

than by incidental, unintentional Level B harassment;

(c) Take a marine mammal specified in § 217.13(b) of this chapter 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 this subpart or a LOA issued under §§ 216.106 and 217.17 of this chapter.

#### § 217.15 Mitigation.

(a) The activity identified in § 217.11(a) of this chapter must be conducted in a manner that minimizes, to the greatest extent practicable, adverse impacts on marine mammals and their habitats. When conducting the activities identified in § 217.11(a) of this chapter, the mitigation measures contained in the LOA issued under §§ 216.106 and 217.17 of this chapter must be implemented. These mitigation measures include but are not limited to:

(1) Limiting the location of the authorized fireworks displays to the four specifically designated areas at Half Moon Bay, the Santa Cruz/Soquel area, the northeastern Monterey Breakwater, and Cambria (Santa Rosa Creek);

(2) Limiting the frequency of authorized fireworks displays to no more than twenty total displays per year and no more than one fireworks display every 2 months in each of the four prescribed areas;

(3) Limiting the duration of authorized individual fireworks displays to no longer than 30 minutes each, with the exception of two longer shows not to exceed 1 hour;

(4) Prohibiting fireworks displays at MBNMS between March 1 and June 30 of any year; and

(5) Continuing to implement authorization requirements and general and special restrictions for each event, as determined by MBNMS. Standard requirements include, but are not limited to, the use of a ramp-up period, wherein salutes are not allowed in the first 5 minutes of the display; the removal of plastic and aluminum labels and wrappings; and post-show reporting and cleanup. MBNMS shall continue to as-

sess displays and restrict the number of aerial salute effects on a case-by-case basis, and shall implement general and special restrictions unique to each fireworks event as necessary.

(b) The mitigation measures that the individuals conducting the fireworks are responsible for will be included as a requirement in fireworks display authorizations issued by MBNMS to the individual entities.

#### § 217.16 Requirements for monitoring and reporting.

(a) MBNMS is responsible for ensuring that all monitoring required under a LOA is conducted appropriately, including, but not limited to:

(1) A census of all pinnipeds in the impact area on the day prior to all displays, with observations to occur for no less than 30 minutes, and

(2) Reporting to NMFS of all marine mammal injury, serious injury, or mortality observed in the vicinity of the display area. Monitoring for injury, serious injury, or mortality shall occur no later than the morning after each fireworks display, and shall occur for no less than 30 minutes.

(b) Unless specified otherwise in the LOA, MBNMS must submit a draft annual monitoring report to the Director, Office of Protected Resources, NMFS, no later than 60 days after the conclusion of each calendar year. This report must contain:

(1) An estimate of the number of marine mammals disturbed by the authorized activities,

(2) Results of the monitoring required in § 217.16(a) of this chapter, and any additional information required by the LOA. A final annual monitoring report must be submitted to NMFS within 30 days after receiving comments from NMFS on the draft report. If no comments are received from NMFS, the draft report will be considered to be the final annual monitoring report.

(c) A draft comprehensive monitoring report on all marine mammal monitoring conducted during the period of these regulations must be submitted to the Director, Office of Protected Resources, NMFS at least 120 days prior to expiration of these regulations. A final comprehensive monitoring report must be submitted to the NMFS within