

## § 218.70

218.237 Applications for Letters of Authorization.  
218.238 Letters of Authorization.  
218.239 Renewal of Letters of Authorization.  
218.240 Modifications to Letters of Authorization.  
218.241 Adaptive management.

AUTHORITY: 16 U.S.C. 1361 *et seq.*

SOURCE: 74 FR 28343, June 15, 2009, unless otherwise noted.

### Subparts A–G [Reserved]

### Subpart H—Taking and Importing Marine Mammals; U.S. Navy’s Hawaii-Southern California Training and Testing (HSTT)

SOURCE: 78 FR 78152, Dec. 24, 2013, unless otherwise noted.

EFFECTIVE DATE NOTE: At 78 FR 78152, Dec. 24, 2013, subpart H was added, effective Dec. 24, 2013, through December 24, 2018.

#### § 218.70 Specified activity and specified geographical region.

(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 occurs 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 HSTT Study Area, which is comprised of established operating and warning areas across the north-central Pacific Ocean, from Southern California west to Hawaii and the International Date Line (see Figure 1–1 in the Navy’s application). The Study Area includes three existing range complexes: the Southern California (SOCAL) Range Complex, Hawaii Range Complex (HRC), and Silver Strand Training Complex (SSTC). In addition, the Study Area includes other areas where training and testing activities occur, including the pierside locations in San Diego Bay and Pearl Harbor, the transit corridor between SOCAL and Hawaii, and throughout the San Diego Bay.

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

## 50 CFR Ch. II (10–1–14 Edition)

(1) Non-impulsive Sources Used During Training:

(i) Mid-frequency (MF) Source Classes:

(A) MF1—an average of 11,588 hours per year.

(B) MF1K—an average of 88 hours per year.

(C) MF2—an average of 3,060 hours per year.

(D) MF2K—an average of 34 hours per year.

(E) MF3—an average of 2,336 hours per year.

(F) MF4—an average of 888 hours per year.

(G) MF5—an average of 13,718 items per year.

(H) MF11—an average of 1,120 hours per year.

(I) MF12—an average of 1,094 hours per year.

(ii) High-frequency (HF) and Very High-frequency (VHF) Source Classes:

(A) HF1—an average of 1,754 hours per year.

(B) HF4—an average of 4,848 hours per year.

(iii) Anti-Submarine Warfare (ASW) Source Classes:

(A) ASW1—an average of 224 hours per year.

(B) ASW2—an average of 1,800 items per year.

(C) ASW3—an average of 16,561 hours per year.

(D) ASW4—an average of 1,540 items per year.

(iv) Torpedoes (TORP) Source Classes:

(A) TORP1—an average of 170 items per year.

(B) TORP2—an average of 400 items per year.

(2) Non-impulsive Sources Used During Testing:

(i) Low-frequency (LF) Source Classes:

(A) LF4—an average of 52 hours per year.

(B) LF5—an average of 2,160 hours per year.

(C) LF6—an average of 192 hours per year.

(ii) Mid-frequency (MF):

(A) MF1—an average of 180 hours per year.

(B) MF1K—an average of 18 hours per year.

**National Marine Fisheries Service/NOAA, Commerce**

**§ 218.70**

(C) MF2—an average of 84 hours per year.

(D) MF3—an average of 392 hours per year.

(E) MF4—an average of 693 hours per year.

(F) MF5—an average of 5,024 items per year.

(G) MF6—an average of 540 items per year.

(H) MF8—an average of 2 hours per year.

(I) MF9—an average of 3,039 hours per year.

(J) MF10—an average of 35 hours per year.

(K) MF12—an average of 336 hours per year.

(iii) High-frequency (HF) and Very High-frequency (VHF):

(A) HF1—an average of 1,025 hours per year.

(B) HF3—an average of 273 hours per year.

(C) HF4—an average of 1,336 hours per year.

(D) HF5—an average of 1,094 hours per year.

(E) HF6—an average of 3,460 hours per year.

(iv) ASW:

(A) ASW1—an average of 224 hours per year.

(B) ASW2—an average of 2,260 items per year.

(C) ASW2—an average of 255 hours per year.

(D) ASW3—an average of 1,278 hours per year.

(E) ASW4—an average of 477 items per year.

(v) TORP:

(A) TORP1—an average of 701 items per year.

(B) TORP2—an average of 732 items per year.

(vi) Acoustic Modems (M):

(A) M3—an average of 4,995 hours per year.

(B) [Reserved]

(vii) Swimmer Detection Sonar (SD):

(A) SD1—an average of 38 hours per year.

(B) [Reserved]

(viii) Airguns (AG):

(A) AG—an average of 5 airgun uses per year.

(B) [Reserved]

(ix) Synthetic Aperture Sonar (SAS):

(A) SAS1—an average of 2,700 hours per year.

(B) SAS2—an average of 4,956 hours per year.

(C) SAS3—an average of 3,360 hours per year.

(3) Annual Number of Impulsive Source Detonations During Training:

(i) Explosive Classes:

(A) E1 (0.1 lb to 0.25 lb NEW)—an average of 19,840 detonations per year.

(B) E2 (1.26 lb to 0.5 lb NEW)—an average of 1,044 detonations per year.

(C) E3 (>0.5 lb to 2.5 lb NEW)—an average of 3,020 detonations per year.

(D) E4 (>2.5 lb to 5 lb NEW)—an average of 668 detonations per year.

(E) E5 (>5 lb to 10 lb NEW)—an average of 8,154 detonations per year.

(F) E6 (>10 lb to 20 lb NEW)—an average of 538 detonations per year.

(G) E7 (>20 lb to 60 lb NEW)—an average of 407 detonations per year.

(H) E8 (>60 lb to 100 lb NEW)—an average of 64 detonations per year.

(I) E9 (>100 lb to 250 lb NEW)—an average of 16 detonations per year.

(J) E10 (>250 lb to 500 lb NEW)—an average of 19 detonations per year.

(K) E11 (>500 lb to 650 lb NEW)—an average of 8 detonations per year.

(L) E12 (>650 lb to 1,000 lb NEW)—an average of 224 detonations per year.

(M) E13 (>1,000 lb to 1,740 lb NEW)—an average of 9 detonations per year.

(ii) [Reserved]

(4) Impulsive Source Detonations During Testing:

(i) Explosive Classes:

(A) E1 (0.1 lb to 0.25 lb NEW)—an average of 14,501 detonations per year.

(B) E2 (0.26 lb to 0.5 lb NEW)—an average of 0 detonations per year.

(C) E3 (>0.5 lb to 2.5 lb NEW)—an average of 2,990 detonations per year.

(D) E4 (>2.5 lb to 5 lb NEW)—an average of 753 detonations per year.

(E) E5 (>5 lb to 10 lb NEW)—an average of 202 detonations per year.

(F) E6 (>10 lb to 20 lb NEW)—an average of 37 detonations per year.

(G) E7 (>20 lb to 60 lb NEW)—an average of 21 detonations per year.

(H) E8 (>60 lb to 100 lb NEW)—an average of 12 detonations per year.

(I) E9 (>100 lb to 250 lb NEW)—an average of 0 detonations per year.

(J) E10 (>250 lb to 500 lb NEW)—an average of 31 detonations per year.

## §218.71

(K) E11 (>500 lb to 650 lb NEW)—an average of 14 detonations per year.

(L) E12 (>650 lb to 1,000 lb NEW)—an average of 0 detonations per year.

(M) E13 (>1,000 lb to 1,740 lb NEW)—an average of 0 detonations per year.

(ii) Pile Driving: No more than four events per year.

### §218.71 Effective dates and definitions.

(a) The regulations in this subpart are effective December 24, 2013, through December 24, 2018.

(b) The following definitions are utilized in this subpart:

(1) *Uncommon Stranding Event (USE)*—A stranding event that takes place within an OPAREA where a Major Training Event (MTE) occurs and involves any one of the following:

(i) Two or more individuals of any cetacean species (not including mother/calf pairs), unless of species of concern listed in paragraph (b)(1)(ii) of this section 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, *Kogia* spp., Risso's dolphin, melon-headed whale, pilot whale, humpback whale, sperm whale, blue whale, fin whale, sei whale, or monk seal.

(iii) A group of two or more cetaceans of any species exhibiting indicators of distress.

(2) *Shutdown*—The cessation of active sonar operation or detonation of explosives within 14 nautical miles of any live, in the water, animal involved in a USE.

### §218.72 Permissible methods of taking.

(a) Under Letters of Authorization (LOAs) issued pursuant to §218.77, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals within the area described in §218.70, provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate LOA.

(b) The incidental take of marine mammals under the activities identi-

## 50 CFR Ch. II (10–1–14 Edition)

fied in §218.70(c) is limited to the following species, by the identified method of take:

(1) Harassment (Level A and Level B) for all Training and Testing Activities:

(i) Mysticetes:

(A) Blue whale (*Balaenoptera musculus*)—23,699.

(B) Bryde's whale (*Balaenoptera edeni*)—1,287.

(C) Fin whale (*Balaenoptera physalus*)—9,656.

(D) Gray whale (*Eschrichtius robustus*), Eastern North Pacific—60,590.

(E) Gray whale (*Eschrichtius robustus*), Western North Pacific—60.

(F) Humpback whale (*Megaptera novaeangliae*)—51,000.

(G) Minke whale (*Balaenoptera acutorostrata*)—4,425.

(H) Sei whale (*Balaenoptera borealis*)—3,251.

(ii) Odontocetes:

(A) Baird's beaked whale (*Berardius bairdii*)—27,325.

(B) Blainville's beaked whale (*Mesoplodon densirostris*)—52,972.

(C) Bottlenose dolphin (*Tursiops truncatus*), California Coastal—5,600.

(D) Bottlenose dolphin (*Tursiops truncatus*), CA/OR/WA—145,125.

(E) Bottlenose dolphin (*Tursiops truncatus*), Hawaii pelagic—20,995.

(F) Bottlenose dolphin (*Tursiops truncatus*), Oahu—3,879.

(G) Bottlenose dolphin (*Tursiops truncatus*), 4-Islands region—999.

(H) Bottlenose dolphin (*Tursiops truncatus*), Kauai and Niihau—960.

(I) Bottlenose dolphin (*Tursiops truncatus*), Hawaii Island—666.

(J) Cuvier's beaked whale (*Ziphius cavirostris*)—349,130.

(K) Dwarf sperm whale (*Kogia sima*)—113,525.

(L) Dall's porpoise (*Phocoenoidea dalli*)—210,925.

(M) False killer whale (*Pseudorca crassidens*), Main Hawaiian Islands insular—240.

(N) False killer whale (*Pseudorca crassidens*)—3,147.

(O) Fraser's dolphin (*Lagenodelphis hosei*)—9,034.

(P) Killer whale (*Orcinus orca*)—2,762.

(Q) *Kogia* spp.—71,070.

(R) Long-beaked common dolphin (*Delphinus capensis*)—604,715.