(b) The taking of marine mammals by the Navy is only authorized if it occurs within the AFAST Study Area, which extends east from the Atlantic Coast of the U.S. to 45° W. long. and south from the Atlantic and Gulf of Mexico Coasts to approximately 23° N. lat., excluding the Bahamas (see Figure 1–1 in the Navy’s Application).

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the use of the following mid-frequency active sonar (MFAS) sources, high frequency active sonar (HFAS) sources, explosive sonobuoys, or similar sources, for Navy training, maintenance, or research, development, testing, and evaluation (RDT&E) (estimated amounts below):

1. AN/SQS–53 (hull-mounted sonar)—up to 16070 hours over the course of 5 years (an average of 3214 hours per year).
2. AN/SQS–56 (hull-mounted sonar)—up to 8420 hours over the course of 5 years (an average of 1684 hours per year).
3. AN/SQS–56 or 53 (hull mounted sonar in object detection mode)—up to 1080 hours over the course of 5 years (an average of 216 hours per year).
4. AN/BQQ–10 or 5 (submarine sonar)—up to 99880 pings over the course of 5 years (an average of 9976 pings per year) (an average of 1 ping per two hours during training events, 60 pings per hour for maintenance).
5. AN/AQS–22 or 13 (helicopter dipping sonar)—up to 14760 dips over the course of 5 years (an average of 2952 dips per year—10 dips per five-minute dip).
6. SSQ–62 (Directional Command Activated Sonobuoy System (DICASS) sonobuoys)—up to 29265 sonobuoys over the course of 5 years (an average of 5853 sonobuoys per year).
7. MK–48 (heavyweight torpedoes)—up to 160 torpedoes over the course of 5 years (an average of 32 torpedoes per year).
8. MK–46 or 54 (lightweight torpedoes)—up to 120 torpedoes over the course of 5 years (an average of 24 torpedoes per year).
9. AN/SSQ–110A (IEER explosive sonobuoy) and AN/SSQ–125 (AEER sonar sonobuoy)—up to 4360 sonobuoys, between these 2 sources, over the course of 5 years (an average of 872 buoys per year).
10. AN/SQQ–32 (over the side mine-hunting sonar)—up to 22370 hours over the course of 5 years (an average of 4474 hours per year).
11. AN/SLQ–25 (NIXIE—towed countermeasure)—up to 1660 hours over the course of 5 years (an average of 332 hours per year).
12. AN/BQS–15 (submarine navigation)—up to 2250 hours over the course of 5 years (an average of 450 hours per year).
13. MK–1 or 2 or 3 or 4 (Submarine-fired Acoustic Device Countermeasure (ADC))—up to 1125 ADCs over the course of 5 years (an average of 225 ADCs per year).
14. Noise Acoustic Emitters (NAE—Sub-fired countermeasure)—up to 635 NAEs over the course of 5 years (an average of 127 NAEs per year).

(d) The taking of marine mammals may be authorized in an LOA for the activities and sources listed in §216.240(c) should the amounts (e.g., hours, dips, or number of exercises) vary from those estimated in §216.240(c), provided that the variation does not result in exceeding the amount of take indicated in §216.242(c).

§216.241 Effective dates and definitions.

(a) Amended regulations are effective from February 1, 2012, through January 22, 2014.

(i) Two or more individuals of any cetacean species (not including mother/calf pairs), unless of species of concern listed in §216.241(b)(1)(ii) found dead or live on shore within a 2-day period and occurring within 30 miles of one another.

(ii) A single individual or mother/calf pair of any of the following marine mammals of concern: beaked whale of any species, dwarf or pygmy sperm whales, melon-headed whales, pilot whales, right whales, humpback whales, sperm whales, blue whales, fin whales, or sei whales.

(iii) A group of 2 or more cetaceans of any species exhibiting indicators of distress as defined in §216.241(b)(3).
§ 216.242 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§ 216.106 and 216.247, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals within the area described in § 216.240(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 § 216.240(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 § 216.240(c) is limited to the following species, by the identified method of take and the indicated number of times:

1. Level B Harassment (±10 percent of the number of takes indicated below):
   (i) Mysticetes:
      (A) North Atlantic right whale (Eubalaena glacialis)—3330 (an average of 666 annually).
      (B) Humpback whale (Megaptera novaeangliae)—21010 (an average of 4202 annually).
      (C) Minke whale (Balaenoptera acutorostrata)—2075 (an average of 415 annually).
      (D) Sperm whales (Balaenoptera borealis)—5265 (an average of 1057 annually).
      (E) Fin whale (Balaenoptera physalus)—4410 (an average of 882 annually).
   (ii) Odontocetes:
      (A) Sperm whales (Physeter macrocephalus)—48790 (an average of 9758 annually).
      (B) Pygmy or dwarf sperm whales (Kogia breviceps or Kogia sima)—21920 (an average of 4384 annually).
      (C) Beaked Whales (Cuvier’s, True’s, Gervais’, Sowerby’s, Blainville’s, Northern bottlenose whale) (Ziphius cavirostris, Mesoplodon mirus, M. europaeus, M. bidens, M. densirostris, Hyperoodon ampullatus)—24535 (an average of 4907 annually).
      (D) Rough-toothed dolphin (Steno bredanensis)—13540 (an average of 2708 annually).
      (E) Bottlenose dolphin (Tursiops truncatus)—30340 (an average of 606802 annually).
      (F) Pan-tropical dolphin (Stenella attenuata)—696530 (an average of 139306 annually).
      (G) Atlantic spotted dolphin (Stenella frontalis)—1881805 (an average of 376361 annually).
      (H) Bottlenose dolphin (Tursiops truncatus)—30340 (an average of 606802 annually).
      (I) Clymene dolphin (Stenella clymene)—232190 (an average of 46438 annually).
      (J) Striped dolphin (Stenella coeruleoalba)—873620 (an average of 139306 annually).
      (K) Common dolphin (Delphinus spp.)—482300 (an average of 96460 annually).
      (L) Fraser’s dolphin (Lagenodelphis hosei)—1730 (an average of 346 annually).
      (M) Risso’s dolphin (Grampus griseus)—470375 (an average of 94075 annually).
      (N) Atlantic white-sided dolphin (Lagenorhynchus acutus)—103255 (an average of 20651 annually).
      (O) White-beaked dolphin (Lagenorhynchus albirostris)—17250 (an average of 3450 annually).
      (P) Melon-headed whale (Peponocephala electra)—8270 (an average of 1654 annually).
      (Q) Pygmy killer whale (Feresa attenuata)—1400 (an average of 280 annually).
      (R) False killer whale (Pseudorca crassidens)—2690 (an average of 538 annually).
      (S) Killer whale (Orcinus orca)—2515 (an average of 503 annually).
      (T) Pilot whales (Short-finned pilot or long-finned) (Globicephala melas, Globicephala melas)