Subpart X—Taking and Importing of Marine Mammals; Navy Operations of Surveillance Towed Array Sensor System
Low Frequency Active (SURTASS LFA) Sonar

§218.230 Specified activity, level of taking, and species.

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 218.238, include the transmission of low frequency sounds from the SURTASS LFA sonar system and the transmission of high frequency sounds from the mitigation sonar described in §218.234 during routine training and testing as well as during military operations.

(a) The incidental take, by Level A and Level B harassment, of marine mammals from the activity identified in this section may be authorized in certain areas of the Pacific, Atlantic, and Indian Oceans and the Mediterranean Sea, 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) Mysticetes—blue whale (Balaenoptera musculus), bowhead whale (Balaena mysticetus), Bryde’s whale (Balaenoptera edeni), fin whale (Balaenoptera physalus), gray whale (Eschrichtius robustus), humpback whale (Megaptera novaeangliae), minke whale (Balaenoptera acutorostrata), North Atlantic right whale (Eubalaena glacialis), and North Pacific right whale (Eubalaena japonica), pygmy right whale (Caperamarginata), sei whale (Balaenoptera borealis), southern right whale (Eubalaena australis),

(2) Odontocetes—Andrew’s beaked whale (Mesoplodon bowdoini), Arnoux’s beaked whale (Berardius arnuxii), Atlantic spotted dolphin (Stenella frontalii), Atlantic white-sided dolphin (Lagenorhynchus acutus), Baird’s beaked whale (Berardius bairdii), Beluga whale (Delphinapterus leucas), Blainville’s beaked whale (Mesoplodon densirostris), Chilean dolphin (Cephalorhynchus australis), Clymene dolphin (Stenella clymene), Commerson’s dolphin (Cephalorhynchus commersonii), common bottlenose dolphin (Tursiops truncatus), Cuvier’s beaked whale (Ziphius cavirostris), Dall’s porpoise (Phocoenoides dalli), Dusky dolphin (Lagenorhynchus obscurus), dwarf sperm and pygmy sperm whales (Kogia simus and K. breviceps), false killer whale (Pseudorca crassidens), Fraser’s dolphin (Lagenodelphis hosei), Gervais’ beaked whale (Mesoplodon europaeus), ginkgo-toothed beaked whale (Mesoplodon ginkgodens), Gray’s beaked whale (Mesoplodon grayi), Heaviside’s dolphin (Cephalorhynchus heavisidii), Hector’s beaked whale (Mesoplodon Hectori), Hector’s dolphin (Cephalorhynchus hectori); Hourglass dolphin (Lagenorhynchus cruciger), Hubbs’ beaked whale (Mesoplodon caribbensi), harbor porpoise (Phocoena phocoena); Indo-Pacific bottlenose dolphin (Tursiops aduncus), killer whale (Orca orca), long-beaked common dolphin (Delphinus capensis), long-finned pilot whale (Globicephalum melas), Longman’s beaked whale (Indopacetus pacificus), melon-headed whale (Peponocephala electra), northern bottlenose whale (Hyperoodon ampullatus), northern right whale dolphin (Lissodelphis borealis), Pacific white-sided dolphin (Lagenorhynchus obliquidens), pantropical spotted dolphin (Stenella attenuata), Peale’s dolphin (Lagenorhynchus australis), Perrin’s beaked whale (Mesoplodon perrini), pygmy beaked whale (Mesoplodon peruvianus), pygmy killer whale (Feresa attenuata), Risso’s dolphin (Grampus griseus), rough-toothed dolphin (Steno bredanensis), Shepherd’s beaked whale (Tasmacetus sheperdii),

SOURCE: 77 FR 50316, Aug. 20, 2012, unless otherwise noted.

§218.231 Effective dates.

Regulations are effective August 15, 2012 through August 15, 2017.

§218.232 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§216.106 and 218.238 of this chapter, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals by Level A and Level B harassment within the areas described in §218.230(a), provided that the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

(b) The Holder of the Letter of Authorization must conduct the activities identified in §218.230 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 §218.230 is limited to the species listed in §218.230(b) by the method of take indicated in paragraphs (c)(2) through (5) of this section.

(1) The Navy must maintain a running calculation/estimation of takes of each species over the effective period of these regulations.

(2) Level B harassment will not exceed 12 percent of any marine mammal stock listed in §218.230(b)(1) through (3) annually over the course of the five-year regulations. This annual per-stock cap of 12 percent applies regardless of the number of SURTASS LFA sonar vessels operating.

(3) Level A harassment of no more than six mysticetes (total), of any of the species listed in §218.230(b)(1) over the course of the five-year regulations.

(4) Level A harassment of no more than 25 odontocetes (total), of any of the species listed in §218.230(b)(2) over the course of the five-year regulations.

(5) Level A harassment of no more than 25 pinnipeds (total), of any of the species listed in §218.230(b)(3) over the course of the five-year regulations.

§218.233 Prohibitions.

No person in connection with the activities described in §218.230 may:

(a) Take any marine mammal not specified in §218.230(b);

(b) Take any marine mammal specified in §218.230 other than by incidental take as specified in §218.232(c)(2) through (5);

(c) Take any marine mammal specified in §218.230 if NMFS makes a determination that such taking results in more than a negligible impact on the species or stocks of such marine mammal; or