549 m) shall be established for IEER sonobuoys (bin E4).

(B) A mitigation zone with a radius of 350 yd (320 m) shall be established for explosive sonobuoys using 0.6 to 2.5 lb net explosive weight (bin E3).

(C) A mitigation zone with a radius of 200 yd (183 m) shall be established for anti-swimmer grenades (up to bin E2).

(D) A mitigation zone ranging from 600 yd (549 m) to 2,100 yd (1.9 km), dependent on charge size, shall be established for general mine countermeasure and neutralization activities using positive control firing devices. Mitigation zone distances are specified for charge size in Table 11-2 of the Navy's application.

(E) A mitigation zone ranging from 350 yd (320 m) to 850 yd (777 m), dependent on charge size, shall be established for mine countermeasure and neutralization activities using diver placed positive control firing devices. Mitigation zone distances are specified for charge size in Table 11-2 of the Navy's application.

(F) A mitigation zone with a radius of 1,000 yd (914 m) shall be established for mine neutralization diver placed mines using time-delay firing devices (up to bin E6).

(G) A mitigation zone with a radius of 900 yd (823 m) shall be established for ordnance testing (line charge testing) (bin E4).

(H) A mitigation zone with a radius of 200 yd (183 m) shall be established for small- and medium-caliber gunnery exercises with a surface target (up to bin E2).

(I) A mitigation zone with a radius of 600 yd (549 m) shall be established for large-caliber gunnery exercises with a surface target (bin E5).

(J) A mitigation zone with a radius of 900 yd (823 m) shall be established for missile exercises (including rockets) with up to 250 lb net explosive weight and a surface target (up to bin E9).

(K) A mitigation zone with a radius of 2,000 yd (1.8 km) shall be established for missile exercises with 251 to 500 lb net explosive weight and a surface target (E10)

(L) A mitigation zone with a radius of 2,500 yd (2.3 km) shall be established for bombing exercises (up to bin E12).

(M) A mitigation zone with a radius of 2,100 yd (1.9 km) shall be established for torpedo (explosive) testing (up to bin E11).

(N) A mitigation zone with a radius of 2.5 nautical miles shall be established for sinking exercises (up to bin E12).

(O) A mitigation zone with a radius of 1,600 yd (1.4 km) shall be established for at-sea explosive testing (up to bin E5).

(P) A mitigation zone with a radius of 3.5 nautical miles shall be established for a shock trial.

(Q) A mitigation zone with a radius of 70 yd (64 m), within 30 degrees on either side of the gun target line on the firing side of the ship, shall be established for all explosive and non-explosive large-caliber gunnery exercises.

(v) Mitigation zones for vessels and in-water devices:

(A) A mitigation zone of 500 yd (457 m) for observed whales and 200 yd (183 m) for all other marine mammals (except bow riding dolphins) shall be established for all vessel movement, providing it is safe to do so.

(B) A mitigation zone of 250 yd (229 m) for any observed marine mammal shall be established for all towed in-water devices that are towed from a manned platform, providing it is safe to do so.

(vi) Mitigation zones for non-explosive practice munitions:

(A) A mitigation zone of 200 yd (183 m) shall be established for small, medium, and large caliber gunnery exercises using a surface target.

(B) A mitigation zone of 1,000 yd (914 m) shall be established for bombing exercises.

(C) A mitigation zone of 900 yd (823 m) shall be established for missile exercises (including rockets) using a surface target.

(3) Protective Measures Specific to North Atlantic Right Whales

(i) North Atlantic Right Whale Calving Habitat off the Southeast United States.

(A) The Southeast Right Whale Mitigation Area is defined by a 5 nm (9.3 km) buffer around the coastal waters between 31-15 N. lat. and 30-15 N. lat. extending from the coast out 15 nm (27.8 km), and the coastal waters between 30-15 N. lat. to 28-00 N. lat. from the coast out to 5 nm (9.3 km).

(B) Between November 15 and April 15, the following activities are prohibited within the Southeast Right Whale Mitigation Area:

(1) Low-frequency and hull-mounted mid-frequency active sonar (except as noted below in § 218.84 (a)(3)(i)(C).

(2) High-frequency and non-hull mounted mid-frequency active sonar (except helicopter dipping)

(3) Missile activities (explosive and non-explosive)

(4) Bombing exercises (explosive and non-explosive)

(5) Underwater detonations

(6) Improved extended echo ranging sonobuoy exercises

(7) Torpedo exercises (explosive)

(8) Small-, medium-, and large-caliber gunnery exercises

(C) Between November 15 and April 15, use of the following systems is to be minimized to the maximum extent practicable within the Southeast Right Whale Mitigation Area:

(1) Helicopter dipping using active sonar

(2) Low-frequency and hull-mounted mid-frequency active sonar used for navigation training

(3) Low-frequency and hull-mounted mid-frequency active sonar used for object detection exercises

(D) Prior to transiting or training or testing in the Southeast Right Whale Mitigation Area, ships shall contact Fleet Area Control and Surveillance Facility, Jacksonville, to obtain the latest whale sightings and other information needed to make informed decisions

regarding safe speed and path of intended movement. Submarines shall contact Commander, Submarine Force United States Atlantic Fleet for similar information.

(E) The following specific mitigation measures apply to activities occurring within the Southeast Right Whale Mitigation Area:

(1) When transiting within the Southeast Right Whale Mitigation Area, 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 North Atlantic right whale is sighted by a vessel, when the vessel is within 9 km (5 nm) of a sighting reported within the past 12 hours, or when operating at night or during periods of poor visibility.

(3) Vessels shall avoid head-on approaches to North Atlantic right whales(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 their ability to maneuver.

(4) Vessels shall minimize to the extent practicable north-south transits through the Southeast Right Whale Mitigation Area. If transit in a north-south direction is required during training or testing activities, the Navy shall implement the measures described above.

(5) Ship, surfaced subs, and aircraft shall report any North Atlantic right whale sightings to Fleet Area Control and Surveillance Facility, Jacksonville, by the most convenient and fastest means. The sighting report shall include the time, latitude/longitude, direction of movement and number and description of whale (i.e., adult/calf)

(ii) North Atlantic Right Whale Foraging Habitat off the Northeast United States

(A) The Northeast Right Whale Mitigation Area consists of two areas: the Great South Channel and Cape Cod Bay. The Great South Channel is defined by the following coordinates: 41-40 N. Lat., 69-45 W. Long.; 41-00 N. Lat., 69-05 W. Long.; 41-38 N. Lat., 68-13 W. Long.; and 42-10 N. Lat., 68-31 W. Long. Cape Cod Bay is defined by the following coordinates: 42-04.8 N. Lat., 70-10 W. Long.; 42-10 N. Lat., 70-15 W. Long.; 42-12 N. Lat., 70-30 W. Long.; 41-46.8 N. Lat., 70-30 W. Long.; and on the south and east by the interior shoreline of Cape Cod.

(B) Year-round, the following activities are prohibited within the Northeast Right Whale Mitigation Area:

(1) Improved extended echo ranging sonobuoy exercises in or within 5.6 km (3 nm) of the mitigation area.

(2) Bombing exercises (explosive and non-explosive)

(3) Underwater detonations

(4) Torpedo exercises (explosive)

(C) Year-round, use of the following systems is to be minimized to the maximum extent practicable within the Northeast Right Whale Mitigation Area:

(1) Low-frequency and hull-mounted mid-frequency active sonar

(2) High-frequency and non-hull mounted mid-frequency active sonar, including helicopter dipping

(D) Prior to transiting or training in the Northeast Right Whale Mitigation Area, ships and submarines shall contact the Northeast Right Whale Sighting Advisory System to

obtain the latest whale sightings and other information needed to make informed decisions regarding safe speed and path of intended movement.

(E) The following specific mitigation measures apply to activities occurring within the Northeast Right Whale Mitigation Area:

(1) When transiting within the Northeast Right Whale Mitigation Area, 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 North Atlantic right whale is sighted by a vessel, when the vessel is within 9 km (5 nm) of a sighting reported within the past week, or when operating at night or during periods of poor visibility.

(3) When conducting TORPEXs, the following additional speed restrictions shall be required: during transit, surface vessels and submarines shall maintain a speed of no more than 19 km/hour (10 knots); during torpedo firing exercises, vessel speeds should, where feasible, not exceed 10 knots; when a submarine is used as a target, vessel speeds should, where feasible, not exceed 18 knots; when surface vessels are used as targets, vessels may exceed 18 knots for a short period of time (e.g., 10-15 minutes).

(4) Vessels shall avoid head-on approaches to North Atlantic right whales(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 their ability to maneuver.

(5) Non-explosive torpedo testing shall be conducted during daylight hours only in Beaufort sea states of 3 or less to increase the probability of marine mammal detection.

(6) Non-explosive torpedo testing activities shall not commence if concentrations of floating vegetation (Sargassum) are observed in the vicinity.

(7) Non-explosive torpedo testing activities shall cease if a marine mammal is visually detected within the immediate vicinity of the activity. The tests may recommence when any one of the following conditions are met: the animal is observed exiting the immediate vicinity of the activity; the animal is thought to have exited the immediate vicinity based on a determination of its course and speed and the relative motion between the animal and the source; or the immediate vicinity of the activity has been clear from any additional sightings for a period of 30 minutes.

(iii) North Atlantic Right Whale Mid-Atlantic Migration Corridor

(A) The Mid-Atlantic Right Whale Mitigation Area consists of the following areas:

(1) Block Island Sound: the area bounded by 40-51-53.7 N. Lat., 70-36-44.9 W. Long.; 41-20-14.1 N. Lat., 70-49-44.1 W. Long; 41-4-16.7 N. Lat., 71-51-21 W. Long.; 41-35-56.5 N. Lat., 71-38-26.1 W. Long; then back to first set of coordinates.

(2) New York and New Jersey: within a 37 km (20 nm) radius of the following (as measured seaward from the COLREGS lines) 40-29-42.2 N. Lat., 73-55-57.6 W. Long.

(3) Delaware Bay: within a 37 km (20 nm) radius of the following (as measured seaward from the COLREGS lines) 38-52-27.4 N. Lat., 75-01-32.1 W. Long.

(4) Chesapeake Bay: within a 37 km (20 nm) radius of the following (as measured seaward from the COLREGS lines) 37-00-36.9 N. Lat., 75-57-50.5 W. Long.

(5) Morehead City, North Carolina: within a 37 km (20 nm) radius of the following (as measured seaward from the COLREGS lines) 34-41-32 N. Lat., 76-40-08.3 W. Long.

(6) Wilmington, North Carolina, through South Carolina, and to Brunswick, Georgia: within a continuous area 37 km (20 nm) from shore and west back to shore bounded by 34-10-30 N. Lat., 77-49-12 W. Long.; 33-56-42 N. Lat., 77-31-30 W. Long.; 33-36-30 N. Lat., 77-47-06 W. Long.; 33-28-24 N. Lat., 78-32-30 W. Long.; 32-59-06 N. Lat., 78-50-18 W. Long.; 31-50 N. Lat., 80-33-12 W. Long.; 31-27 N. Lat., 80-51-36 W. Long.

(B) Between November 1 and April 30, when transiting within the Mid-Atlantic Right Whale Mitigation Area, 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.

(iv) Planning Awareness Areas

(A) The Navy shall avoid planning major training exercises involving the use of active sonar in the specified planning awareness areas (PAAs – see Figure 5.3-1 in the AFTT FEIS/OEIS) where feasible. Should national security require the conduct of more than four major exercises (C2X, JTFEX, or similar scale event) in these areas (meaning all or a portion of the exercise) per year, or more than one within the Gulf of Mexico areas per year, the Navy shall provide NMFS with prior notification and include the information in any associated after-action or monitoring reports.

(4) Stranding Response Plan

(i) The Navy shall abide by the current Stranding Response Plan for Major Navy Training Exercises in the Study Area, to include the following measures:

(A) Shutdown Procedures - When an Uncommon Stranding Event (USE - defined in § 218.71 (b)(1)) occurs during a Major Training Exercise (MTE) or ship shock trial in the AFTT Study Area, the Navy shall implement the procedures described below.

(1) The Navy shall implement a shutdown (as defined § 218.81(b)(2)) when advised by a NMFS Office of Protected Resources Headquarters Senior Official designated in the AFTT Study Area 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 the 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 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 behavior (if alive), and photo or video (if available). Based on the information provided, NFMS will determine if, and advise the Navy whether a modified shutdown is appropriate on a case-by-case basis.

(4) In the event, following a USE, that qualified individuals are attempting to herd animals back out to the open ocean and animals are not willing to leave, or 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 mid-frequency active sonar training activities or explosive detonations, though farther than 14 nautical miles 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 AFTT Study Area Communication Protocol) regarding the location, number and types of acoustic/explosive sources, direction and speed of units using mid-frequency active sonar, and marine mammal sightings information associated with training activities occurring within 80 nautical miles (148 km) and 72 hours prior to the USE event. Information not initially available regarding the 80-nautical miles (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.

7. Monitoring and Reporting – When conducting operations identified in 50 CFR § 218.80(c) and Condition 4(a), the Holder of the Authorization and any person(s) operating under his authority must implement the following monitoring and reporting measures. All reports should be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring MD 20910.

(a) 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 a Navy training or testing activity utilizing mid- or high-frequency active sonar or underwater explosive detonations. The Navy shall provide NMFS with species identification 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.

(b) General Notification of Ship Strike - In the event of a ship strike by any Navy vessel, at any time or place, the Navy shall do the following:

(1) Immediately report to NMFS (pursuant to the established Communication Protocol) the:

- (i) Species identification if known;
- (ii) Location (latitude/longitude) of the animal (or location of the strike if the animal has disappeared);
- (iii) Whether the animal is alive or dead (or unknown); and
- (iv) The time of the strike.

- (2) As soon as feasible, the Navy shall report to or provide to NMFS, the:
 - (i) Size, length, and description (critical if species is not known) of animal;
 - (ii) An estimate of the injury status (e.g., dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared, etc.);
 - (iii) Description of the behavior of the whale during event, immediately after the strike, and following the strike (until the report is made or the animal is no long sighted);
 - (iv) Vessel class/type and operation status;
 - (v) Vessel length;
 - (vi) Vessel speed and heading; and
 - (vii) To the best extent possible, obtain a photo or video of the struck animal, if the animal is still in view
- (3) Within 2 weeks of the strike, provide NMFS:
 - (i) A detailed description of the specific actions of the vessel in the 30-minute timeframe immediately preceding the strike, during the event, and immediately after the strike (e.g., the speed and changes in speed, the direction and changes in the direction, other maneuvers, sonar use, etc., if not classified); and
 - (ii) A narrative description of marine mammal sightings during the event and immediately after, and any information as to sightings prior to the strike, if available; and
 - (iii) Use established Navy shipboard procedures to make a camera available to attempt to capture photographs following a ship strike.

(c) Annual AFTT Monitoring Plan Report - The Navy shall submit an annual report of the AFTT Monitoring Plan (as described in § 218.85) on April 1 of each year describing the implementation and results from the previous calendar year. Data collection methods will be standardized across range complexes and study areas to allow for comparison in different geographic locations. Although additional information will be gathered, the protected species observers collecting marine mammal data pursuant to the AFTT Monitoring Plan shall, at a minimum, provide the same marine mammal observation data required in § 218.85. As an alternative, the Navy may submit a multi-Range Complex annual Monitoring Plan report to fulfill this requirement. Such a report would describe progress of knowledge made with respect to monitoring plan study questions across all Navy ranges associated with the ICMP. Similar study questions shall be treated together so that progress on each topic shall be summarized across all Navy ranges. The report need not include analyses and content that do not provide direct assessment of cumulative progress on the monitoring plan study questions.

(d) Annual AFTT Testing Report - The Navy shall submit “quick-look” reports detailing the status of authorized sound sources within 21 days after the end of the annual authorization cycle. The Navy shall submit detailed reports 3 months after the anniversary of the date of issuance of the LOA. The annual reports shall contain information on ship shock trial events and a summary of sound sources used, as described below. The analysis in the reports will be based on the accumulation of data from the current year’s report and data collected from previous reports. These reports shall contain information identified in subsections § 218.85(e)(1-5).

(1) Ship Shock Trial Report – The reporting requirements will be developed in conjunction with the individual test-specific mitigation plan for each ship shock trial. This will

allow both the Navy and NMFS to take into account specific information regarding location, assets, species, and seasonality.

(2) Summary of Sources Used

(i) This section shall include the following information summarized from the authorized sound sources used in all training and testing events:

(A) Total annual hours or quantity (per the LOA) of each bin of sonar or other non-impulsive source

(B) Total annual expended/detonated rounds (missiles, bombs, etc.) for each explosive bin

(C) Improved Extended Echo-Ranging System (IEER)/sonobuoy summary, including:

(1) Total expended/detonated rounds (buoys)

(2) Total number of self-scuttled IEER rounds

(3) Geographic Information Presentation – The reports shall present an annual (and seasonal, where practical) depiction of training exercises and testing bin usage geographically across the Study Area.

(e) 5-yr Close-out Testing Report – This report will be included as part of the 2019 annual exercise or testing report. This report will provide the annual totals for each sound source bin with a comparison to the annual allowance and the 5-year total for each sound source bin with a comparison to the 5-year allowance. Additionally, if there were any changes to the sound source allowance, this report will include a discussion of why the change was made and include the analysis to support how the change did or did not result in a change in the FEIS and final rule determinations. The report will be submitted April 1 following the expiration of the rule. NMFS will submit comments on the draft close-out report, if any, within 3 months of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or 3 months after the submittal of the draft if NMFS does not provide comments.

8. Prohibitions - Notwithstanding takings contemplated in § 218.82 and authorized by a Letter of Authorization issued under §§ 216.106 and 218.87, no person in connection with the activities described in § 218.80 may violate, or fail to comply with, the terms, conditions, and requirements of these regulations or a Letter of Authorization issued under §§ 216.106 and 218.87.

9. This Authorization may be modified, suspended or withdrawn (pursuant to 50 CFR § 216.106(e)(1 or 2) if the Holder or any person operating under his authority fails to abide by the conditions prescribed herein or if the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

10. A copy of this Authorization and the attached Subpart I of the regulations, or a document containing the equivalent requirements specified in this Authorization or 50 CFR 218 Subpart I, must be in the possession of the on-site Commanding Officer in order to take marine mammals under the authority of this Letter of Authorization while conducting the specified activity(ies).

11. The Holder of this Authorization and any person operating under his authority is required to comply with the Terms and Conditions of the Incidental Take Statement corresponding to NMFS' Biological Opinion as they pertain to listed marine mammals.



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

NOV 14 2013

Date