

NOTIFICATION AND REPORTING PLAN FOR THE U.S. NAVY ATLANTIC FLEET TRAINING AND TESTING STUDY AREA

BACKGROUND

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

REQUIREMENTS

1) Notification of the Discovery of a Stranded Marine Mammal

a. Discovery of any Stranded Marine Mammal¹

In the event that Navy personnel (uniformed military, civilian, or contractors while conducting Navy work) discover a live or dead stranded marine mammal within the AFTT Study Area or on Navy property, the Navy shall report the incident to NMFS (see communication protocols below) as soon as feasible. Reports of stranded pinnipeds on rookeries (*e.g.*, sea lions on San Nicolas Island, CA) are exempt from this provision.

The Navy will provide NMFS with:

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

¹ As defined in Title IV of the MMPA, a "stranding" is defined as "an event in the wild in which (A) a marine mammal is dead and is (i) on a beach or shore of the United States, or (ii) in waters under the jurisdiction of the United States (including any navigable waters) ; or (B) a marine mammal is alive and is (i) on a beach or shore of the United States and unable to return to the water; (ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or (iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance."

b. Vessel Strike

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

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

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

2) Additional Information Requests

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

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

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

- Atypical nearshore milling events of live cetaceans;

- Mass strandings of cetaceans (two or more individuals, not including cow/calf pairs);
- Beaked whale strandings;
- Necropsies with findings of pathologies that are unusual for the species or area; and
- Stranded animals with findings consistent with blast trauma.

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

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

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

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

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

COMMUNICATION PROTOCOL

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

Navy of the need to implement shutdown procedures, have been identified. These protocols and associated phone trees are currently in usable form and will be finalized for the AFTT Study Area by November 2018 and updated yearly (or more frequently, as appropriate) in the document entitled "AFTT Stranding Communication Protocols."