

§216.110

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holder of the authorization with an explanation of why the report is being returned. If the authorization holder disagrees with the findings of the Assistant Administrator, the holder may request an independent peer review of the report. Failure to submit a complete and accurate report may result in a delay in processing future authorization requests.

(g) Results of any behavioral, feeding, or population studies, that are conducted supplemental to the monitoring program, should be made available to the National Marine Fisheries Service before applying for an incidental harassment authorization for the following year.

Subpart J—Taking Marine Mammals Incidental to Coastal Commercial Fireworks Displays at Monterey Bay National Marine Sanctuary, CA

SOURCE: 71 FR 40932, July 19, 2006, unless otherwise noted.

EFFECTIVE DATE NOTE: At 71 FR 40932, July 19, 2006, Subpart J consisting of §§216.110 through 216.119 were added, effective July 4, 2006 through July 3, 2011.

§216.110 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the incidental taking of those marine mammal species specified in paragraph (b) of this section by the MBNMS.

(b) The incidental take, by Level B harassment only, of marine mammals under the activity identified in this section is limited to the following species: California sea lions (*Zalophus californianus*) and Pacific harbor seals (*Phoca vitulina*).

§216.111 Effective dates.

Regulations in this subpart are effective from July 4, 2006, through July 3, 2011.

§216.112 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to §§216.106 and 216.117, the Holder of the Letter of Authorization (i.e. the Superintendent of

MBNMS) may incidentally, but not intentionally, take marine mammals by Level B harassment only, within the area described in §216.110(a), provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

(b) The activities identified in §216.110(a) must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

(c) The taking of marine mammals is authorized for the species listed in §216.110(b) and is limited to the Level B Harassment of no more than 6,170 California sea lions and 1,065 harbor seals annually.

§216.113 Prohibitions.

Notwithstanding takings contemplated in §216.110 and authorized by a Letter of Authorization issued under §§216.106 and 216.117, no person in connection with the activities described in §216.110 may:

(a) Take any marine mammal not specified in §216.110(b);

(b) Take any marine mammal specified in §216.110(b) other than by incidental, unintentional Level B harassment;

(c) Take a marine mammal specified in §216.110(b) 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 these regulations or a Letter of Authorization issued under §§216.106 and 216.117.

§216.114 Mitigation.

(a) The activity identified in §216.110(a) must be conducted in a manner that minimizes, to the greatest extent practicable, adverse impacts on marine mammals and their habitats. When conducting operations identified in §216.110(a), all the mitigation measures contained in the Letter of Authorization issued under §§216.106 and 216.117 must be implemented, including but not limited to:

(1) Limiting the location of the authorized fireworks displays to the four specifically prescribed areas at Half