

Education, Office of Protected Resources at least 60 days prior to the expiration of each annual Letter of Authorization. This report must contain the following information:

(i) Timing and nature of launch operations and monitoring flights;

(ii) A summary of marine mammal behavioral observations in relation to recorded acoustic stimuli and other known visual or audio stimuli;

(iii) An estimate of the amount and nature of all takes.

(iv) A copy of all videotapes containing sea lion and harbor seal footage, and selected illustrative 35 mm or digital pictures, cross-referenced to the appropriate launches and acoustic measurements.

(4) A draft comprehensive technical report will be submitted to the NMFS Alaska Assistant Regional Administrator for Protected Resources and to the NMFS Division of Permits, Conservation, and Education, Office of Protected Resources, 180 days prior to the expiration of these regulations with full documentation of the methods, results, and interpretation of all monitoring tasks for launches during all expired Letters of Authorization, plus preliminary information for launches during the first 6 months of the final Letter of Authorization.

(5) A revised final comprehensive technical report, including all monitoring results during the entire period of the Letter of Authorization, will be due 90 days after the end of the period of effectiveness of these regulations.

(6) The interim and draft comprehensive technical reports will be subject to review and comment by the National Marine Fisheries Service. Any recommendations made by the National Marine Fisheries Service must be addressed in the final comprehensive technical report prior to acceptance by the National Marine Fisheries Service.

**§216.235 Letter of Authorization.**

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time specified in the Letter of Authorization, but a Letter of Authorization may not be valid beyond the effective period of the regulations.

(b) A Letter of Authorization will set forth:

(1) Species of marine mammals authorized to be taken;

(2) Permissible methods of incidental taking;

(3) Specified geographical region;

(4) Means of effecting the least practicable adverse impact on the species of marine mammals authorized for taking and its habitat; and

(5) Requirements for monitoring and reporting incidental takes.

(c) Issuance of a Letter of Authorization will be based on a determination that the number of marine mammals taken by the activity will be small, and that the total taking by the activity as a whole will have no more than a negligible impact on the affected species or stocks of marine mammal(s).

(d) Notice of issuance or denial of a Letter of Authorization will be published in the FEDERAL REGISTER within 30 days of a determination.

**§216.236 Renewal of a Letter of Authorization.**

(a) A Letter of Authorization for the activity identified in §216.230(a) will be renewed upon:

(1) Notification to the National Marine Fisheries Service that the activity described in the application for a Letter of Authorization submitted under §216.235 will be undertaken and that there will not be a substantial modification to the described activity, mitigation or monitoring undertaken during the upcoming season;

(2) Timely receipt of and acceptance by the National Marine Fisheries Service of the monitoring reports required under §216.234;

(3) A determination by the National Marine Fisheries Service that the mitigation, monitoring and reporting measures required under §§216.232 and 216.234 and the Letter of Authorization were undertaken and will be undertaken during the upcoming period of validity of a renewed Letter of Authorization; and

(4) A determination that the number of marine mammals taken by the activity will be small and that the total taking by the activity will have no more than a negligible impact on the affected species or stocks of marine mammal(s), and that the level of taking will be consistent with the findings

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made for the total taking allowable under these regulations.

(b) A notice of issuance or denial of a renewal of a Letter of Authorization will be published in the FEDERAL REGISTER within 30 days of a determination.

### § 216.237 Modifications to a Letter of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to a Letter of Authorization issued pursuant to the provisions of this subpart shall be made by the National Marine Fisheries Service until after notification and an opportunity for public comment has been provided. A renewal of a Letter of Authorization under § 216.236 without modification is not considered a substantive modification.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 216.230(b), a Letter of Authorization may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the FEDERAL REGISTER within 30 days of the action.

### Subpart V—Taking and Importing Marine Mammals; U.S. Navy's Atlantic Fleet Active Sonar Training (AFAST)

SOURCE: 74 FR 4876, Jan. 27, 2009, unless otherwise noted.

EFFECTIVE DATE NOTE: At 74 FR 4876, Jan. 27, 2009, subpart V was added, effective Jan. 22, 2009 through Jan. 22, 2014.

### § 216.240 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Navy is only authorized if it occurs within the AFAST Study Area,

which extends east from the Atlantic Coast of the U.S. to 45° W. long. and south from the Atlantic and Gulf of Mexico Coasts to approximately 23° N. lat., excluding the Bahamas (see Figure 1-1 in the Navy's Application).

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the use of the following mid-frequency active sonar (MFAS) sources, high frequency active sonar (HFAS) sources, or explosive sonobuoys for U.S. Navy anti-submarine warfare (ASW), mine warfare (MIW) training, maintenance, or research, development, testing, and evaluation (RDT&E) in the amounts indicated below (±10 percent):

(1) AN/SQS-53 (hull-mounted sonar)—up to 16070 hours over the course of 5 years (an average of 3214 hours per year).

(2) AN/SQS-56 (hull-mounted sonar)—up to 8420 hours over the course of 5 years (an average of 1684 hours per year).

(3) AN/SQS-56 or 53 (hull mounted sonar in object detection mode)—up to 1080 hours over the course of 5 years (an average of 216 hours per year).

(4) AN/BQQ-10 or 5 (submarine sonar)—up to 49880 pings over the course of 5 years (an average of 9976 pings per year) (an average of 1 ping per two hours during training events, 60 pings per hour for maintenance).

(5) AN/AQS-22 or 13 (helicopter dipping sonar)—up to 14760 dips over the course of 5 years (an average of 2952 dips per year—10 pings per five-minute dip).

(6) SSQ-62 (Directional Command Activated Sonobuoy System (DICASS) sonobuoys)—up to 29265 sonobuoys over the course of 5 years (an average of 5853 sonobuoys per year).

(7) MK-48 (heavyweight torpedoes)—up to 160 torpedoes over the course of 5 years (an average of 32 torpedoes per year).

(8) MK-46 or 54 (lightweight torpedoes)—up to 120 torpedoes over the course of 5 years (an average of 24 torpedoes per year).

(9) AN/SSQ-110A (IEER explosive sonobuoy) and AN/SSQ-125 (AEER sonar sonobuoy)—up to 4360 sonobuoys, between these 2 sources, over the course