

§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-

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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.

(S) Longman's beaked whale (*Indopacetus pacificus*)—19,476.

(T) Melon-headed whale (*Peponocephala electra*)—7,353.

(U) Mesoplodon beaked whales—11,695.

(V) Northern right whale dolphin (*Lissodelphis borealis*)—286,635.

(W) Pacific white-sided dolphin (*Lagenorhynchus obliquidens*)—216,885.

(X) Pantropical spotted dolphin (*Stenella attenuata*)—51,864.

(Y) Pygmy killer whale (*Feresa attenuata*)—2,908.

(Z) Pygmy sperm whale (*Kogia breviceps*)—1,683.

(AA) Risso's dolphin (*Grampus griseus*)—481,677.

(BB) Rough-toothed dolphin (*Steno bredanensis*)—24,815.

(CC) Short-beaked common dolphin (*Delphinus delphis*)—5,610,700.

(DD) Short-finned pilot whale (*Globicephala macrorhynchus*)—46,680.

(EE) Sperm whale (*Physeter macrocephalus*)—17,235.

(FF) Spinner dolphin (*Stenella longirostris*)—11,900.

(GG) Striped dolphin (*Stenella coerulealba*)—39,487.

(iii) Pinnipeds:

(A) California sea lion (*Zalophus californianus*)—699,605.

(B) Guadalupe fur seal (*Arctocephalus townsendi*)—14,360.

(C) Harbor seal (*Phoca vitulina*)—34,025.

(D) Hawaiian monk seal (*Monachus schauinslandi*)—8,124.

(E) Northern elephant seal (*Mirounga angustirostris*)—126,275.

(F) Northern fur seal (*Callorhinus ursinus*)—105,895.

(3) Mortality (or lesser Level A injury) for all Training and Testing Activities:

(i) No more than 130 mortalities applicable to any small odontocete (i.e., dolphin) or pinniped (with the exception of Hawaiian monk seal) species from an impulse source.

(ii) No more than 10 beaked whale mortalities.

(iii) No more than 15 large whale injuries or mortalities or serious injuries from vessel strike.

§ 218.73 Prohibitions.

Notwithstanding takings contemplated in § 218.72 and authorized by an LOA issued under §§ 216.106 and 218.77 of this chapter, no person in connection with the activities described in § 218.70 may:

(a) Take any marine mammal not specified in § 218.72(c);

(b) Take any marine mammal specified in § 218.72(c) other than by incidental take as specified in § 218.72(c);

(c) Take a marine mammal specified in § 218.72(c) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or an LOA issued under §§ 216.106 and 218.77.

§ 218.74 Mitigation.

(a) When conducting training and testing activities, as identified in § 218.70, the mitigation measures contained in the LOA issued under §§ 216.106 and 218.77 of this chapter must be implemented. These mitigation measures include, but are not limited to:

(1) *Lookouts*—The following are protective measures concerning the use of Lookouts.

(i) Lookouts positioned on ships will be dedicated solely to diligent observation of the air and surface of the water. Their observation objectives will include, but are not limited to, detecting the presence of biological resources and recreational or fishing boats, observing mitigation zones, and monitoring for vessel and personnel safety concerns.

(ii) Lookouts positioned in aircraft or on small boats will, to the maximum extent practicable and consistent with aircraft and boat safety and training and testing requirements, comply with the observation objectives described above in § 218.74 (a)(1)(i).

(iii) Lookout measures for non-impulsive sound:

(A) With the exception of ships less than 65 ft (20 m) in length and ships which are minimally manned, ships using low-frequency or hull-mounted mid-frequency active sonar sources associated with anti-submarine warfare