

§216.271

50 CFR Ch. II (10–1–10 Edition)

- (B) Air-to-surface Missile Exercises (A-S MISSILEX)—up to 250 exercises over the course of 5 years (an average of 50 per year)
- (C) Bombing Exercises (BOMBEX)—up to 200 exercises over the course of 5 years (an average of 40 per year)
- (D) Sinking Exercises (SINKEX)—up to 10 exercises over the course of 5 years (an average of 2 per year)
- (E) Extended Echo Ranging and Improved Extended Echo Ranging (EER/IEER) Systems—up to 15 exercises (total, of EER/IEER and AEER combined) over the course of 5 years (an average of 3 exercises, or 108 sonobuoy deployments, per year).

§216.271 Effective dates and definitions.

(a) Regulations are effective January 14, 2009 through January 14, 2014.

(b) The following definitions are utilized in these regulations:

(1) Uncommon Stranding Event (USE)—A stranding event that takes place during an integrated, coordinated, or major training exercise (MTE) 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 §216.271(b)(1)(ii) found dead or live on shore within a two 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, short-finned pilot 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 the SOCAL Range Complex Stranding Response Plan.

(2) Shutdown—The cessation of MFAS/HFAS operation or detonation of explosives within 14 nm of any live, in the water, animal involved in a USE.

§216.272 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§216.106 and 216.277,

the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals within the area described in §216.270(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 §216.270(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 §216.270(c) is limited to the following species, by the indicated 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) Humpback whale (*Megaptera novaeangliae*)—110 (an average of 22 annually)

(B) Fin whale (*Balaenoptera physalus*)—870 (an average of 174 annually)

(C) Blue whale (*Balaenoptera musculus*)—3085 (an average of 617 annually)

(D) Minke whale (*Balaenoptera acutorostrata*)—665 (an average of 133 annually)

(E) Gray whale (*Eschrichtius robustus*)—27340 (an average of 5468 annually)

(ii) Odontocetes:

(A) Sperm whales (*Physeter macrocephalus*)—775 (an average of 155 annually)

(B) Pygmy sperm whales (*Kogia breviceps*)—830 (an average of 166 annually)

(C) Dwarf sperm whale (*Kogia sima*)—100 (an average of 20 annually)

(D) Mesoplodont beaked whales (Blainville's, Hubb's, Perrin's, pygmy, and ginkgo-toothed) (*Mesoplodon densirostris*, *M. carlhubbsi*, *M. perrini*, *M. peruvianus*, *M. ginkgodens*)—690 (an average of 138 annually)

(E) Cuvier's beaked whales (*Ziphius cavirostris*)—2175 (an average of 435 annually)