

§216.116

NMFS, the draft report will be considered to be the final comprehensive monitoring report.

§216.116 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to these regulations, the U.S. citizen (as defined by §216.103) conducting the activity identified in §216.110(a) must apply for and obtain either an initial Letter of Authorization in accordance with §§216.117 or a renewal under §216.118.

§216.117 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, subject to annual renewal pursuant to the conditions in §216.118.

(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).

(d) The U.S. Citizen, i.e., the MBNMS, operating under an LOA must clearly describe in any Sanctuary Authorizations issued to the individuals conducting fireworks displays, any requirements of the LOA for which the individuals conducting fireworks are responsible.

§216.118 Renewal of Letters of Authorization.

(a) A Letter of Authorization issued under §216.106 and §216.117 for the activity identified in §216.110(a) will be renewed annually upon:

(1) Notification to NMFS that the activity described in the application submitted under §216.116 will be undertaken and that there will not be a sub-

50 CFR Ch. II (10–1–07 Edition)

stantial modification to the described work, mitigation or monitoring undertaken during the upcoming 12 months;

(2) Timely receipt of the monitoring reports required under §216.115(b), and the Letter of Authorization issued under §216.117, which has been reviewed and accepted by NMFS; and

(3) A determination by the NMFS that the mitigation, monitoring and reporting measures required under §216.114 and the Letter of Authorization issued under §§216.106 and 216.117, 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 216.118 indicates that a substantial modification 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.

§216.119 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 216.117 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 §216.118, without modification (except for the period of validity), is not considered a substantive modification.