

§216.179

(1) Results from the Navy’s monitoring from the previous year (either from the HRC or other locations).

(2) Findings of the Monitoring Workshop that the Navy will convene in 2011 (§216.175(q)).

(3) Compiled results of Navy funded research and development (R&D) studies (presented pursuant to the ICMP (§216.175(d))).

(4) Results from specific stranding investigations (either from the HRC Study Area or other locations, and involving coincident MFAS/HFAS or explosives training or not involving coincident use).

(5) Results from the Long Term Prospective Study. (6) Results from general marine mammal and sound research (funded by the Navy (or otherwise)).

§216.179 Modifications to Letters of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the Letter of Authorization by NMFS, issued pursuant to §§216.106 and 216.177 and subject to the provisions of this subpart shall be made until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under §216.178, without modification (except for the period of validity), is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in §216.172(c), a Letter of Authorization issued pursuant to §§216.106 and 216.177 may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the FEDERAL REGISTER within 30 days subsequent to the action.

50 CFR Ch. II (10–1–10 Edition)

Subpart Q—Taking of Marine Mammals Incidental to Navy Operations of Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA sonar) Sonar

SOURCE: 72 FR 46890, Aug. 21, 2007, unless otherwise noted.

EFFECTIVE DATE NOTE: At 72 FR 46890, Aug. 21, 2007, subpart Q, consisting of §§216.180 through 216.191 were added, effective Aug. 16, 2007 through Aug. 15, 2012.

§216.180 Specified activity.

Regulations in this subpart apply only to the incidental taking of those marine mammal species specified in paragraph (b) of this section by the U.S. Navy, Department of Defense, while engaged in the operation of no more than four SURTASS LFA sonar systems conducting active sonar operations, in areas specified in paragraph (a) of this section. The authorized activities, as specified in a Letter of Authorization issued under §§216.106 and 216.188, include the transmission of low frequency sounds from the SURTASS LFA sonar and the transmission of high frequency sounds from the mitigation sonar described in §216.185 during training, testing, and routine military operations of SURTASS LFA sonar.

(a) With the exception of those areas specified in §216.183(d), the incidental taking by harassment may be authorized in the areas (biomes, provinces, and subprovinces) described in Longhurst (1998), as specified in a Letter of Authorization.

(b) The incidental take, by Level A and Level B harassment, of marine mammals from the activity identified in this section is limited to the following species and species groups:

- (1) Mysticete whales—blue (*Balaenoptera musculus*), fin (*Balaenoptera physalus*), minke (*Balaenoptera acutorostrata*), Bryde’s (*Balaenoptera edeni*), sei (*Balaenoptera borealis*), humpback (*Megaptera novaeangliae*), North Atlantic right (*Eubalaena glacialis*), North Pacific right (*Eubalaena japonica*) southern right (*Eubalaena australis*), pygmy right (*Caperea marginata*), bowhead (*Balaena*