



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

Letter of Authorization

The Commander, Naval Air Warfare Center Weapons Division, 575 I Street, Suite 1 M/S 0460 Point Mugu, CA 93042-5049 and persons operating under their authority, are authorized to take marine mammals incidental to U.S. Navy (Navy) testing and training activities conducted in the U.S. Navy's Point Mugu Sea Range (PMSR) Study Area, subject to the provisions of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*; MMPA); applicable regulations found at 50 CFR Part 218, Subpart B ("the regulations"); and the following conditions:

1. This Authorization is valid for the period July 7, 2022 through July 6, 2029.
2. This Authorization is valid only for the unintentional taking of the species and stocks of marine mammals and methods of take identified in Condition 5 of this Authorization incidental to the testing and training activities specified in Condition 4 of this Authorization and occurring within the PMSR Study Area. The PMSR Study Area is located adjacent to Los Angeles, Ventura, Santa Barbara, and San Luis Obispo Counties along the Pacific Coast of Southern California and includes a 36,000-square-mile sea range. The two primary components of the PMSR Complex are Special Use Airspace and the ocean Operating Areas.
3. This Authorization is valid only if the Holder of the Authorization or any person(s) operating under his or her authority implements the mitigation, monitoring, and reporting required pursuant to 50 CFR §§ 218.14 and 218.15 and implements the Terms and Conditions of this Authorization.
4. This Authorization is valid for the testing and training activities identified below that include explosives, vessel use, and target and missile launches in the PMSR Study Area:
 - a. Air warfare;
 - b. Electronic warfare; and
 - c. Surface warfare.
5. The incidental take of marine mammals under the activities identified in Condition 4 and 50 CFR § 218.10(c) of the regulations is limited to the species and stocks listed in this condition (see below) by the indicated method of take and the indicated number of takes (Tables 1 and 2).



Table 1. Annual and 7-Year Total Species and Stock-Specific Take Authorized for All Testing and Training Activities in the PMSR Study Area (not inclusive of launch events on SNI).

Common Name	Stock/DPS	Annual Take by Level A and Level B Harassment			7-Year Total Take by Level A and Level B Harassment**		
		Behavioral Response	TTS	PTS	Behavioral Response	TTS	PTS
Blue whale*	Eastern North Pacific	7	4	0	52	27	0
Bryde's whale	Eastern Tropical Pacific	0	0	0	0	0	0
Fin whale*	California, Oregon, and Washington	14	7	1	101	46	7
Gray whale	Eastern North Pacific	9	5	0	65	37	0
	Western North Pacific†	0	0	0	0	0	0
Humpback whale*	California, Oregon, and Washington/Mexico DPS	7	4	0	52	29	0
	California, Oregon, and Washington/Central America DPS	1	0	0	6	0	0
Minke whale	California, Oregon, and Washington	2	1	0	15	6	0
Sei whale*	Eastern North Pacific	0	0	0	0	0	0
Baird's beaked whale	California, Oregon, and Washington	0	0	0	0	0	0
Bottlenose dolphin	California Coastal	0	0	0	0	0	0
	California, Oregon, and Washington Offshore	5	5	1	37	36	4
Cuvier's beaked whale	California, Oregon, and Washington	0	0	0	0	0	0
Dall's porpoise	California, Oregon, and Washington	261	406	49	1,824	2,845	341
Dwarf sperm whale	California, Oregon, and Washington	20	31	6	142	217	43
Harbor Porpoise	Morro Bay	0	0	0	0	0	0
Killer whale	Eastern North Pacific Offshore	0	0	0	0	0	0
	Eastern North Pacific Transient or West Coast Transient ⁶	0	0	0	0	0	0
Long-beaked common dolphin	California	66	44	9	454	310	65

Mesoplodont spp.	California, Oregon, and Washington	0	0	0	0	0	0
Northern right whale dolphin	California, Oregon, and Washington	3	2	1	22	16	4
Pacific white-sided dolphin	California, Oregon, and Washington	11	8	2	76	58	14
Pygmy killer whale	NSD	0	0	0	0	0	0
Pygmy sperm whale	California, Oregon, and Washington	20	31	6	141	219	44
Risso's dolphins	California, Oregon, and Washington	6	3	1	39	24	6
Short-beaked common dolphin	California, Oregon, and Washington	90	65	15	630	456	103
Short-finned pilot whale	California, Oregon, and Washington	0	0	0	0	0	0
Sperm whale*	California, Oregon, and Washington	1	1	0	7	8	0
Striped dolphin	California, Oregon, and Washington	1	1	0	5	4	0
Harbor seal	California	202	120	14	1,415	842	99
Northern elephant seal	California	37	63	22	258	444	152
California sea lion	U.S. Stock	8	12	2	58	81	16
Guadalupe fur seal*	Mexico to California	1	1	0	5	7	0
Northern fur seal	California	0	0	0	0	0	0

*ESA-listed species in PMSR

**7-year total impacts may differ from the annual total times seven as a result of standard rounding

†Only the indicated DPS is ESA-listed

Note: NSD = No stock designation

Table 2. Annual and seven-year total species-specific take estimates from target and missile launch activities on SNI in the PMSR Study Area.

Species	Stock	Annual Take by Level B Harassment	7-Year Total Take by Level B Harassment
California sea lion	U.S.	11,000	77,000
Harbor seal	California	480	3,360
Northern elephant seal	California	40	280

6. Mitigation. The Holder of this Authorization, and any persons operating under his or her authority, must implement the following mitigation measures when conducting the activities identified in Condition 4 of this Authorization.
 - a. *Procedural mitigation.* Procedural mitigation is mitigation that the Navy must implement whenever and wherever an applicable training or testing activity takes place within the PMSR Study Area for each applicable activity category or stressor category and includes acoustic stressors (i.e., weapons firing noise), explosive stressors (i.e., medium-caliber and large-caliber projectiles, missiles and rockets, bombs), and physical disturbance and strike stressors (i.e., vessel movement; towed in-water devices (e.g., surface targets); small-, medium-, and large-caliber non-explosive practice munitions; non-explosive missiles and rockets; and non-explosive bombs).
 - 1) *Environmental awareness and education.* Navy personnel (including civilian personnel) involved in mitigation and training or testing reporting under the specified activities must complete one or more modules of the U.S Navy Afloat Environmental Compliance Training Series, as identified in their career path training plan. Modules include: Introduction to the U.S. Navy Afloat Environmental Compliance Training Series, Marine Species Awareness Training; and U.S. Navy Protective Measures Assessment Protocol.
 - 2) *Weapons firing noise.* Weapons firing noise associated with large-caliber gunnery activities.
 - i. *Number of Lookouts and observation platform.* One Lookout must be positioned on the ship conducting the firing. Depending on the activity, the Lookout could be the same as the one described for “Small-, medium-, and large-caliber non-explosive practice munitions” in paragraph (a)(7)(i).
 - ii. *Mitigation zone.* The mitigation zone must be 30 degrees on either side of the firing line out to 70 yd from the muzzle of the weapon being fired.
 - iii. *Prior to activity.* Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must relocate or delay the start of weapons firing.
 - iv. *During the activity.* Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must cease weapons firing.
 - v. *Commencement/recommencement conditions after marine mammal sighting before or during activity.* Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not

recommencing weapons firing) until one of the following conditions has been met:

- 1) The animal is observed exiting the mitigation zone;
 - 2) The animal is determined to have exited the mitigation zone based on a good faith assessment of its course, speed, and movement away from the firing ship;
 - 3) The mitigation zone has been clear from any additional sightings for 30 min; or
 - 4) For mobile activities, the firing ship has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting.
- 3) *Explosive medium-caliber and large-caliber projectiles.* Gunnery activities using explosive medium-caliber and large-caliber projectiles. Mitigation applies to activities using a surface target.
- i. *Number of Lookouts and observation platform.* One Lookout must be on the vessel or aircraft conducting the activity. For activities using explosive large-caliber projectiles, depending on the activity, the Lookout could be the same as the one described for “Weapons firing noise” in paragraph (a)(2)(i). If additional platforms are participating in the activity, Navy personnel positioned in those assets (e.g., safety observers, evaluators) must support observing the mitigation zone for applicable biological resources, including marine mammals, while performing their regular duties.
 - ii. *Mitigation zones.* 200 yd around the intended impact location for air-to-surface activities using explosive medium-caliber projectiles; 600 yd around the intended impact location for surface-to-surface activities using explosive medium-caliber projectiles; and 1,000 yd around the intended impact location for surface-to-surface activities using explosive large-caliber projectiles.
 - iii. *Prior to activity.* Prior to the initial start of the activity (e.g., when maneuvering on station). Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must relocate or delay the start of firing.

- iv. *During activity.* During the activity, Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must cease firing.
 - v. *Commencement/recommencement conditions after marine mammal sighting before or during activity.* Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met:
 - 1) The animal is observed exiting the mitigation zone;
 - 2) The animal is determined to have exited the mitigation zone based on a good faith assessment of its course, speed, and movement away from the intended impact location;
 - 3) The mitigation zone has been clear from any additional sightings for 10 min for aircraft-based firing or 30 min for vessel-based firing; or
 - 4) For activities using mobile targets, the intended impact location has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting.
 - vi. *After activity.* After completion of the activity (*e.g.*, prior to maneuvering off station), Navy personnel must, when practical (*e.g.*, when platforms are not constrained by fuel restrictions or mission-essential follow-on commitments), observe for marine mammals in the vicinity of where detonations occurred; if any injured or dead marine mammals are observed, Navy personnel must follow established incident reporting procedures. If additional platforms are supporting this activity (*e.g.*, providing range clearance), Navy personnel on these assets must assist in the visual observation of the area where detonations occurred.
- 4) *Explosive missiles and rockets.* Aircraft-deployed explosive missiles and rockets. Mitigation applies to activities using a surface target at ranges up to 75 nmi.
- i. *Number of Lookouts and observation platform.* One Lookout must be positioned in an aircraft. If additional platforms are participating in the activity, Navy personnel positioned in those assets (*e.g.*, safety observers, evaluators) must support observing the mitigation zone for applicable biological resources, including marine mammals while performing their regular duties.

- ii. *Mitigation zone.* 900 yd around the intended impact location for missiles or rockets with 0.6–20 lb net explosive weight; and 2,000 yd around the intended impact location for missiles with 21-500 lb net explosive weight.
 - iii. *Prior to activity.* Prior to the initial start of the activity (*e.g.*, during a fly-over of the mitigation zone), Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must relocate or delay the start of firing.
 - iv. *During activity.* During the activity, Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must cease firing.
 - v. *Commencement/recommencement conditions after marine mammal sighting before or during activity.* Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met:
 - 1) The animal is observed exiting the mitigation zone;
 - 2) The animal is determined to have exited the mitigation zone based on a good faith assessment of its course, speed, and movement away from the intended impact location; or
 - 3) The mitigation zone has been clear from any additional sightings for 10 min when the activity involves aircraft that have fuel constraints, or 30 min when the activity involves aircraft that are not typically fuel constrained.
 - vi. *After activity.* After completion of the activity (*e.g.*, prior to maneuvering off station), Navy personnel must, when practical (*e.g.*, when platforms are not constrained by fuel restrictions or mission-essential follow-on commitments), observe for marine mammals in the vicinity of where detonations occurred; if any injured or dead marine mammals are observed, Navy personnel must follow established incident reporting procedures. If additional platforms are supporting this activity (*e.g.*, providing range clearance), Navy personnel on these assets must assist in the visual observation of the area where detonations occurred.
- 5) *Explosive bombs.* Mitigation applies to activities using a maritime surface target at ranges up to 75 nmi.
- i. *Number of Lookouts and observation platform.* One Lookout must be positioned in an aircraft conducting the activity. If additional platforms are

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

- ii. *Mitigation zone.* 2,500 yd around the intended target.
- iii. *Prior to activity.* Prior to the initial start of the activity (e.g., when arriving on station), Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must relocate or delay the start of bomb deployment.
- iv. *During activity.* During the activity (e.g., during target approach), Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must cease bomb deployment.
- v. *Commencement/recommencement conditions after marine mammal sighting before or during activity.* Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing bomb deployment) until one of the following conditions has been met:
 - 1) The animal is observed exiting the mitigation zone;
 - 2) The animal is determined to have exited the mitigation zone based on a good faith assessment of its course, speed, and movement away from the intended target;
 - 3) The mitigation zone has been clear from any additional sightings for 10 min; or
 - 4) For activities using mobile targets, the intended target has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting.
- vi. *After activity.* After completion of the activity (e.g., prior to maneuvering off station), Navy personnel must, when practical (e.g., when platforms are not constrained by fuel restrictions or mission-essential follow-on commitments), observe for marine mammals in the vicinity of where detonations occurred; if any injured or dead marine mammals are observed, Navy personnel must follow established incident reporting procedures. If additional platforms are supporting this activity (e.g.,

providing range clearance), Navy personnel on these assets must assist in the visual observation of the area where detonations occurred.

- 6) *Vessel movement.* The mitigation will not be required if: the vessel's safety is threatened; the vessel is restricted in its ability to maneuver (e.g., during launching and recovery of aircraft or landing craft, during towing activities, when mooring); the vessel is submerged or operated autonomously; or if impracticable based on mission requirements (e.g., during Amphibious Assault and Amphibious Raid exercises).
 - i. *Number of Lookouts and observation platform.* One Lookout must be on the vessel that is underway.
 - ii. *Mitigation zones.*
 - 1) 500 yd around whales.
 - 2) 200 yd around marine mammals other than whales (except bow-riding dolphins and pinnipeds hauled out on man-made navigational structures, port structures, and vessels).
 - iii. *During activity.* When underway, Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must maneuver to maintain distance.
 - iv. *Incident reporting procedures.* If a marine mammal vessel strike occurs, Navy personnel must follow the established incident reporting procedures.
- 7) *Small-, medium-, and large-caliber non-explosive practice munitions.* Mitigation applies to activities using a surface target.
 - i. *Number of Lookouts and observation platform.* One Lookout must be positioned on the platform conducting the activity. Depending on the activity, the Lookout could be the same as the one described for "Weapons firing noise" in paragraph (a)(2)(i) of this section.
 - ii. *Mitigation zone and requirements.* The relevant mitigation zone is 200 yd around the intended impact location.
 - iii. *Prior to the initial start of the activity (e.g., when maneuvering on station).* Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must relocate or delay the start of firing.

- iv. *During the activity.* Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must cease firing.
 - v. *Commencement/recommencement conditions after a marine mammal sighting before or during the activity.* Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met:
 - 1) The animal is observed exiting the mitigation zone;
 - 2) The animal is determined to have exited the mitigation zone based on a good faith assessment of its course, speed, and movement away from the intended impact location;
 - 3) The mitigation zone has been clear from any additional sightings for 10 min for aircraft-based firing or 30 min for vessel-based firing;
 - 4) For activities using a mobile target, the intended impact location has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting.
- 8) *Non-explosive missiles and rockets.* Aircraft-deployed non-explosive missiles and rockets. Mitigation applies to activities using a maritime surface target at ranges up to 75 nmi.
- i. *Number of Lookouts and observation platform.* One Lookout must be positioned in an aircraft.
 - ii. *Mitigation zone.* 900 yd around the intended impact location.
 - iii. *Prior to activity.* Prior to the initial start of the activity (*e.g.*, during a fly-over of the mitigation zone), Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must relocate or delay the start of firing.
 - iv. *During activity.* During the activity, Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must cease firing.
 - v. *Commencement/recommencement conditions after marine mammal sighting prior to or during activity.* Navy personnel must allow a sighted

marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met:

- 1) The animal is observed exiting the mitigation zone;
 - 2) The animal is determined to have exited the mitigation zone based on a good faith assessment of its course, speed, and movement away from the intended impact location; or
 - 3) The mitigation zone has been clear from any additional sightings for 10 min when the activity involves aircraft that have fuel constraints, or 30 min when the activity involves aircraft that are not typically fuel constrained.
- 9) *Non-explosive bombs*. Mitigation applies to activities using a maritime surface target at ranges up to 75 nmi.
- i. *Number of Lookouts and observation platform*. One Lookout must be positioned in an aircraft.
 - ii. *Mitigation zone*. The relevant mitigation zone is 900 yd (822.96 m) around the intended target.
 - iii. *Prior to activity*. Prior to the initial start of the activity (*e.g.*, when arriving on station), Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must relocate or delay the start of bomb deployment.
 - iv. *During activity*. During the activity (*e.g.*, during approach of the target or intended minefield location), Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must cease bomb deployment.
 - v. *Commencement/recommencement conditions after marine mammal sighting prior to or during activity*. Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing bomb deployment) until one of the following conditions has been met:
 - 1) The animal is observed exiting the mitigation zone;

- 2) The animal is determined to have exited the mitigation zone based on a good faith assessment of its course, speed, and movement away from the intended target or minefield location;
- 3) The mitigation zone has been clear from any additional sightings for 10 min; or
- 4) For activities using mobile targets, the intended target has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting.

10) *Target and Missile Launches from San Nicolas Islands (SNI).*

- i. *Mitigation zone and requirements.* 305 m (1,000 ft) over pinniped haulouts. Missiles must not cross over pinniped haulouts at elevations less than 305 m (1,000 ft) above the haulout. All manned aircraft and helicopter flight paths must maintain a minimum distance of 305 m (1,000 ft) from recognized seal haulouts and rookeries, except in emergencies or for real-time security incidents. For unmanned aircraft systems (UAS), the following minimum altitudes must be maintained over pinniped haulout areas and rookeries: Class 0-2 UAS must maintain a minimum altitude of 300 ft; Class 3 UAS must maintain a minimum altitude of 500 ft; Class 4 or 5 UAS must not be flown below 1,000 ft.
 - 1) *Pinniped haulouts.* Navy personnel must not enter pinniped haulouts or rookeries. Personnel may be adjacent to pinniped haulouts and rookeries prior to and following a launch for monitoring purposes.
 - 2) *Number of Launch events.* Navy must not conduct more than 40 launch events annually. Up to 10 launch events of the 40 annual launch events may occur at night.
 - 3) *Launches during the peak pinniped pupping season.* Launches must be scheduled to avoid peak pinniped pupping periods between January and July, to the maximum extent practicable.
 - 4) *Unauthorized species.* If a species for which authorization has not been granted is taken, or a species for which authorization has been granted but the authorized takes are met, the Navy must consult with NMFS to determine how to proceed.
 - 5) *Review of launch procedures.* The Navy must review the launch procedure and monitoring methods, in cooperation with NMFS, if any incidents of injury or mortality of a pinniped are discovered during post-launch surveys, or if surveys indicate possible effects

to the distribution, size, or productivity of the affected pinniped populations as a result of the specified activities. If necessary, appropriate changes will be made through modification to this LOA prior to conducting the next launch of the same vehicle.

- b. *Seasonal awareness messages.* In addition to procedural mitigation, Navy personnel must implement seasonal awareness notification messages throughout the PMSR Study Area to avoid interaction with large whales during transit.

- 1) *Blue Whale Awareness Notification Message.*

- i. Navy personnel must issue a seasonal awareness notification message to alert Navy ships and aircraft operating throughout the PMSR Study Area to the possible presence of increased concentrations of blue whales June 1 through October 31.
 - ii. To maintain safety of navigation and to avoid interactions with large whales during transits, Navy personnel must instruct vessels to remain vigilant to the presence of blue whales that, when concentrated seasonally, may become vulnerable to vessel strikes.
 - iii. Navy personnel must use the information from the awareness notification message to assist their visual observation of applicable mitigation zones during training and testing activities and to aid in the implementation of procedural mitigation.

- 2) *Gray Whale Awareness Notification Message.*

- i. Navy personnel must issue a seasonal awareness notification message to alert Navy ships and aircraft operating through the PMSR Study Area to the possible presence of increased concentrations of gray whales November 1 through March 31.
 - ii. To maintain safety of navigation and to avoid interactions with large whales during transits, Navy personnel must instruct vessels to remain vigilant to the presence of gray whales that, when concentrated seasonally, may become vulnerable to vessel strikes.
 - iii. Navy personnel must use the information from the awareness notification message to assist their visual observation of applicable mitigation zones during training and testing activities and to aid in the implementation of procedural mitigation.

- 3) *Fin Whale Awareness Notification Message.*

- i. Navy personnel must issue a seasonal awareness notification message to alert Navy ships and aircraft operating throughout the PMSR Study Area to the possible presence of increased concentrations of fin whales November 1 through May 31.
 - ii. To maintain safety of navigation and to avoid interactions with large whales during transits, Navy personnel must instruct vessels to remain vigilant to the presence of fin whales that, when concentrated seasonally, may become vulnerable to vessel strikes.
 - iii. Navy personnel must use the information from the awareness notification message to assist their visual observation of applicable mitigation zones during training and testing activities and to aid in the implementation of procedural mitigation.
7. Monitoring and Reporting. When conducting activities identified in Condition 4 of this Authorization and § 218.10(c) of the regulations, the Holder of the Authorization and any person(s) operating under his or her authority must implement the following monitoring and reporting measures. All reports must be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.
- a. *Unauthorized take.* Navy personnel must notify NMFS immediately (or as soon as operational security considerations allow) if the specified activities identified in Condition 4 and § 218.10(c) of the regulations are thought to have resulted in the mortality or serious injury of any marine mammals, or in any Level A harassment or Level B harassment of marine mammals not identified in Condition 5 of this Authorization.
 - b. *Monitoring and reporting under the Letter of Authorization (LOA).* The Navy must conduct all monitoring and reporting required under this Authorization. The Navy must coordinate and discuss with NMFS how monitoring in the PMSR Study Area could contribute to the Navy's Marine Species Monitoring Program.
 - c. *Notification of injured, live stranded, or dead marine mammals.* Navy personnel must consult the Notification and Reporting Plan, which sets out notification, reporting, and other requirements when dead, injured, or live stranded marine mammals are detected. See Appendix 1 for the Notification and Reporting Plan.
 - d. *Pinniped Monitoring Plan on SNI.* In consultation with NMFS, the Navy must implement a monitoring plan for beaches exposed to missile launch noise with the goal of assessing baseline pinniped distribution/abundance and potential changes in pinniped use of these beaches after launch events. Marine mammal monitoring shall include multiple surveys (e.g. time-lapse photography) during the year that record the species, number of animals, general behavior, presence of pups, age class, gender and reactions to launch noise or other natural or human caused disturbances, in addition to

environmental conditions that may include tide, wind speed, air temperature, and swell. In addition, video and acoustic monitoring of up to three pinniped haulout areas and rookeries must be conducted during launch events that include missiles or targets that have not been previously monitored using video and acoustic recorders for at least three launch events. Video monitoring cameras would be either high-definition video cameras, or Forward-Looking Infrared Radiometer (FLIR) thermal imaging cameras for night launch events.

- e. *Annual Pinniped Monitoring Report on SNI.* The Navy must submit an annual report to NMFS of the SNI rocket and missile launch activities. The draft annual monitoring report must be submitted to the Director, Office of Protected Resources, NMFS, within 3 months after the end of the reporting year. NMFS will submit comments or questions on the draft monitoring 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 submission of the draft if NMFS does not provide comments on the draft report. The report must summarize the launch events conducted during the year; assess any direct impacts to pinnipeds from launch events; assess any cumulative impacts on pinnipeds from launch events; and, summarize pinniped monitoring and research activities conducted on SNI and any findings related to effects of launch noise on pinniped populations.

- f. *Annual PMSR Study Area Training and Testing Activity Report.* Each year, the Navy must submit a detailed report PMSR (Annual Training and Testing Activity Report) to the Director, Office of Protected Resources, NMFS, within 3 months after the one-year anniversary of the date of issuance of the LOA. NMFS will submit comments or questions on the report, if any, within 1 month of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or 1 month after submission of the draft if NMFS does not provide comments on the draft report. The annual report must contain information on all sound sources used (total hours or quantity of each bin; total annual number of each type of explosive events; and total annual expended/detonated rounds (missiles, bombs, etc.) for each explosive bin). The annual report must also contain both the current year's data as well as explosive use quantity from previous years' reports. Additionally, if there were any changes to the explosive allowance in a given year, or cumulatively, the report must include a discussion of why the change was made and include analysis to support how the change did or did not affect the analysis in the 2022 PMSR FEIS/OEIS and MMPA final rule. The annual report must also include the details regarding specific requirements associated with monitoring on SNI. The final annual/close-out report at the conclusion of the authorization period (year 7) will serve as the comprehensive close-out report and include both the final year annual use compared to annual authorization as well as a cumulative 7-year annual use compared to 7-year authorization.
 - 1) *Summary of sources used.* This section of the report must include the following information summarized from the authorized sound sources used in all training and testing events:

- i. Total annual quantity (per the LOA) of each explosive bin; and
 - ii. Total annual expended/detonated ordnance (missiles, bombs, *etc.*) for each explosive bin.
 - g. *Final Close-Out Report.* The final (year 7) draft annual/close-out report must be submitted within 3 months after the expiration of this subpart to the Director, Office of Protected Resources, NMFS. 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.
 - h. *Communication plan.* The Navy and NMFS shall develop a communication plan that will include all of the communication protocols (phone trees, *etc.*) and associated contact information required for NMFS and the Navy to carry out the necessary expeditious communication required in the event of a dead, injured, or live stranded marine mammal or ship strike.
8. *Prohibitions.* Notwithstanding incidental takings identified in Condition 5 of this Authorization and authorized under this Authorization and in 50 CFR Part 218, Subpart B, no person in connection with the activities described in Condition 4 of this Authorization may take any marine mammal specified in Condition 5 of this Authorization other than by incidental take and in the course of conducting the activities specified in Condition 4; take any marine mammal other than species identified in Condition 5; take a marine mammal specified in Condition 5 if such taking results in more than a negligible impact on the species or stock of such marine mammal; or violate, or fail to comply with the terms, conditions, and requirements of the regulations or this Authorization.
9. *Renewals and modifications of Letters of Authorization.*
- a. An LOA issued under 50 CFR §§ 216.106 and 218.16 for the activities identified in Condition 4 of this Authorization and 50 CFR § 218.10(c) may be renewed or modified upon request by the applicant, provided that:
 - 1) The specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for the regulations (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this condition); and
 - 2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA(s) were implemented.
 - b. For LOA modification or renewal requests by the applicant that include changes to the activity or to the mitigation, monitoring, or reporting measures (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this

condition) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or stock or years), NMFS may publish a notice of planned LOA in the Federal Register, including the associated analysis of the change, and solicit public comment before issuing the LOA.

- c. An LOA issued under 50 CFR §§ 216.106 and 218.16 may be modified by NMFS under the following circumstances:
 - 1) *Adaptive Management*. After consulting with the Navy regarding the practicability of the modifications, NMFS may modify (including adding or removing measures) the existing mitigation, monitoring, or reporting measures if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring.
 - i. Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA include:
 - 1) Results from the Navy's monitoring report and annual exercise reports from the previous year(s);
 - 2) Results from other marine mammal and/or sound research or studies;
 - 3) Results from specific stranding investigations; or
 - 4) Any information that reveals marine mammals may have been taken in a manner, extent, or number not authorized by the regulations or this Authorization.
 - ii. If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of planned LOA in the *Federal Register* and solicit public comment.
 - 2) *Emergencies*. If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in the regulations and this Authorization, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the *Federal Register* within 30 days of the action.
10. A copy of this Authorization or a document containing the equivalent requirements specified in this Authorization and the 50 CFR Part 218, Subpart B regulations, must be in the possession of the on-site Commanding Officer in order to take marine mammals under the authority of this Authorization while conducting the specified activities.

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

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Kimberly Damon-Randall,
Director, Office of Protected Resources,
National Marine Fisheries Service.

5/30/2023
Date

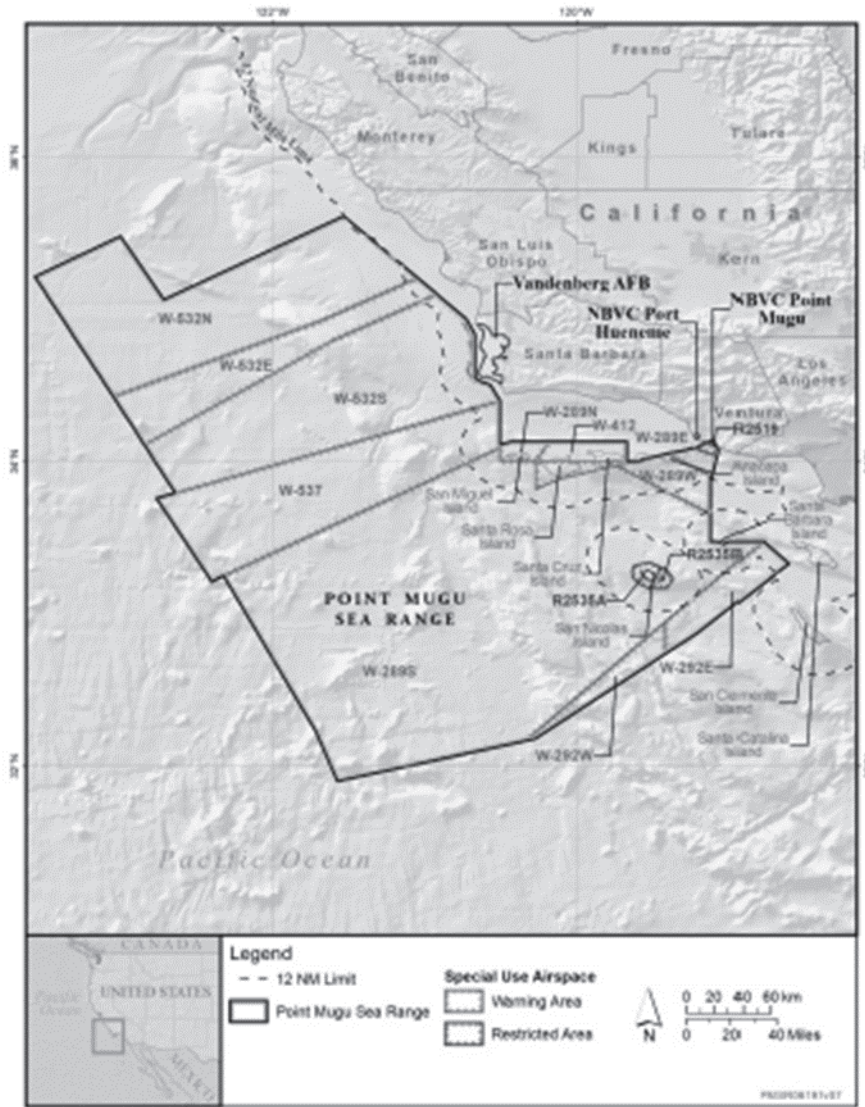


Figure 1. Map of the PMSR Study Area.

Appendix 1

NOTIFICATION AND REPORTING PLAN FOR THE U.S. NAVY POINT MUGU SEA RANGE TRAINING AND TESTING STUDY AREA

June 2022

BACKGROUND

This Notification and Reporting Plan will be cited as a requirement in the U.S. Navy (Navy) Point Mugu Sea Range (PMSR) Training and Testing Study Area final rule and requirements outlined below will be included as part of the Navy's Marine Mammal Protection Act (MMPA) Letter of Authorization (LOA). The LOA indicate the conditions under which the Navy is authorized to take marine mammals pursuant to Navy training and testing activities, involving explosive detonations or vessel movements, conducted in the waters in the PMSR 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 PMSR 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 PMSR 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:

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."

- 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)

b. Vessel Strike

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

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

- Vessel's speed during and leading up to the incident;
- Vessel's course/heading and what training or testing activity was being conducted (if applicable);
- Status of all sound sources in use (*i.e.*, 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 PMSR Study Area or within 50 km (27 nmi) of the boundary of the PMSR 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 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 PMSR Study Area or within 50 km (27 nmi) of the boundary of the PMSR 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 PMSR 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 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 PMSR 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 PMSR 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 PMSR 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 PMSR Study Area by October 2021 and updated yearly (or more frequently, as appropriate) in the document entitled "PMSR Stranding Communication Protocols."