

- (i) Time, date, and location (latitude/longitude) of the incident;
- (ii) The type of equipment involved in the incident;
- (iii) Description of the incident;
- (iv) Water depth, if relevant;
- (v) Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- (vi) Species identification or description of the animal(s) involved;
- (vii) The fate of the animal(s); and
- (viii) Photographs or video footage of the animal (if equipment is available).

(2) Activities shall not resume until NMFS is able to review the circumstances causing the exceedance of the authorized take. NMFS will work with BP to identify additional measures to minimize the likelihood that more than five ringed seals will not be killed each year (or other marine mammal species that may have been injured, seriously injured, or killed) from BP's activities. BP may not resume their activities until notified by NMFS via letter, email, or telephone.

(3) In the event that BP discovers an injured or dead marine mammal, and it is determined that the cause of the injury or death is unknown and the death is relatively recent (*i.e.*, in less than a moderate state of decomposition as described in the next paragraph), BP will report the incident/discovery as soon as practicable and no later than 24 hours after the incident/discovery to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, by phone or email, the Alaska Regional Office, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators (specific contact information to be provided in Letter of Authorization). The report must include the same information identified in §217.146(i)(1). Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with BP to determine whether modifications in the activities are appropriate.

(4) In the event that BP discovers an injured or dead marine mammal, and it is determined that the injury or death is not associated with or related to the activities authorized in this final rule (e.g., previously wounded animal, car-

pass with moderate to advanced decomposition, or scavenger damage), BP shall report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, by phone or email and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators (specific contact information to be provided in Letter of Authorization), as soon as practicable and no later than 24 hours after the discovery. BP shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.

§217.147 Applications for Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the U.S. Citizen (as defined by §216.103 of this chapter) conducting the activity identified in §217.140(a) (*i.e.*, BP) must apply for and obtain either an initial Letter of Authorization in accordance with §217.148 or a renewal under §217.149.

(b) [Reserved]

§217.148 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, shall be valid for a period of time not to exceed the period of validity of this subpart.

(b) The Letter of Authorization shall 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 shall 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) and will not have an unmitigable adverse impact on the availability of species or

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stocks of marine mammals for taking for subsistence uses.

§217.149 Renewal of Letters of Authorization and adaptive management.

(a) A Letter of Authorization issued under §216.106 and §217.148 of this chapter for the activity identified in §217.140(a) shall be renewed upon request by the applicant or determination by NMFS and the applicant that modifications are appropriate pursuant to the adaptive management component of these regulations, provided that:

(1) NMFS is notified that the activity described in the application submitted under §217.147 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) NMFS receives the monitoring reports required under §217.146(f) and (g); and

(3) NMFS determines that the mitigation, monitoring and reporting measures required under §§217.144 and 217.146 and the Letter of Authorization issued under §§216.106 and 217.148 of this chapter were undertaken and will be undertaken during the upcoming period of validity of a renewed Letter of Authorization.

(b) If either a request for a renewal of a Letter of Authorization issued under §§216.106 and 217.149 of this chapter or a determination by NMFS and the applicant that modifications are appropriate pursuant to the adaptive management component of these regulations indicates that a substantial modification, as determined by NMFS, 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 substantive changes to the mitigation and monitoring requirements contained in these regulations

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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) *Adaptive management*—NMFS may modify or augment the existing mitigation or monitoring measures (after consulting with BP regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of mitigation and monitoring set forth in the preamble of these regulations. 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 BP's monitoring from the previous year;

(2) Results from general marine mammal and sound research; or

(3) Any information which reveals that marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

§217.150 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 issued by NMFS, pursuant to §§216.106 and 217.148 of this chapter 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 §217.149, 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 §217.142(c), a Letter of Authorization issued pursuant to §§216.106 and 217.148 of this chapter 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.