

## §216.176

HRC Exercise Reports and HRC Monitoring Plan Reports). This report will be submitted at the end of the fourth year of the rule (November 2012), covering activities that have occurred through June 1, 2012.

(i) *Comprehensive National ASW Report*—By June 2014, the Navy shall submit a draft Comprehensive National Report that analyzes, compares, and summarizes the active sonar data gathered (through January 1, 2014) from the watchstanders in accordance with the Monitoring Plans for the HRC, the Atlantic Fleet Active Sonar Training, the Southern California (SOCAL) Range Complex, the Marianas Range Complex, the Northwest Training Range, the Gulf of Alaska, and the East Coast Undersea Warfare Training Range.

(j) The Navy shall respond to NMFS comments and requests for additional information or clarification on the HRC Comprehensive Report, the draft National ASW report, the Annual HRC Exercise Report, or the Annual HRC Monitoring Plan Report (or the multi-Range Complex Annual Monitoring Plan Report, if that is how the Navy chooses to submit the information) if submitted within 3 months of receipt. These reports will be considered final after the Navy has addressed NMFS' comments or provided the requested information, or three months after the submittal of the draft if NMFS does not comment by then.

(k) In 2011, the Navy shall convene a Monitoring Workshop in which the Monitoring Workshop participants will be asked to review the Navy's Monitoring Plans and monitoring results and make individual recommendations (to the Navy and NMFS) of ways of improving the Monitoring Plans. The recommendations shall be reviewed by the Navy, in consultation with NMFS, and modifications to the Monitoring Plan shall be made, as appropriate.

### §216.176 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to the regulations in this subpart, the U.S. citizen (as defined by §216.103 of this chapter) conducting the activity identified in §216.170(c) (the U.S. Navy) must apply for and obtain either an initial Letter

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of Authorization in accordance with §216.177 or a renewal under §216.178.

### §216.177 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 may be renewed or modified sooner subject to the renewal conditions in §216.178 and the modification conditions in §216.179.

(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).

[74 FR 6242, Feb. 6, 2009, as amended at 77 FR 4921, Feb. 1, 2012]

### §216.178 Renewal of Letters of Authorization.

(a) A Letter of Authorization issued under §§216.106 and 216.177 for the activity identified in §216.170(c) may be renewed for an amount of time not to exceed the periods of validity of this subpart upon:

(1) Notification to NMFS that the activity described in the application submitted under §216.176 will be undertaken and that there will not be a substantial modification to the desired work, mitigation, or monitoring undertaken during the upcoming period of validity;

(2) Timely receipt (by the dates indicated in these regulations) of the monitoring reports required under §216.175(c) through (j); and

(3) A determination by NMFS that the mitigation, monitoring and reporting measures required under §216.174 and the Letter of Authorization issued under §§216.106 and 216.177, were undertaken and will be undertaken during

the upcoming period of validity of a renewed Letter of Authorization.

(b) If a request for a renewal of a Letter of Authorization issued under this § 216.106 and § 216.178 indicates that a substantial modification, as determined by NMFS, to the described work, mitigation or monitoring undertaken during the upcoming season will occur, the 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.

(d) NMFS, in response to new information and in consultation with the Navy, may modify the mitigation or monitoring measures in subsequent LOAs if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring. Below are some of the possible sources of new data that could contribute to the decision to modify the mitigation or monitoring measures:

(1) Results from the Navy's monitoring from the previous year (either from the HRC or other locations).

(2) Findings of the Monitoring Workshop that the Navy will convene in 2011 (§ 216.175(q)).

(3) Compiled results of Navy funded research and development (R&D) studies (presented pursuant to the ICMP (§ 216.175(d))).

(4) Results from specific stranding investigations (either from the HRC Study Area or other locations, and involving coincident MFAS/HFAS or explosives training or not involving coincident use).

(5) Results from the Long Term Prospective Study. (6) Results from general marine mammal and sound re-

search (funded by the Navy (or otherwise)).

[74 FR 6242, Feb. 6, 2009, as amended at 77 FR 4921, Feb. 1, 2012]

#### § 216.179 Modifications to 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 216.177 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 § 216.178, 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 § 216.172(c), a Letter of Authorization issued pursuant to §§ 216.106 and 216.177 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.

#### Subparts Q–U [Reserved]

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

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.