

§216.156

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(2) *Acoustic Monitoring.* (i) During all missile launches, calibrated recordings of the levels and characteristics of the received launch sounds will be obtained from 3 different locations of varying distances from the missile's flight path. To the extent practicable, these acoustic recording locations will correspond with the haul-out sites where video monitoring is done.

(ii) Acoustic recordings will be supplemented by the use of radar and telemetry systems to obtain the trajectory of missiles in three dimensions, whenever data coverage allows.

(iii) Acoustic equipment used to record launch sounds will be suitable for collecting a wide range of parameters, including the magnitude, characteristics, and duration of each missile.

(e) The holder of the Letter of Authorization must implement the following reporting requirements:

(1) For each missile launch, the lead contractor or lead observer for the holder of the Letter of Authorization must provide a status report to the National Marine Fisheries Service, Southwest Regional Office, providing reporting items found under the Letter of Authorization, unless other arrangements for monitoring are agreed in writing.

(2) An initial report must be submitted to the Office of Protected Resources, and the Southwest Regional Office 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;

(ii) Summary of pinniped behavioral observations;

(iii) Estimate of the amount and nature of all takes by harassment or by other means; and

(iv) Evidence of compliance with mitigation measures.

(3) A draft comprehensive technical report will be submitted to the Office of Protected Resources and Southwest Regional Office, National Marine Fisheries Service, 180 days prior to the expiration of the regulations in this subpart, providing full documentation of the methods, results, and interpretation of all monitoring tasks for launches to date plus preliminary information for missile launches during

the first 6 months of the final Letter of Authorization.

(4) 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 the regulations in this subpart.

(5) Both the 60-day and final 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 report prior to acceptance by the National Marine Fisheries Service.

(f) Activities related to the monitoring described in paragraphs (c) and (d) of this section, or in the Letter of Authorization issued under §§216.106 and 216.157, including the retention of marine mammals, may be conducted without the need for a separate scientific research permit.

(g) In coordination and compliance with appropriate Navy regulations, at its discretion, the National Marine Fisheries Service may place an observer on San Nicolas Island for any activity involved in marine mammal monitoring either prior to, during, or after a missile launch in order to monitor the impact on marine mammals.

§216.156 Applications for Letters of Authorization.

(a) To incidentally take marine mammals pursuant to the regulations contained in this subpart, the U.S. citizen (as defined by §216.103) conducting the activity identified in §216.150 (Naval Air Warfare Center Weapons Division, U.S. Navy) must apply for and obtain either an initial Letter of Authorization in accordance with §216.157 or a renewal under §216.158.

(b) The application must be submitted to NMFS at least 30 days before the activity is scheduled to begin.

(c) Applications for a Letter of Authorization and for renewals of Letters of Authorization must include the following:

(1) Name of the U.S. citizen requesting the authorization,

(2) A description of the activity, the dates of the activity, and the specific location of the activity, and

(3) Plans to monitor the behavior and effects of the activity on marine mammals.

(d) A copy of the Letter of Authorization must be in the possession of the persons conducting activities that may involve incidental takings of pinnipeds.

§216.157 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, will be valid for a period of time not to exceed the period of validity of this subpart, but must be renewed annually subject to annual renewal conditions in §216.158.

(b) Each Letter of Authorization will set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (i.e., mitigation); and

(3) Requirements for mitigation, monitoring and reporting.

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

§216.158 Renewal of Letters of Authorization.

(a) A Letter of Authorization issued under §§216.106 and 216.157 for the activity identified in §216.150 will be renewed annually upon:

(1) Notification to NMFS that the activity described in the application submitted under §216.156 will be undertaken and that there will not be a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming 12 months;

(2) Timely receipt of the monitoring reports required under §216.155(e), and the Letter of Authorization issued under §216.157, which has been reviewed and accepted by NMFS; and

(3) A determination by NMFS that the mitigation, monitoring and reporting measures required under §§216.154 and 216.155 and the Letter of Authoriza-

tion issued under §§216.106 and 216.157, were undertaken and will be undertaken during the upcoming annual period of validity of a renewed Letter of Authorization.

(b) If a request for a renewal of a Letter of Authorization issued under §216.106 and this section indicates that a substantial modification to the described work, mitigation or monitoring undertaken during the upcoming season will occur, NMFS will provide the public a period of 30 days for review and comment on the request. Review and comment on renewals of Letters of Authorization are restricted to:

(1) New cited information and data indicating that the determinations made in this document are in need of reconsideration, and

(2) Proposed changes to the mitigation and monitoring requirements contained in these regulations or in the current Letter of Authorization.

(c) A notice of issuance or denial of a renewal of a Letter of Authorization will be published in the FEDERAL REGISTER.

§216.159 Modifications of Letters of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification (including withdrawal or suspension) to the Letter of Authorization by NMFS, issued pursuant to §§216.106 and 216.157 and subject to the provisions of this subpart shall be made until after notification and an opportunity for public comment has been provided. For purposes of this paragraph, a renewal of a Letter of Authorization under §216.158, without modification (except for the period of validity), 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 §216.150(b), a Letter of Authorization issued pursuant to §§216.106 and 216.157 may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the FEDERAL REGISTER within 30 days subsequent to the action.