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(1) Results from the Navy's monitoring from the previous year (either from the NWTRC Study Area or other locations).

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

(3) Compiled results of Navy funded research and development (R&D) studies (presented pursuant to the Integrated Comprehensive Monitoring Plan).

(4) Results from specific stranding investigations (either from the NWTRC 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 described in the preamble to these regulations.

(6) Results from general marine mammal and sound research (funded by the Navy or otherwise).

(7) Any information which reveals that marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent Letters of Authorization.

§218.119 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 218.117 of this chapter 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 §218.118, 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 §218.112(c), a Letter of Authorization issued pursuant to §§216.106 and 218.117 of this chapter may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the FEDERAL REGISTER

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within 30 days subsequent to the action.

Subpart N—Taking and Importing Marine Mammals; Gulf of Alaska Temporary Maritime Activities Area (GoA TMAA)

SOURCE: 76 FR 25505, May 4, 2011, unless otherwise noted.

EFFECTIVE DATE NOTE: At 76 FR 25505, May 4, 2011, subpart N was added, effective May 4, 2011 through May 4, 2016.

§218.120 Specified activity and geographical area.

(a) Regulations in this subpart apply only to the U.S. Navy for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occur incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Navy is only authorized if it occurs within the Gulf of Alaska Temporary Maritime Activities Area (GoA TMAA) (as depicted in Figure 1–1 in the Navy's application for GoA TMAA), which is bounded by a hexagon with the following six corners: 57°30' N. lat., 141°30' W. long.; 59°36' N. lat., 148°10' W. long.; 58°57' N. lat., 150°04' W. long.; 58°20' N. lat., 151°00' W. long.; 57°16' N. lat., 151°00' W. long.; and 55°30' N. lat., 142°00' W. long.

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the following activities:

(1) The use of the following mid-frequency active sonar (MFAS) sources, high-frequency active sonar (HFAS) sources, or similar sources for Navy training activities (estimated amounts below):

(i) AN/SQS-53 (hull-mounted active sonar)—up to 2,890 hours over the course of 5 years (an average of 578 hours per year);

(ii) AN/SQS-56 (hull-mounted active sonar)—up to 260 hours over the course of 5 years (an average of 52 hours per year);

(iii) AN/SSQ-62 (Directional Command Activated Sonobuoy System (DICASS) sonobuoys)—up to 1,330

sonobuoys over the course of 5 years (an average of 266 sonobuoys per year);

(iv) AN/AQS-22 (helicopter dipping sonar)—up to 960 “dips” over the course of 5 years (an average of 192 “dips” per year);

(v) AN/BQQ-10 (submarine hull-mounted sonar)—up to 240 hours over the course of 5 years (an average of 48 hours per year);

(vi) MK-48 (torpedo)—up to 10 torpedoes over the course of 5 years (a maximum of 2 torpedoes per year);

(vii) AN/SSQ-110A (IEER)—up to 400 buoys deployed over the course of 5 years (an average of 80 per year maximum combined use of AN/SSQ-110A or AN/SSQ-125);

(viii) AN/SSQ-125 (MAC)—up to 400 buoys deployed over the course of 5 years (an average of 80 per year maximum combined use of AN/SSQ-110A or AN/SSQ-125);

(ix) Range Pingers—up to 400 hours over the course of 5 years (an average of 80 hours per year);

(x) SUS MK-84—up to 120 devices over the course of 5 years (an average of 24 per year);

(xi) PUTR Transponder—up to 400 hours over the course of 5 years (an average of 80 hours per year); and

(xii) MK-39 EMATT Targets—up to 60 devices over the course of 5 years (an average of 12 per year).

(2) The detonation of the underwater explosives indicated in paragraph (c)(2)(i) of this section, or similar explosives, conducted as part of the training exercises indicated in paragraph (c)(2)(ii) of this section:

(i) Underwater Explosives (Net Explosive Weight (NEW)):

(A) 5” Naval Gunfire (9.5 lbs NEW);

(B) 76 mm rounds (1.6 lbs NEW);

(C) Maverick (78.5 lbs NEW);

(D) MK-82 (238 lbs NEW);

(E) MK-83 (238 lbs NEW);

(F) MK-83 (574 lbs NEW);

(G) MK-84 (945 lbs NEW);

(H) MK-48 (851 lbs NEW);

(I) AN/SSQ-110A (IEER explosive sonobuoy—5 lbs NEW);

(ii) Training Events:

(A) Gunnery Exercises (S-S GUNEX)—up to 60 exercises over the course of 5 years (an average of 12 per year);

(B) Bombing Exercises (BOMBEX)—up to 180 exercises over the course of 5 years (an average of 36 per year);

(C) Sinking Exercises (SINKEX)—up to 10 exercises over the course of 5 years (a maximum of 2 per year);

(D) Extended Echo Ranging and Improved Extended Echo Ranging (EER/IEER) Systems—up to 400 deployments over the course of 5 years (an average of 80 per year);

(E) Missile exercises (A-S MISSILEX)—up to 20 exercises over the course of 5 years (an average of 4 per year).

(d) The taking of marine mammals may be authorized in an LOA for the activities and sources listed in § 218.120(c) should the amounts (*i.e.*, hours, dips, number of exercises) vary from those estimated in § 218.120(c), provided that the variation does not result in exceeding the amount of take indicated in § 218.122(c).

§ 218.121 Effective dates.

Regulations in this subpart are effective from May 4, 2011, through May 4, 2016.

§ 218.122 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§ 216.106 and 218.127 of this chapter, the Holder of the Letter of Authorization (hereinafter “Navy”) may incidentally, but not intentionally, take marine mammals within the area described in § 218.120(b), provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

(b) The activities identified in § 218.120(c) must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

(c) The incidental take of marine mammals under the activities identified in § 218.120(c) is limited to the species listed below in paragraphs (c)(4) and (5) of this section by the indicated method of take and the indicated number of times (estimated based on the authorized amounts of sound source operation), but with the following allowances for annual variation in activities: