§ 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.; 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/AGS–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 (574 lbs NEW);
      (F) MK–84 (945 lbs NEW);
      (G) 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.

Amended regulations in this subpart are effective February 1, 2012, through May 4, 2016.

[77 FR 4925, Feb. 1, 2012]

§ 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:

(1) In any given year, annual take, by harassment, of any species of marine mammal may not exceed the amount identified in paragraphs (c)(4) and (5) of this section, for that species by more than 25 percent (a post-calculation/estimation of which must be provided in the annual LOA application);

(2) In any given year, annual take by harassment of all marine mammal species combined may not exceed the estimated total of all species combined, indicated in paragraphs (c)(4) and (5) of this section, by more than 10 percent; and

(3) Over the course of the effective period of this subpart, total take, by harassment, of any species may not exceed the 5-year amounts indicated in paragraphs (c)(4) and (5) of this section by more than 10 percent. A running calculation/estimation of takes of each species over the course of the years covered by the rule must be maintained.

(4) Level B Harassment:

(i) Mysticetes:

(A) Humpback whale (Megaptera novaeangliae)—6,975 (an average of 1,395 annually);

(B) Fin whale (Balaenoptera physalus)—55185 (an average of 11,037 annually);

(C) Blue whale (Balaenoptera musculus)—10 (an average of 2 annually);

(D) Sei whale (Balaenoptera borealis)—40 (an average of 8 annually);

(E) Minke whale (Balaenoptera acutorostrata)—3,405 (an average of 681 annually);

(F) Gray whale (Eschrichtius robustus)—1,940 (an average of 388 annually); and

(G) North Pacific right whale (Eubalaena japonica)—10 (an average of 2 annually).

(ii) Odontocetes:

(A) Sperm whales (Physeter macrocephalus)—1,645 (an average of 329 annually);

(B) Killer whale (Orcinus orca)—53,245 (an average of 10,649 annually);

(C) Harbor porpoise (Phocoena phocoena)—27,200 (an average of 5,440 annually);

(D) Baird’s beaked whales (Berardius bairdii)—2,435 (an average of 487 annually);

(E) Cuvier’s beaked whales (Ziphius cavirostris)—11,560 (an average of 2,312 annually);

(F) Stejneger’s beaked whales (Mesoplodon stejnegeri)—11,565 (an average of 2,313 annually);

(G) Pacific white-sided dolphin (Lagenorhynchus obliquidens)—84,955 (an average of 16,991 annually); and

(H) Dall’s porpoise (Phocoenoides dalli)—1,031,870 (an average of 206,374 annually).

(iii) Pinnipeds: