

of 5 years (an average of 872 buoys per year).

(10) AN/SQQ-32 (over the side mine-hunting sonar)—up to 22370 hours over the course of 5 years (an average of 4474 hours per year).

(11) AN/SLQ-25 (NIXIE—towed countermeasure)—up to 1660 hours over the course of 5 years (an average of 332 hours per year).

(12) AN/BQS-15 (submarine navigation)—up to 2250 hours over the course of 5 years (an average of 450 hours per year).

(13) MK-1 or 2 or 3 or 4 (Submarine-fired Acoustic Device Countermeasure (ADC))—up to 1125 ADCs over the course of 5 years (an average of 225 ADCs per year).

(14) Noise Acoustic Emitters (NAE—Sub-fired countermeasure)—up to 635 NAEs over the course of 5 years (an average of 127 NAEs per year).

§ 216.241 Effective dates and definitions.

(a) Regulations are effective January 22, 2009 through January 22, 2014.

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

(1) *Uncommon Stranding Event (USE)*—A stranding event that takes place during a 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 § 216.241(b)(1)(ii) 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, dwarf or pygmy sperm whales, melon-headed whales, pilot whales, right 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 § 216.241(b)(3).

(2) *Shutdown*—The cessation of MFAS/HFAS operation or detonation of explosives within 14 nm (Atlantic Ocean) or 17 nm (Gulf of Mexico) of any live, in the water, animal involved in a USE.

§ 216.242 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§ 216.106 and 216.247, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals within the area described in § 216.240(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 § 216.240(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 § 216.240(c) is limited to the following species, by the identified 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) North Atlantic right whale (*Eubalaena glacialis*)—3330 (an average of 666 annually).

(B) Humpback whale (*Megaptera novaeangliae*)—21010 (an average of 4202 annually).

(C) Minke whale (*Balaenoptera acutorostrata*)—2075 (an average of 415 annually).

(D) Sei whale (*Balaenoptera borealis*)—5285 (an average of 1057 annually).

(E) Fin whale (*Balaenoptera physalus*)—4410 (an average of 882 annually).

(F) Bryde's whale (*Balaenoptera edeni*)—180 (an average of 36 annually).

(G) Blue whale (*Balaenoptera musculus*)—4005 (an average of 801 annually).

(ii) *Odontocetes*:

(A) Sperm whales (*Physeter macrocephalus*)—48790 (an average of 9758 annually).

(B) Pygmy or dwarf sperm whales (*Kogia breviceps* or *Kogia sima*)—21920 (an average of 4384 annually).

(C) Beaked Whales (Cuvier's, True's, Gervais', Sowerby's, Blainville's, Northern bottlenose whale) (*Ziphius cavirostris*, *Mesoplodon mirus*, *M. europaeus*, *M. bidens*, *M. densirostris*,