

### §216.231

Launch Complex on Kodiak Island, Alaska.

(b) The incidental take of marine mammals under the activity identified in paragraph (a) of this section is limited to Steller sea lions (*Eumetopius jubatus*) and Pacific harbor seals (*Phoca vitulina richardsi*).

### §216.231 Effective dates.

Regulations in this subpart are effective from February 27, 2006 through February 28, 2011.

### §216.232 Permissible methods of taking.

(a) Under a Letter of Authorization issued pursuant to §216.106, the Alaska Aerospace Development Corporation and its contractors, may incidentally, but not intentionally, take Steller sea lions by Level B harassment, take adult Pacific harbor seals by Level B harassment, and take harbor seal pups by Level B or Level A harassment or mortality, in the course of conducting missile launch activities within the area described in §216.230(a), provided all terms, conditions, and requirements of these regulations and such Letter of Authorization are complied with.

(b) The activities identified in §216.230(a) must be conducted in a manner that minimizes, to the greatest extent practicable, adverse impacts on marine mammals and their habitat.

### §216.233 Prohibitions.

The following activities are prohibited:

(a) The taking of a marine mammal that is other than unintentional.

(b) The violation of, or failure to comply with, the terms, conditions, and requirements of this subpart or a Letter of Authorization issued under §216.106.

(c) The incidental taking of any marine mammal of a species not specified, or in a manner not authorized, in this subpart.

### §216.234 Mitigation, monitoring and reporting.

(a) No more than five launches may occur between May 15 and June 30 within the 5-year period, and no more than 15 launches may occur between

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June 15 and September 30 within the 5-year period.

(b) The holder of the Letter of Authorization must implement the following measures for all launches occurring from June through October:

(1) Conduct five replicate fixed-wing aerial surveys of all hauled out Steller sea lions and harbor seals at Ugak Island, each flown at low tide (weather permitting), using a minimum flight altitude of 500 feet (152 meters) above sea level, with an approach no closer than 0.25 mi (0.40 km) to the haulout, and conducted a day prior to, directly following, and for three consecutive days after a launch.

(2) At least one biologist observer will accompany the pilot during all aerial surveys.

(3) Data gathered during aerial surveys will be gathered visually and through the use of a camera with a zoom lens.

(4) A real-time video record of Steller sea lion reactions to launch noise will be made using a video camera system placed upon the Ugak Island haulout before a scheduled launch and then retrieved after the launch.

(5) Sound intensities and frequencies of rocket motor noise will be recorded before, during, and after a launch by a sound level monitor mounted upon the Ugak Island haulout and set to highlight sounds greater than 70 dBA. Monitors will be installed one day or more before a launch and retrieved within one day post-launch.

(c) A trial effort to obtain real-time video records of harbor seals hauled out at the eastern end of the northern side of the island and their reactions to launch noise will be made as soon as practicable. A brief report summarizing the efficacy of this monitoring effort should be included in the standard monitoring reports for that launch and year. If valuable data may be gathered using this method, real-time video records of harbor seals reactions to launch noise will be made before launches scheduled between May 15 and June 30, and between June 30 and September 30 if the equipment is not being used to record Steller sea lions, and then retrieved after the launches.

(d) Security flights immediately associated with rocket launches may not