(d) The taking of marine mammals may be authorized in an LOA for the activities and sources listed in §216.170(c) should the amounts (e.g., hours, dips, or number of exercises) vary from those estimated in §216.170(c), provided that the variation does not result in exceeding the amount of take indicated in §216.172(c).

§ 216.171 Effective dates and definitions.

(a) Amended regulations are effective from February 1, 2012, through January 5, 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 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 next bullet) found dead or live on shore within a two day period and occurring on same shorelines or facing shorelines of different islands.

(ii) A single individual or mother/calf pair of any of the following marine mammals of concern: Beaked whale of any species, Kogia sp., Risso’s dolphin, melon-headed whale, sperm whales, blue whales, fin whales, sei whales, or monk seal.

(iii) A group of 2 or more cetaceans of any species exhibiting indicators of distress.

(2) Shutdown (this definition specifically applies only to the word as used in §216.174(a)(1)(xxvi)(A)(i) and (2))—The cessation of MFAS operation or detonation of explosives within 14 nm of any live, in the water animal involved in a USE.

§ 216.172 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§216.106 and 216.177, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals within the area described in §216.170(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 §216.170(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 §216.170(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)—49,470 (an average of 9894 annually).

(B) Minke whale (Balaenoptera acutorostrata)—320 (an average of 64 annually).

(C) Sei whale (Balaenoptera borealis)—230 (an average of 46 annually).

(D) Fin whale (Balaenoptera physalus)—230 (an average of 46 annually).

(E) Bryde’s whale (Balaenoptera edeni)—320 (an average of 64 annually).

(ii) Odontocetes:

(A) Sperm whales (Physeter macrocephalus)—3905 (an average of 781 annually).

(B) Pygmy sperm whales (Kogia breviceps)—4325 (an average of 865 annually).

(C) Dwarf sperm whale (Kogia sima)—10,610 (an average of 2122 annually).

(D) Cuvier’s beaked whale (Ziphius cavirostris)—5750 (an average of 1150 annually).

(E) Blainville’s beaked whale (Mesoplodon densirostris)—1785 (an average of 357 annually).

(F) Longman’s beaked whale (Indopacetus pacificus)—525 (an average of 105 annually).

(G) Rough-toothed dolphin (Steno bredanensis)—5385 (an average of 1077 annually).

(H) Bottlenose dolphin (Tursiops truncatus)—3670 (an average of 734 annually).

(I) Pan-tropical dolphins (Stenella attenuata)—10,995 (an average of 2199 annually).