

§216.191

(b) If the National Marine Fisheries Service determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in §216.180(b), a Letter of Authorization may be substantially modified without prior notice and opportunity for public comment. Notification will be published in the FEDERAL REGISTER within 30 days of the action.

§216.191 Designation of Offshore Biologically Important Marine Mammal Areas.

(a) Offshore biologically important areas for marine mammals may be nominated under this paragraph by the National Marine Fisheries Service or by members of the public.

(b) Proponents must petition NMFS by requesting an area be added to the list of offshore biologically important areas in §216.184(f) and submitting the following information:

(1) Geographic region proposed for consideration (including geographic boundaries);

(2) A list of marine mammal species or stocks within the proposed geographic region;

(3) Whether the proposal is for year-round designation or seasonal, and if seasonal, months of years for proposed designation;

(4) Detailed information on the biology of marine mammals within the area, including estimated population size, distribution, density, status, and the principal biological activity during the proposed period of designation sufficient for NMFS to make a preliminary determination that the area is biologically important for marine mammals; and

(5) Detailed information on the area with regard to its importance for feeding, breeding, or migration for those species of marine mammals that have the potential to be affected by low frequency sounds;

(c) Areas within 12 nm (22 km) of any coastline, including offshore islands, or within non-operating areas for SURTASS LFA sonar are not eligible for consideration.

(d) If a petition does not contain sufficient information for the National Marine Fisheries Service to proceed,

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NMFS will determine whether the nominated area warrants further study. If so, NMFS will begin a scientific review of the area.

(e)(1) If through a petition or independently, NMFS makes a preliminary determination that an offshore area is biologically important for marine mammals and is not located within a previously designated area, NMFS will publish a FEDERAL REGISTER notice proposing to add the area to §216.184(f) and solicit public comment.

(2) The National Marine Fisheries Service will publish its final determination in the FEDERAL REGISTER.

Subpart R—Taking of Marine Mammals Incidental to Construction and Operation of Offshore Oil and Gas Facilities in the U.S. Beaufort Sea

SOURCE: 71 FR 11322, Mar. 7, 2006, unless otherwise noted.

EFFECTIVE DATE NOTE: At 71 FR 11322, Mar. 7, 2006, subpart R, consisting of §§216.200 through 216.210 were added, effective Apr. 6, 2006 through Apr. 6, 2011.

§216.200 Specified activity and specified geographical region.

Regulations in this subpart apply only to the incidental taking of those marine mammal species specified in paragraph (b) of this section by U.S. citizens engaged in oil and gas development activities in areas within state and/or Federal waters in the U.S. Beaufort Sea specified in paragraph (a) of this section. The authorized activities as specified in a Letter of Authorization issued under §§216.106 and 216.208 include, but may not be limited to, site construction, including ice road and pipeline construction, vessel and helicopter activity; and oil production activities, including ice road construction, and vessel and helicopter activity, but excluding seismic operations.

(a)(1) Northstar Oil and Gas Development; and

(2) [Reserved]

(b) The incidental take by Level A harassment, Level B harassment or mortality of marine mammals under the activity identified in this section is limited to the following species: