

National Marine Fisheries Service/NOAA, Commerce

§216.185

slowly to operating levels over a period of no less than 5 minutes:

- (1) At least 30 minutes prior to any SURTASS LFA sonar transmissions;
- (2) Prior to any SURTASS LFA sonar calibrations or testings that are not part of regular SURTASS LFA sonar transmissions described in paragraph (c)(1) of this section; and
- (3) Anytime after the HF/M3 source has been powered down for more than 2 minutes.
- (d) The HF/M3 sound pressure level will not be increased once a marine mammal is detected; ramp-up may resume once marine mammals are no longer detected.
- (e) The Holder of a Letter of Authorization will not operate the SURTASS LFA sonar, such that:

(1) the SURTASS LFA sonar sound field exceeds 180 dB (re 1 microPa(rms)) at a distance less than 12 nautical miles (nm) (22 kilometers (km)) from any coastline, including offshore islands;

(2) the SURTASS LFA sonar sound field exceeds 180 db (re 1 microPa(rms)) at a distance of 1 km (0.5 nm) seaward of the outer perimeter of any offshore biologically important area designated in 216.184(f) during the biologically important period specified.

(f) The following areas have been designated by NMFS as Offshore Biologically Important Areas (OBIA) for marine mammals (by season if appropriate):

Name of area	Location of area	Months of importance
(1) 200-m isobath North American East Coast.	From 28° N. to 50° N., west of 40° W	Year-round.
(2) Antarctic Convergence Zone	30° E. to 80° E. to 45°; 80° E. to 150° E. to 55°; S. 150° E. to 50° W. to 60° S.; 50° W. to 30° E. to 50° S.	October 1–March 31.
(3) Costa Rica Dome	Centered at 9° N. and 88° W	Year-round.
(4) Hawaiian Islands Humpback Whale National Marine Sanctuary-Penguin Bank.	Centered at 21° N. and 157° 30' W	November 1 through May 1.
(5) Cordell Bank National Marine Sanctuary.	Boundaries in accordance with 15 CFR 922.110.	Year-round.
(6) Gulf of the Farallones National Marine Sanctuary.	Boundaries in accordance with 15 CFR 922.80.	Year-round.
(7) Monterey Bay National Marine Sanctuary.	Boundaries in accordance with 15 CFR 922.30.	Year-round.
(8) Olympic Coast National Marine Sanctuary.	Boundaries within 23 nm of the coast from 47°07' N. to 48°30' N. latitude.	December January, March and May.
(9) Flower Garden Banks National Marine Sanctuary.	Boundaries in accordance with 15 CFR 922.120.	Year-round.
(10) The Gully	44°13' N., 59°06' W. to 43°47' N.; 58°35' W. to 43°35' N.; 58°35' W. to 43°35' N.; 59°08' W. to 44°06' N.; 59°20' W.	Year-round.

§216.185 Requirements for monitoring.

(a) In order to mitigate the taking of marine mammals by SURTASS LFA sonar to the greatest extent practicable, the Holder of a Letter of Authorization issued pursuant to §§216.106 and 216.188 must:

- (1) Conduct visual monitoring from the ship's bridge during all daylight hours (30 minutes before sunrise until 30 minutes after sunset);
- (2) Use low frequency passive SURTASS sonar to listen for vocalizing marine mammals; and

(3) Use the HF/M3 (high frequency) sonar developed to locate and track marine mammals in relation to the SURTASS LFA sonar vessel and the sound field produced by the SURTASS LFA sonar source array.

(b) Monitoring under paragraph (a) of this section must:

- (1) Commence at least 30 minutes before the first SURTASS LFA sonar transmission;
- (2) Continue between transmission pings; and
- (3) Continue either for at least 15 minutes after completion of the

§216.186

SURTASS LFA sonar transmission exercise, or, if marine mammals are exhibiting unusual changes in behavioral patterns, for a period of time until behavior patterns return to normal or conditions prevent continued observations;

(c) Holders of Letters of Authorization for activities described in §216.180 are required to cooperate with the National Marine Fisheries Service and any other federal agency for monitoring the impacts of the activity on marine mammals.

(d) Holders of Letters of Authorization must designate qualified on-site individuals to conduct the mitigation, monitoring and reporting activities specified in the Letter of Authorization.

(e) Holders of Letters of Authorization must conduct all monitoring required under the Letter of Authorization.

§216.186 Requirements for reporting.

(a) The Holder of the Letter of Authorization must submit quarterly mission reports to the Director, Office of Protected Resources, NMFS, no later than 30 days after the end of each quarter beginning on the date of effectiveness of a Letter of Authorization or as specified in the appropriate Letter of Authorization. Each quarterly mission report will include all active-mode missions completed during that quarter. At a minimum, each classified mission report must contain the following information:

(1) Dates, times, and location of each vessel during each mission;

(2) Information on sonar transmissions during each mission;

(3) Results of the marine mammal monitoring program specified in the Letter of Authorization; and

(4) Estimates of the percentages of marine mammal species and stocks affected (both for the quarter and cumulatively for the year) covered by the Letter of Authorization.

(b) The Holder of a Letter of Authorization must submit an annual report to the Director, Office of Protected Resources, NMFS, no later than 45 days after the expiration of a Letter of Authorization. This report must contain

50 CFR Ch. II (10-1-07 Edition)

all the information required by the Letter of Authorization.

(c) A final comprehensive report must be submitted to the Director, Office of Protected Resources, NMFS at least 240 days prior to expiration of these regulations. In addition to containing all the information required by any final year Letter of Authorization, this report must contain an unclassified analysis of new passive sonar technologies and an assessment of whether such a system is feasible as an alternative to SURTASS LFA sonar.

§216.187 Applications for Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the U.S. Navy authority conducting the activity identified in §216.180 must apply for and obtain a Letter of Authorization in accordance with §216.106.

(b) The application for a Letter of Authorization must be submitted to the Director, Office of Protected Resources, NMFS, at least 60 days before the date that either the vessel is scheduled to begin conducting SURTASS LFA sonar operations or the previous Letter of Authorization is scheduled to expire.

(c) All applications for a Letter of Authorization must include the following information:

(1) The date(s), duration, and the area(s) where the vessel's activity will occur;

(2) The species and/or stock(s) of marine mammals likely to be found within each area;

(3) The type of incidental taking authorization requested (i.e., take by Level A and/or Level B harassment);

(4) The estimated percentage of marine mammal species/stocks potentially affected in each area for the 12-month period of effectiveness of the Letter of Authorization; and

(5) The means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and the level of taking or impacts on marine mammal populations.

(d) The National Marine Fisheries Service will review an application for a Letter of Authorization in accordance