



# RHUMB LINES

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## Marine Mammal Protective Measures and Legal Update

*"I suggest that the strength of a nation's naval force remains an essential measure of the nation's status and role in the world. I also submit that maritime dominance by the United States remains vital to our national security, to our position in the world, and to our ability to defend and promote our interests"*

– The Honorable Donald C. Winter, Secretary of the Navy

### The Navy's active sonar protective measures for marine mammals off Southern California (SOCAL)

Globally, for integrated mid-frequency active sonar (MFA) training, the Navy adheres to 29 protective measures for marine life developed in 2007 with the National Marine Fisheries Service (NMFS). This training is critical to the combat readiness and safety of our Sailors, Marines, and ships at sea. For exercises in SOCAL, Navy must comply with modifications approved by the President's Council on Environmental Quality and recent court decisions. In addition to training requirements for officers and crew, the current protective measures include the following operating procedures:

- Extensive use of lookouts, sensors and other platforms for detecting marine mammals (MM):
  - Surface ships using MFA sonar add at least two additional lookouts with National Oceanic and Atmospheric Administration training and dedicated to MM detection to the watchbill.
  - Each day when MFA sonar is used, Navy must first monitor for MMs for an hour, including use of a dedicated aircraft.
  - During the exercise, exercise aircraft maintain surveillance for MMs when operationally feasible and safe.
  - All sonar operators, including range operators, passively listen for MM vocalizations and report the detection of any MM for dissemination and action.
  - Prior to start or restart of active sonar, operators check for MM clearance around sound sources.
  - Helicopters must survey for 10 minutes before deploying MFA sonar. MFA cannot be energized if MMs are within 2200 yards of the vessel or helicopter.
  - During MFA sonar use, vessels use all sensor systems, including night vision devices, for MM detection.
- Maximum transmission levels: Lowest practicable transmission levels are used, not to exceed 235 dB, except as required to meet tactical training objectives.
- Geographic: Navy will not operate MFA sonar within 12 nm of the California coast or in the Catalina Basin.
- Significant Surface Ducts (SSD). When SSD conditions are detected, MFA power will be reduced 75% if a MM is within 2000m of the source, by a total of 90% if a MM is within 1000m, and shut down if within 500m.
- Safety zones. MFA sonar must be shut down if a MM is detected within 2200 yards unless the exercise is at a critical point as determined by the MFA unit CO or Flag officer for the exercise. If this critical point exception applies, MFA use may continue but is still subject to the SSD provision if applicable. If the SSD provision is not applicable, MFA power will be reduced 75% if a MM is within 1000m of the source, by a total of 90% if a MM is within 500m, and shut down if within 200m.
- Coordination and reporting with NMFS: The Navy coordinates with NMFS regarding any unusual behavior, stranding, beaching or floating MMs during or within 24 hours after active sonar use. The Navy also submits reports on MM activity during an exercise to NMFS within 120 days after completion.

### Update on sonar legal proceedings

- On February 29, the 9th Circuit Court of Appeals affirmed a lower court's preliminary injunction on the Southern California COMPTUEX and JTFEX exercises, but also granted a partial stay allowing for less restrictive measures during surface ducting conditions and at critical points in the exercise.
- The injunction reduces training effectiveness, but does provide a reasonable expectation of achieving effective training under these partial stay conditions, so the exercises will proceed.
- The Navy plans to appeal the 9<sup>th</sup> Circuit Court of Appeals decision to the Supreme Court.